

Consultation response



**Wildlife and Natural Environment Bill
Consultation Draft**

**Tony King
Head of Policy
2 September 2009**

About the Scottish Wildlife Trust (SWT)

The Scottish Wildlife Trust (SWT) was founded in 1964 to take all appropriate measures to conserve the fauna, flora, and all objects of natural history in trust throughout Scotland. With over 35,000 members, several hundred of whom are actively involved in conservation activities locally, we are proud to say we are now the largest voluntary body working for all the wildlife of Scotland. The Trust owns or manages 123 wildlife reserves and campaigns at local and national levels to ensure wildlife is protected and enhanced for future generations to enjoy.

Response to the Draft Wildlife and Natural Environment Bill

SWT is pleased to have the opportunity to comment on the Wildlife and Natural Environment Bill Consultation Draft. Where we support the Scottish Environment LINK response our response is restricted to saying so and the LINK response should be taken as the SWT response also.

Section 2: Deer

SWT supports the Scottish Environment LINK response.

Section 3: Game Laws

Our remit with respect to game laws is limited to nature conservation and our response is therefore limited to that aspect.

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do you have a view on whether existing statute should be (a) amended but retained in broadly its existing form; (b) repealed and consolidated into a single game law statute; or (c) repealed and brought within the Wildlife and Countryside Act 1981?

We are of the view that game laws, insofar as they impact on the taking rather than dealing in game, should be consistent with other wildlife legislation. We therefore support bringing game laws within the Wildlife and Countryside Act 1981.

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?

We agree with this proposal.

Q30A. Do you have a view on whether landowners and their employees should no longer continue to have powers to deal with suspected poachers?

2 Protecting Scotland's wildlife for the future

Headquarters: Cramond House, Cramond Glebe Road, Edinburgh EH4 6HZ
Tel: 0131 312 7765 Fax: 0131 312 8705 Email: enquiries@swt.org.uk

Registered at Edinburgh under No 40247 Charity Registration No SC005792

[www.swt.org.uk]



We believe that landowners and their employees should no longer have powers to deal with suspected poachers. We believe that poaching should be treated as any other wildlife crime.

Q31. *What are your views on the proposal that poaching offences should continue to be prosecutable on single witness evidence?*

We believe that the approach taken with poaching should be consistent with other wildlife crime.

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?*

We believe that the law with respect to game bird eggs should be consistent with other wildlife crime.

Q35. *What are your views on the proposal that Ministers should have a power to vary the Close Seasons of game birds?*

We agree that it is sensible to empower ministers to vary Close Seasons. We are of the view, however, that species such as black grouse (*Tetrao tetrix*) and ptarmigan (*Lagopus mutus*) should never be taken.

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?*

We support this proposal.

Section 4: Non native invasive species

SWT supports the Scottish Environment LINK response.

Section 5: Species licensing

SWT supports the Scottish Environment LINK response.

Whilst recognising in principle the case for consistency with the Habitats Directive (92/43/EEC) as transposed by the Conservation (Natural Habitats, &c.) Regulations 1994, we are of the view that this cannot be allowed to undermine the conservation of species and habitats of conservation importance. We believe that the test of “*imperative reasons of over-riding public interest*” should be – and be seen to be – high. We would expect the Scottish Government will bring forward proposals to ensure that species of conservation importance such as red squirrel, pine marten and water vole will continue to benefit the highest level of protection and that these protection mechanisms will form part of the Bill.

3 Protecting Scotland’s wildlife for the future

Headquarters: Cramond House, Cramond Glebe Road, Edinburgh EH4 6HZ
Tel: 0131 312 7765 Fax: 0131 312 8705 Email: enquiries@swt.org.uk

Registered at Edinburgh under No 40247 Charity Registration No SC005792

[www.swt.org.uk]



We believe that SNH should continue to play a key role in assessing and advising on licensing issues and that this function should be limited to ecology and conservation matters.

Section 6: Other issues

SNARING

We remain of the view that aside from any welfare issues, snaring as a management tool is indiscriminate and can be a direct threat to animals of conservation importance. Scotland is one of a minority of countries in Europe which permits snaring. Article 15 of the Habitats Directive includes a general prohibition on all indiscriminate means of capture and killing capable of causing the local disappearance of, or serious disturbance to, populations of those species listed under Annex V of the Habitats Directive and will also apply where a licence has been given for the killing and taking of those additionally protected species listed under Annex IV (a).

The extensive distribution of European Protected Species (e.g. pine marten *Martes martes* and otter *Lutra lutra*) across Scotland may make it difficult to avoid the risk of “indiscriminate killing” or to identify areas where the use of snares would be unlikely to run the risk of having an impact on these species.

In the absence of legislation to outlaw snaring, we welcome recent proposals to better regulate snaring, to prevent the setting of drag snares and snares set over water courses and to ensure that snares are labelled with an ID tag and checked at least every 24 hours.

SWT endorses Scottish Environment LINK’s response to question 64 [what are your views on the proposal to create a new offence of tampering with a lawfully set snare?]

SWT further believes that more effort is required to investigate land management techniques which can reduce or eliminate the perceived need for snaring and the risk to non-target species altogether. We would raise the further concern that snares are currently set for animals of unknown conservation status (such as the mountain hare *Lepus timidus*¹) and that this practice is not consistent with the precautionary principle..

BADGERS

As the proposals relate primarily to animal welfare rather than conservation issues we have no comment.

MUIRBURN

SWT acknowledges that properly controlled muirburn can sometimes have a role to play in upland moorland management and that the Muirburn Code has been a welcome addition to the guidance available to those involved in muirburn. We are not convinced,

¹ See Newey, S., Iason, G. and Raynor, R. (2008). The conservation status and management of mountain hares. Scottish Natural Heritage Commissioned Report No.287 (ROAME No. F05AC316).

4 Protecting Scotland’s wildlife for the future

Headquarters: Cramond House, Cramond Glebe Road, Edinburgh EH4 6HZ
Tel: 0131 312 7765 Fax: 0131 312 8705 Email: enquiries@swt.org.uk

Registered at Edinburgh under No 40247 Charity Registration No SC005792

[www.swt.org.uk]

**SCOTTISH
NATURAL
HERITAGE** Produced with
financial
assistance and
support from
Scottish Natural
Heritage



however, that muirburn is a desirable management tool and we are of the view that it is currently practised far too widely and indiscriminately.

SWT believes that muirburn is inappropriate for heather-dominated bog systems including degraded bog and that muirburn regimes are less effective in sequestering and storing carbon than is restored bog. Muirburn exacerbates the unfavourable condition of damaged bog leading to further carbon losses and should not be supported.

Contrary to the suggestions of some advocates of muirburn, studies² have suggested that wet bog can take decades to recover from burning.

SWT would like to see less muirburn and a more ecologically informed muirburn code which clearly sets out the narrow range of circumstances in which muirburn could be used as a management tool while explaining why it is inappropriate elsewhere.

As a means to manage a sustainable reduction in muirburn to a more appropriate and environmentally responsible level, SWT supports the Scottish Environment LINK response.

REVISIONS TO THE PROVISIONS ON SSSIs AND ASPs

SWT supports the Scottish Environment LINK response.

Issues not raised in consultation paper

SWT supports Scottish Environment LINK's identification of issues which we believe should feature in the Bill.

SWT contact:

Tony King
Head of Policy
tking@swt.org.uk

² See Lindsay, R.A., Charman, D.J., Everingham, F., O'Reilly, R.M., Palmer, M.A., Rowell, T.A. and Stroud, D.A. (1988) *The Flow Country: the peatland of Caithness and Sutherland*. Peterborough: Nature Conservancy Council. <http://www.jncc.gov.uk/page-4281>

5 Protecting Scotland's wildlife for the future

Headquarters: Cramond House, Cramond Glebe Road, Edinburgh EH4 6HZ
Tel: 0131 312 7765 Fax: 0131 312 8705 Email: enquiries@swt.org.uk

Registered at Edinburgh under No 40247 Charity Registration No SC005792

[\[www.swt.org.uk\]](http://www.swt.org.uk)

