

WILDLIFE and NATURAL ENVIRONMENT BILL

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1.	Are you responding: (please tick one box)		
	a) as an individual?		go to Q2a/b and then Q4
	b) on behalf of a group/organisation?	X	go to Q3 and then Q4
Individuals			
2a.	Do you agree to your response being made available to the public		
	YES (go to 2b below)		
	NO, not at all	<i>We will treat your response as confidential</i>	
2b.	Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick one of the following boxes)		
	YES, make my response, name and address all available		
	YES, make my response available, but not my name or address		
	YES, make my response and name available, but not my address		
On Behalf of Groups or Organisations			
3.	The name and address of your organisation will be made available to the public. Are you also content for your response to be made available?		
	X YES		

CONSULTATION ON WILDLIFE and NATURAL ENVIRONMENT BILL

Response from:

The Macaulay Land Use Research Institute, Scotland, U.K.

General Comments

The Macaulay Land Use Research Institute welcomes the opportunity to provide a response to this consultation on the Wildlife and Natural Environment Bill. Please find below our comments against the specific questions asked in the consultation document. We have not responded to those questions which fall outside our general area of competence. These questions are included for completeness but are in faint text and struck through. If there are any specific issues that the SG Team require further information about then please feel free to contact the Macaulay Institute contact: Dr Nick Littlewood (n.littlewood@macaulay.ac.uk)

SECTION 2 - DEER

Q1A. What is your view on the proposal that the right to take or kill deer should be balanced by a statutory responsibility on land owners to manage them sustainably?

To manage sustainably requires that there is agreement amongst the landowners across the landscape over which deer roam so that management takes into account the social, economic and environmental consequences of deer management for that area. Whilst an individual landowner may consider these aspects for their own land there needs to be a more active approach to encourage and facilitate collaboration among neighbouring owners and with local communities and the state to agree what is sustainable management in their area.

We believe that culling numbers should be based on well established scientific grounds that combine:

1. Type of management of the population and estate (game, conservation, recreation (socio-economic aspects)).
2. Population size and habitat quality and availability for deer (environmental aspects).
3. Animal welfare.

Deer populations on public land (e.g. Forestry Commission land) should be considered as a special case. The three previous points would also apply but alternative management regimes may be possible for these populations and they need to be provided for in law. For example:

Deer could be exploited in two non-exclusive different ways:

1. As is currently happening, reducing deer numbers by stalkers or contractors in places where this is needed.
2. By a game program to which hunters can apply to shoot deer under the supervision of qualified stalkers of these areas. The applicants could be classified as locals (people living in the area where they apply for culling), nationals (Scottish or UK hunters), internationals (foreigners).

All the applications should be subjected to a lottery procedure if there are more applications than the numbers of deer to be shot. The successful applicants should pay a fee for the right to shoot deer, plus a fee for each deer shot. The fees should be cheaper for locals. The profits should revert into the improvement of the habitat where deer were shot and also into rural community development programs. This type of game management is being applied in North Spain (Asturias) and it is considered fair as it gives the possibility of shooting to people of very different economic backgrounds and it has been instrumental in reducing poaching.

Q2. What is your view on whether collaborative deer management structures should continue to be voluntary in the first instance?

We believe that the critical issue is how to get public objectives considered by land managers. If the delivery of public objectives is to become the prime responsibility of private landowners then these land owners must be effectively engaged. This also raises the question of how to incorporate public objectives into land management planning. The assumption is that this will cost more and the question remains as to who will bear this cost.

The existing voluntary deer management groups may well be able to deliver public as well as their own private objectives but they will need further support to achieve this. Thus incentives to help this process should be considered. What is the appropriate rate of support that DMGs need? Support might take the form of help drawing up management plans, providing experts to use decision support tools that aim to look at trade-offs among ecosystem services on their catchment and maybe financial support for holding meetings, producing educational material about why and how land is managed etc. In summary, the voluntary approach should continue but work is needed to devise the best ways that public resources can promote, support and facilitate the voluntary approach

There is a strong belief that membership of a collaborative deer management structure (DMG) should be compulsory for all landowners that have a minimum (year-round) number of deer on their land and all who want to exploit deer as game or venison.

Q3. Do you consider that there is a need to ensure there is wider (e.g. community) engagement in deer management? If so, how?

Land management at the scale appropriate to the resource should be fostered. This scale could be at the major water catchment level. Thus all those who use or are affected by management of the catchment should be included, including local communities. This doesn't necessarily mean that all stakeholders have equality of power, interest or legitimacy. However, it should be seen as an opportunity for promoting dialogue among diverse stakeholders which may help to prioritise the management objectives for an area. This may have the effect of demonstrating that the area is being managed in a way that

considers all interests and that decisions have been made based on rational understanding of the local priorities in relation to public objectives. Thus a DMG operating at a catchment scale will be able to demonstrate that it has a defensible management plan developed in consideration of all objectives.

Q4. What is your view on the proposal that land managers should be required to prepare and implement a statutory Deer Management Plan where voluntary deer management structures are failing to deliver in the public interest?

If a plan is to be required, the stated aims and outcomes need to be achievable and the mechanisms to achieve these aims should be in place. Having a plan is no guarantee that it will be implemented. We believe that the chances of this being done successfully will be increased if a set of appropriate indicators for all the relevant ecosystem services (ES) in an area (Catchment or DMG area etc) is developed as part of the planning process.

All the relevant land managers should be involved in identifying the indicators, deciding the levels and agreeing on how and who should measure and monitor these indicators. This can only be done locally because some ES will be relatively more important than others and this will vary from area to area. Thus there should be a requirement for an area/catchment to develop targets for ES (not just those relating to deer).

One approach could be that ownership of land over a certain threshold area would oblige the relevant owners/managers to state how they were enhancing a range of ecosystem services and how they were going to measure this enhancement. Thus by asking them to set up targets they will need to show whether they are delivering them and this would by default lead to the most relevant planning. The state would have to be involved to guide and agree, and could provide resources (staff time/money) to support this process. This process recognises that there are public objectives and targets but there needs to be a process of applying them locally where trade-offs among public objectives can be discussed in relation to private management objectives in an area. Deer management is therefore not seen in isolation but as an important mechanism for managing a range of ecosystems in Scotland.

Q5. What is your view on the proposal that failure to comply with a statutory Deer Management Plan should be an offence, and that DCS should be able to recover costs from landowners or occupiers where it has to take action to enforce the plan?

As stated above, a statutory plan needs a mechanism that ensures it is implemented. We would prefer to see some redress powers available to DCS/SNH if the indicators were seen as not being achieved to the level agreed. Thus powers to punish (or reward) would be based on results rather than adherence to a particular process.

Q6. What is your view on the proposal that DCS' existing powers to constitute Deer Panels should be extended to enable DCS to require the Deer Panel to prepare and implement a Deer Management Plan, where a particular local deer management

<p>issue arises?</p> <p>Powers should be extended but should be based on performance not plans. Thus the requirement would be to make the relevant local group of land managers and the associated stakeholders come up with agreed targets for which DCS/SNH would have the power to monitor in partnership with the land managers.</p> <p>How these targets are met should be decided locally and be the responsibility of the group of managers in a catchment or DMG area. State support for getting them to work together over this issue could take the form of providing trained staff to utilise new methods for monitoring, integrating knowledge and testing scenarios. Success against targets could be published providing legitimacy for management plans in an area. Targets need to be revised as new information becomes available or targets are deemed too high or too low. Ultimately, there still needs to exist sanctions in law for not achieving targets.</p>
<p>Q7. What is your view on the proposal that DCS' current powers to intervene in deer management should be extended to a wider range of circumstances (set out above) than is currently the case?</p> <p>Powers should be widened but DCS/SNH must also have a clear communication strategy to ensure that all those affected are informed and that there is an independent observer/ombudsman who can be called upon to ensure that any action carried out under these powers is proportionate and appropriate.</p>
<p>Q8. What is your view on the proposal that further action is required to improve the skills and competence of those involved in taking/killing deer?</p> <p>Whilst we sympathise with current deer management professionals that this will add to the costs and bureaucracy of the job, we feel that this is an inevitable step and brings deer management into line with many other jobs where training and competency are assessed. However, there remains the question of whether the assessment exercise really results in improved management and welfare. Just because someone has had their training does not mean they are always competent. However, it does at least guarantee that they are aware of what competency is.</p> <p>More work is needed to identify where there is a lack of competence. Using data from bullet tracks is difficult. If a carcass has two or more bullet tracks does this mean the stalker was incompetent or does it mean the client shot badly and only the competency of the stalker enabled the animal to be finished off as quickly as possible. Therefore monitoring competency is also problematic. That said, it would be good for the industry to be able to defend its management by illustrating the high levels of competency and show that deer are being managed to the same standards that society expects from other professions. It could also mean that if staff were trained and registered as competent then there would be less need for further bureaucracy such as applying for authorisations.</p>

<p>Q9A. Do you consider that everyone who shoots deer unsupervised in Scotland should first have to demonstrate that they have skills and knowledge in public safety, deer welfare and food safety? Yes/no/don't know.</p>
<p>Yes.</p>
<p>Q9B. If not, do you consider there is a better way to safeguard the welfare of deer than requiring stalkers to demonstrate a minimum level of skills and knowledge?</p>
<p>However, this may not on its own safeguard public safety, deer welfare and food safety. Local data centrally monitored but available to local managers needs to be collected to inform on deer population performance and carcass quality so that trends can be identified and investigated. If it was compulsory to provide larder data and for game dealers to provide carcass quality data and resources were set aside to analyse and make the results accessible to managers and the public then this may help to maintain standards better then relying purely on assessment of competency.</p>
<p>Q10. What is your view on the proposal that it should be an offence to take/kill deer unless you have demonstrated skills and knowledge, or are supervised by someone who is on the register?</p>
<p>We agree with this in general but only if it is supported by monitoring and the requirement to submit larder and carcass data.</p>
<p>Q11. What level of practical and theoretical skills and knowledge do you consider should have to be demonstrated by those who shoot deer unaccompanied?</p>
<p>By a written assessment on a best-practice code (eg. DCS best practice code) and by proof of previous experience (card records of previous shooting, similar to a gold handicap card).</p> <p>Also worthy of consideration are putting in place hunter training course similar to those used in Scandinavia (including knowledge of deer ecology, firearms handling, food safety etc). Full rights should only come after a probationary period where an individual is accompanied and supervised for the first x number of kills and associated processing.</p> <p>The British Deer Society currently provides competence training through its DSC programme.</p>
<p>Q12. Should exemptions from demonstrating skills and knowledge (“grandfathers’ rights”) be available to those who have substantial experience of deer management? How might this be defined?</p>
<p>There are differences of opinion about this but generally the answer is initially yes but the system could ultimately be phased out as people retired. Anyone with more that 3 years continuous employment as a deer stalker should be exempt and any recreational hunter with more than 5 years experience or 100 kills should be exempt in the first instance. However, there should still be a requirement to provide data for analysis of trends in population performance</p>

<p>and carcass quality.</p>
<p>Q13A. Should the names of those who have demonstrated the required level of skills and knowledge be held on a register, administered by DCS?</p>
<p>Yes but there would need to be an independent ombudsman to adjudicate on any potential conflicts or disputes about competency. This could be made up of a panel of both industry sector representatives and agency staff similar to the group that advises on 'Best Practice Guidance'</p>
<p>Q13B. Do you have other suggestions for how such a register could be administered?</p>
<p>A register would incur costs but these might be offset by reductions in the administration of the current authorisations which, if everybody was competent, would not be required.</p>
<p>Q14. What is your view on whether, consequential to effective local deer management structures being in place and a requirement for those who shoot deer to demonstrate skills and knowledge, the female Close Season could be reduced to cover the period of greatest risk to dependent juveniles?</p>
<p>We agree with this but with the proviso that there needs to be a mechanism to detect any welfare problems. This could be in the form of compulsory larder data recording of lactation rates. For example, if there was a trend to increasing numbers of lactating hind being shot with no increase in numbers of calves shot this would indicate a potential problem. Thus, devising a relatively low cost monitoring system that is quality controlled by a responsible person (working for the ombudsman?) could help to ensure welfare was not deteriorating.</p>
<p>Q15. What is your view on whether, consequential to effective local deer management structures being in place and a requirement for those who shoot deer to demonstrate skills and knowledge, the national male Close Season could, over time, be removed?</p>
<p>We generally agree with the removal of the male season. The concern is over-exploitation. Thus there needs to be a rapid and robust way to detect if this is occurring. Sporting estates could easily lose a lot of valuable mature stags that may be difficult to replace if they are culled heavily and indiscriminately (randomly) on a neighbouring piece of ground. The success of removing the male season depends on neighbours agreeing with each other not to over-exploit. To this extent, having quality stags is an ecosystem service for a DMG area (or catchment) and needs to be one of the indicators for sustainable management. Larder data will be able to inform on culling levels retrospectively but safeguards need to be built in to prevent sudden action by one land owner in an area. Digital technologies may help. A social networking site type approach could potentially facilitate communication among deer managers and lead to quick detection of disproportionate male culling.</p>

(See also answer to Q14).

Q16. Do you have a view on whether, consequential to effective local deer management structures being in place and a requirement for those who shoot deer to demonstrate skills and knowledge, there could be flexibility to have male Close Seasons set at a local level?

We believe that these powers need to be devolved to the local level. They can then be justified and published. If this sort of information is publicly known it will demand more transparency about how and why culling targets and dates are set. If these are backed up by carefully considered rationale, and subsequent monitoring to inform changes as necessary, the industry will be seen by the public as competent

Q17. Do you have a view on whether, if a requirement to demonstrate skills and knowledge was established, owner-occupiers should no longer be able to shoot deer in the Close Seasons without authorisation?

We agree with this. There should be the same rules for all those shooting deer. If there is a major public safety issue or other crisis affecting the public interest then agency staff should do the culling or contract local stalkers to do it.

Q18. What is your view on the proposal that the requirement to obtain an authorisation to shoot deer at night on a particular property should be replaced by the requirement on the individual to be recorded on the proposed register of competence as having appropriate skills and knowledge?

We agree with this proposition. Training and competency should include assessing night shooting. If someone is competent then they need not seek authorisation beyond the need to inform the police of their activity. However, each DMG area (or catchment) that is managed for deer should have a policy on night shooting indicating when and under what circumstances it should be used. The aim should be to manage the deer to reduce the number of night shooting events. Data from the police relating to night shooting events should be made available for statutory monitoring to assess where night shooting is most commonly carried out and to investigate why this is so in order to understand how to reduce it. If deer management in an area can demonstrate low levels of night shooting this may increase its standing in the community.

Q19. What is your view on the proposal that the requirement to obtain an authorisation to drive deer with vehicles for the purpose of culling should be replaced by a new offence of driving deer, reckless as to the consequences for their welfare?

This would allow some driving of deer provided their welfare was not affected. The policy should be that driving deer with vehicles should be minimised. However, gentle movement of deer with vehicles may help facilitate control in some situations and this can be done with minimal welfare concern. It should be a rare event, requiring authorisation and monitored by an independent observer.

<p>Q20. Should cull returns be provided by owners/occupiers or by individuals who are on the proposed register of competence?</p>
<p>Yes, including sex, age-class, species, hill weight or dressed carcass weight and location to within 1km². Good data is the basis of a good monitoring system and can be of major advantage to the industry in illustrating management credibility.</p>
<p>We also believe that the related data should be freely available for research purposes. The same should apply to records on deer numbers.</p>
<p>Comment/suggestion To bring in these proposals, it would be useful to implement the system on two demonstration sites. One a conservation oriented land holding and the other a sporting estate. This would provide working knowledge of how the new legislation would be implemented and how monitoring was devised and utilised to inform on the sustainability and welfare of deer management under different management scenarios. Thus the pros and cons of different monitoring and data collection systems could be explored and the appropriate decision support tools and the skills needed to utilise them could be developed.</p>
<p>SECTION 3 – GAME LAW Q21. If the game laws are modernised, do you have a view on whether existing statute should be (a) amended but retained in broadly its existing form; (b) repealed and consolidated into a single game law statute; or (c) repealed and brought within the Wildlife and Countryside Act 1981?</p>
<p>Q22. What is your view on the proposal to abolish the requirement to have a licence to take/kill game?</p>
<p>Q23. If the licence requirement is abolished, should either of the alternatives above be pursued, or in what ways, and for what purpose(s), do you consider that the current system could be reformed?</p>
<p>If the system is to be reformed we suggest the SG look to the already established Scandinavian models of licensing game hunting. [This question in part is being addressed as part of the “North Hunt” project]</p>
<p>Q24. What is your view on the proposal to remove the requirement to have licences to deal in game?</p>
<p>Q25. What is your view on the proposal to create a new offence of selling a game bird which has been unlawfully killed or taken (if the restriction on dealing in game in the Close Season is removed)?</p>
<p>All game killed should be properly tagged and monitored in a way to ensure that it was legally taken and to ensure public health safety.</p>

Q26. Do you have a view on whether poaching law should be modernised? If so, how should the offence(s) be framed in statute?
Q27. Do you have a view on whether the definition of game used in poaching legislation should be standardised? If so, what should the definition be?
Q28. What are your views on how rabbits and hares should be treated under poaching statute?
Q29. What are your views on the proposal that police powers should be extended in relation to poaching offences and brought into line with those which apply under the 1981 Act?
Q30A. Do you have a view on whether landowners and their employees should no longer continue to have powers to deal with suspected poachers?
Q30B. If you believe that these powers should be retained, how they should be framed in statute?
Q31. What are your views on the proposal that poaching offences should continue to be prosecutable on single witness evidence?
Q32A. What are your views on the current penalties for poaching offences?
Q32B. What level of penalties should apply?
Q33. What are your views on the proposal that the provision protecting game bird eggs in Scotland should be brought into line with that which applies in England and Wales?
Q34. Do you have a view on whether penalties for game bird Close Season offences should be harmonized with those which apply to quarry species?
Q35. What are your views on the proposal that Ministers should have a power to vary the Close Seasons of game birds?
Having the power to vary “Close Seasons”, both dates and length of season, may give the SG the flexibility to respond to phonological changes in breeding, or annual productivity, due to predicted climate change scenarios or extreme events.
Q36. What are your views on the proposal that Ministers

should have the facility to issue an order protecting game birds outwith their Close Season?
Governments of other countries with a stronger and modern game management ethos are allowed to set seasons in response to prevailing local and annual population status in order to protect stocks. [Again this is issue is in part being covered in the “North Hunt” project]
Q37. Do you have a view on whether the provisions described above relating to injured wild birds should be applied to game birds?
Euthanasia of injured game birds seems ethically justified.
Q38. Should provision be made to licence the taking/killing of game birds in their Close Seasons in specified?
Applications to kill game birds outwith the prescribed hunting season may be justified where: <ul style="list-style-type: none"> • there is a sound scientific basis to support the case, along with equally sound evidence that the population will not be threatened, and • killing is done humanely and is limited to the target and any dependant young
SECTION 4 – INVASIVE NON-NATIVE SPECIES
Q39. Do you consider that providing definitions where the meaning is not clear is useful? Do you think the definitions provided through the CBD Guiding Principles should be used where they are available or do you wish to propose alternatives?
Q40. Do you have any comments or suggestions relating to the proposed definition for the “wild”, or more appropriate ways this could be determined?
Q41. Do you have a view on the proposal to place a responsibility on an owner to ensure animals are kept in such a way as to prevent their escape and that a landowner would commit an offence if a non-native species spreads from their land or managed area?
Q42. Do you have a view on the proposal to remove the term “ordinarily resident”?
Q43. What are your views on the proposal that a no-release general presumption would provide a more effective and simpler framework?
Q44A. What are your views on the policy intention relating to animals?
Q44B. Can you think of other exceptions that should be included?
Q45A. Do you consider that this approach will provide a more

precautionary approach for the release of plants?
Not really – the exceptions include possible sources of many current invasive species, for example from gardens. The ability for plants to produce numerous mobile propagules limits our ability to prevent the spread of many species away from the point of planting.
Q45B. Can you think of other exceptions that should be included?
Yes – it may be essential for conservation efforts to move a species to new locations which are currently outwith its “natural range”. In addition it can be very hard for many plant species to identify what a “natural range” might be. For example, a species might have a current distribution which results entirely from human influence through e.g. land use. Should this be considered its natural range, or should it be the range that the species might acquire in the absence of human influence, and if the latter how would this be estimated? This could be the focus of some very heated debate.
Q46. What are your views on how information - on whether a species is native or non-native and what its natural range is - should be provided?
A dedicated website would be potentially the best route but where would the data come from? The Plant Atlas is suggested as a source of data on native range, but it is really a source of data on the existing range (see comment above)? Even then it has limitations in that there is a particular scale at which the data are provided (10 x 10 km squares normally). How will you define whether a species is in or outside its native range within these squares? One also needs to consider room for future range shifts. It would not help wide scale conservation policy if legislation implied that species migrating from the continent to the UK had to controlled/eradicated just because not native. If it does not already exist, a distinction between exotic and new comers from nearby location through natural migration (or translocation) would be helpful.
Q47A. What are your views on the proposal to introduce a power enabling specified bodies to take reasonable mitigating action to control, contain or eradicate non-native species or species outside their native range?
Q47B. Which organisations should this be provided to?
Q48. What are your views on the proposal to increase the remit of various inspectors to deal with invasive non-native species issues?
Q49A. What are your views on the proposal to provide a power to Scottish Ministers to require individuals to control and remove non-native species contained on their land, site, or property (e.g. boat)?
Q49B. How should this power should be used?
Q50. What are your views on the proposal that specified bodies should have powers to access land to investigate, survey and control (where access is denied)?
Q51A. Do you consider that costs of any action should be able to be recovered?

Q51B. Do you have any views on how these powers should be used?
Q52. What are your views on the proposal to provide an offence relating to cause and permit?
Q53. What are your views on the proposals to ensure fish are treated in the same manner as other species? What is the best way of achieving this?
Q54. What are your views on the proposal to extend the provisions of the Destructive Imported Animals Act 1932 to include greater numbers of invasive non-native species?
Q55. What are your views on the proposal to make an Order under Section 10 of the Destructive Imported Animals Act 1932 for Muntjac deer (Muntiacus reevesi) for Scotland?
Q56. Do you consider than an Order under Section 10 of the Destructive Imported Animals Act 1932 should be made for All Cervus species on the “refugia” islands (Outer Hebrides, Arran, Islay, Jura, Rum; and proposed refugia islands – Scarba, Lunga and the Garvellachs)?
Q57. Do you have any comments on how a licensing system for the prospective orders under section 10 of the Destructive Imported Animals Act 1932 should work?
SECTION 5 – SPECIES LICENSING
Q58. What is your view on the proposition that licensing is best concentrated within operational authorities rather than central government?
It is logical that all licensing relating to all species, protected under all Acts, should be consolidated with a single authority. This would be administratively more straightforward, and simpler for everyone, to have a single point of contact.
Q59. Which authority or authorities do you think should be responsible for the administration of these licences?
It would not matter materially to the customer to have to make the application to either of the Scottish Government or SNH. If SNH had objected to a proposal which required licensing, then there may be a conflict of interest if the same organisation were to then be expected to issue the licence when its view was that the proposal should not be approved. The extent to which this is a problem depends on the extent to which SNH is viewed as a pro-environment organisation, or an organisation with statutory duties connected with regulation. This would tend to suggest that the most suitable central organisation to issue licenses should be the Scottish Government, who should either have in house species experts or establish a network of independents to undertake advice work as and when necessary.
Q60. What is your view on the proposal that species licensing that is associated with development requiring planning consent would be best dealt with by local authorities?
Asking the Local authorities to organise this function would be a very poor alternative. At the moment the Local Authority has responsibility to ensure that

the interests of EPS are taken into account, and they seem to struggle to effectively achieve this role. This may be because, although the LAs do have ecologists, they do not necessarily have the expertise that SNH or expert staff might have, of those particular species. The history and training of those working in planning is not ecological, and this is acknowledged by their use of SNH to provide such expertise at the moment.

Q.61 What are your views on the proposal that the 1981 Act should be modified to allow for licences to be granted for development activities for Schedule 5 species in the same way as can presently be done for licences granted under the 1994 Regulations and the 1992 Act?

We agree that this anomaly should be removed. As it stands, licences can be issued to disturb EPS but not non-EPS, affording the non-EPS (nationally significant) a greater degree of protection than EPS (internationally significant). It would be appropriate that even forestry and agricultural activities as well as building developments should be required to be licensed, where they impact on any of the species (EPS or otherwise), under either the 1981 or 1994 Act or Regulations. The set of criteria that must be met for the issue of a license should also be consistent regardless of the nature of the proposed activity. This would increase the requirement for forestry and other land managers to develop long-term, and perhaps larger scale plans to ensure that any activity does not compromise the favourable conservation status of species, in the long term. This would reduce the current emphasis on the short-term impacts of a particular planned development. This longer term view, eg of a long-term forestry strategy for a piece of land or a larger area, would encourage long-term sustainable use of the environment. It would however also facilitate progress in the short-term (eg according to a felling plan), the impacts of which would only considered to be localised and relatively short-term when viewed during the entire forest rotation. Any tidying up on the legislation would benefit from a simultaneous synthesis of workable definitions, such as 'favourable conservation status'.

Q.62 What are your views on the proposal to tidy up Schedule 6 of the 1981 Act and remove those species which are covered by the 1994 Regulations?

We agree that there is a need for this tidying up operation. If species are removed from the 1981 Act then the wording of the act would have to be amended to state that it deals with non-EPS which are covered by the 1994 regulations.

~~**Q63. Do you have any views on the practical operation of the proposed snaring accreditation scheme?**~~

~~**Q64. What are your views on the proposal to create a new offence of tampering with a lawfully set snare?**~~

~~**Q65. What are your views on the proposal to amend the 1992 Act to provide that an offence shall be committed where a person undertook the relevant activity directly or knowingly caused or**~~

permitted the act to be done?
Q66. What are your views on the proposal to amend the 1992 Act to include offences relating to the killing of badgers within the category of offences which may be tried summarily or on indictment?
Q67A. What are your views on the proposal that Scottish Ministers be given powers to issue licences for prescribed burning outwith the specified season?
The power to grant licenses would enable the flexibility for further research to be carried out into the consequences of burning at different times in the year and into the usefulness of fire as a tool for habitat restoration and management or pest control. But the use of such licenses should be very restricted in the first instance, with general moorland management adhering to the current muirburn code, as there is potential for significant negative impacts of burning out of season and little information available to inform decision making.
Q67B. For what permitted purposes do you think these licences should be issued? Please tick at least one.
<input type="checkbox"/> habitat restoration or conservation management <input type="checkbox"/> pest/disease control <input checked="" type="checkbox"/> research <input type="checkbox"/> other – please explain
Q68A. What criteria should be used to assess licence applications? Please tick at least one.
<input checked="" type="checkbox"/> evidence of need for out of season burning <input checked="" type="checkbox"/> training/experience of personnel <input checked="" type="checkbox"/> available equipment <input checked="" type="checkbox"/> provision of a burning plan <input checked="" type="checkbox"/> other – please explain Evidence of a plan for appropriate follow up monitoring to determine the effectiveness of the muirburn for its intended purpose and to inform future licence decisions.
Q68B. What conditions should be attached to licences?
Licenses should only be given when there is evidence that the results of the burning will be followed up and the knowledge gained used to inform future management decisions and to contribute to the evidence base on burning impacts. Licenses should also be subject to a site specific assessment of potential risks to natural heritage.
Q69A. What are your views on the proposal that Scottish Ministers be given powers to vary the permissible dates for muirburn for reasons other than to adapt to climate change?
If a system of licences for burning outside the prescribed season was in

<p>operation it should not be necessary to vary the dates of muirburn season as issuing of individual licenses would give greater control. There is currently no evidence to support extension of burning into the early autumn and it would be sensible to undertake further research before varying the muirburn period.</p>
<p>Q69B. For what reason do you think the dates should be varied? Please tick at least one.</p>
<p><input type="checkbox"/> habitat restoration or conservation management</p> <p><input type="checkbox"/> pest/disease control</p> <p><input type="checkbox"/> research</p> <p><input type="checkbox"/> other – please explain</p>
<p>Q70. Would varying the permitted dates to allow prescribed burning in September be beneficial? Please explain your answer.</p>
<p>We don't know the answer to this. Since burning in September is not currently allowed there is no scientific evidence to support a decision either way. The precautionary principle would be to allow research on this area through granting of licenses before extending the muirburn season.</p>
<p>Q71. If a power to vary the muirburn season is created, what are your views on the proposal that Scottish Ministers should be able to vary the permissible dates on a geographical basis to take account of regional variation?</p>
<p>We would support this as there is substantial geographic variation in climate across Scotland which could affect the outcome of muirburn. However care would have to be taken to introduce a workable system of geographic variation which was clearly communicated to practitioners.</p>
<p>Q72. In order to reduce impacts on nesting birds, should it be specified that muirburn is not permitted (unless under licence) after 30th April? Please explain your answer.</p>
<p>Yes – since moorland birds are now nesting earlier the muirburn season should be adjusted to accommodate them.</p>
<p>Q73. What are your views on the proposal to permit the lighting of suppression fires at night, to assist in the control of wildfires?</p>
<p>Yes – it would appear sensible to introduce this provision, provided that suitable safety regulations are put in place.</p>
<p>Q74. What are your views on the proposal to remove the legal requirement to give neighbours at least 24 hours written notice of the intention to make muirburn, and the approximate location and size of the burn?</p>
<p>This requirement could be modified to give notice of a period (e.g. a week) in which muirburn is to take place rather than a specific date or time. This would ensure that surrounding landowners are still aware of potential hazards, although closer adherence to the muirburn code and best practice guidelines would reduce the chance of this happening.</p>

<p>Q75. What are your views on the proposal that Scottish Ministers be given powers to restrict certain types of burning practice which risk soil exposure and erosion?</p>
<p>Q76A. What are your views on the need to review the Muirburn Code, or the associated supplement on best practice?</p>
<p>It would be sensible to ensure that the muirburn code is updated on a regular basis to reflect current knowledge and recent research findings regarding best practice. In the light of climate change management advice may need to be modified more regularly than before. An updated muirburn code may also need to be modified to reflect some of the other uses for which fire is being employed such as pest control, habitat restoration and management of habitats other than moorland.</p>
<p>Q76B. Which aspects need to be reviewed and why?</p>
<p>Q77. Are there any other legislative changes which would encourage well managed muirburn; increase the scope for the beneficial use of prescribed burning; or allow wildfire risk to be managed more effectively?</p>
<p>Q78. What are your views on the proposal that SNH, or Scottish Ministers on receipt of advice from SNH, be granted additional powers to issue Restoration Notices to require the restoration of damaged SSSI natural features such that prosecution need only be pursued should there be a failure to comply with such a Notice?</p>
<p>Q79. What are your views on the proposal to broaden SNH's powers of entry under section 44 of the Nature Conservation (Scotland) Act 2004 to allow SNH to authorise repeated entry on to land, without a warrant, to investigate offences on SSSIs and Natura 2000 sites and monitor restoration works (being carried out voluntarily or under a Restoration Notice)?</p>
<p>Q80. What are your views on the proposal that SNH be granted powers to merge SSSIs (without requiring to seek representation from interested parties) by extending existing SSSIs to incorporate other existing SSSIs (thereby subsuming their natural features), on the basis that "new" merged SSSIs have no greater extent than that of the former sites; and in so doing de-notify one (or more as may be necessary) of the former existing SSSIs?</p>
<p>Q81. What are your views on the proposal to extend SNH's powers to de-notify an SSSI (either in whole or part) without provision for representations from interested parties in situations where SNH considers part of an SSSI no longer to be of special interest as the result of an operation permitted by a planning authority or other designated regulatory authority?</p>

~~Q82. What are your views on the proposal to clarify the wording of section 13(1) of the Nature Conservation (Scotland) Act 2004 so that a public body owner or occupier would have to apply to SNH for consent before allowing any damaging operation to take place on their land, whether this is being carried out by themselves or a third party?~~

~~Q83. What are your views on the proposal that the list of situations in which SSSI consent is not required from SNH be extended to include operations being carried out in fulfilment of a contract with a government department, agency or NDPB (with the proviso that that organisation consults SNH in compliance with section 15 of the 2004 Act) ?~~

~~Q84. On the basis that the protective provisions afforded by this designation are now largely duplicated by other provisions, what are your views on the proposal that Scottish Ministers should annul the eight extant Orders for this designation in Scotland and/or repeal section 3 of the 1981 Act?~~