

Scottish Animal Welfare Commission

**Review of Scottish Government Activity
affecting the Welfare of Animals, as Sentient
Beings**

October 2023

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1. Background

This is the third review by the Scottish Animal Welfare Commission (SAWC) of Scottish Government activity affecting the welfare of animals in Scotland.

Under Regulation 5(2)(b) of the Scottish Animal Welfare Commission Regulations 2020, one of the functions of SAWC is to provide advice on any matters concerning the welfare of protected animals on which SAWC considers it should offer its advice.

At its inaugural meeting in March 2020, SAWC agreed that, in addition to its obligation under Regulation 14 of the 2020 Regulations to report on its own activities to the Scottish Ministers and Scottish Parliament, it would be desirable also to review relevant activity by the Scottish Government.

SAWC believed that such a review would facilitate its provision of advice to promote the welfare of animals in Scotland. It would also go some way towards replacing the requirement, previously placed upon the UK government (and thereby, the four administrations) by Article 13 of the Treaty on the Functioning of the European Union (TFEU), to pay full regard to animal welfare.

In its first review, published in November 2021, the Commission reviewed the activities of the Scottish Government from 12 May 2016 – 5 May 2021 (Session 5 of the Scottish Parliament), including its legislative proposals and delivery.

The second review considered progress against the “Programme for Government 2021-2022 A Fairer, Greener Scotland” (“the 2021-22 Programme”) during the first year of Session 6.

The current review considers the second year of Session 6, which is the period covered by the “Programme for Government 2022-2023 A Stronger and More Resilient Scotland” (“the 2022-2023 Programme”).

2. Scottish legislation

The Scottish Government issued the 2022-2023 Programme in September 2022, setting out commitments for the coming parliamentary year. The Programme placed a good deal of emphasis on global and environmental issues, including economic pressures on government and individuals, the climate emergency and the war in Ukraine. There was no specific new proposal for animal welfare legislation but there were relevant commitments in other areas, such as food policy and aquaculture. Work also progressed during the year on animal welfare legislation commitments from the 2021-2022 Programme.

Hunting with dogs

The Hunting with Dogs (Scotland) Bill, implementing the majority of the recommendations of the independent report on the Protection of Wild Mammals (Scotland) Act 2002, and introducing further measures, such as prohibiting trail hunting, was introduced in February 2022 and passed in January 2023.

The Act provides that it is an offence to chase and/or kill a wild mammal using a dog. It also introduces new measures to:

- Limit to two the number of dogs that can be used to search for, stalk or flush mammals from cover above ground;
- Introduce a licensing scheme for the use of more than two dogs to search for, stalk or flush wild mammals above ground, in certain limited circumstances;
- Limit to one the number of dogs that can be used to search for or flush foxes or mink from cover below ground;
- Prohibit the activity known as trail hunting (the activity of directing a dog to find and follow an animal-based scent).

SAWC provided written and oral evidence to the Rural Affairs, Islands and Natural Environment (RAINE) Committee in support of the Bill. The Act gained Royal Assent in March 2023 and will come into force later in Autumn 2023.

Wildlife Management and Muirburn

The 2021-2022 Programme contained a commitment to “deliver the recommendations of the Grouse Moor Management Review Group as a matter of urgency, including the licensing of grouse moors” and this was crystallised in the 2022-2023 Programme with the announcement of a Wildlife Management (Grouse) Bill. The Bill – renamed the Wildlife Management and Muirburn (Scotland) Bill – was introduced on 21 March 2023 and at the time of writing had completed most of Stage 1 in the Rural Affairs and Islands Committee.

The main provisions of the Bill cover new licensing regimes for land used for the killing and taking of red grouse and for muirburn on any land. It also introduces measures to prohibit the use of glue traps, to regulate wildlife traps used for taking wild birds and mammals through a licensing scheme, and includes enabling powers to allow Scottish Ministers to extend the role of inspectors appointed under the Animal Welfare Act 2006 to investigate certain wildlife offences.

SAWC has supported the Bill and provided written and oral evidence regarding the animal suffering caused by wildlife traps as well as by the use of snares. On 22 August 2023 the Scottish Government launched a public consultation on a proposal to bring forward amendments at Stage 2 of the Bill to ban the use of snares in Scotland, citing among other things, the advice given by SAWC to the wider review of snaring. The consultation also asked for views on limited extensions to the power of the Scottish SPCA to investigate wildlife crimes. The SAWC welcomes both of these proposals.

Spring Traps Approval (Scotland) Amendment Order 2023

The purpose of this Order is to amend the list of approved traps and the species which they are approved to take under the Spring Traps Approval (Scotland) Order 2011, as amended by The Spring Traps Approval (Scotland) Amendment Order 2018, and The Spring Traps Approval (Scotland) Amendment Order 2020.

The Order will provide an additional type of spring trap for stoat, which complies with the Agreement on International Humane Trapping Standards (AIHTS), and to add several other new spring traps for non-AIHTS species. The Order is expected to come into effect on 1 January 2024.

The Order adds the following traps to the 2011 Order:

- Quill Trap for stoats, weasels, and rats
- Aurotrap for rats
- Smart Pipe Long Life 300
- Smart Catch for rats and mice
- Smart Catch Mini for rats

The Order also amends the name of one of the trap suppliers and removes the listing of edible dormouse (*Glis glis*) from most of the currently approved traps.

SAWC expects that a ban on snares, if approved by the Parliament under the Wildlife Management and Muirburn (Scotland) Bill, would be followed by removal of the WCS Collarum snare from the 2011 Order. SAWC has previously queried its inclusion in the 2011 Order as anomalous.

Deer management

The Deer Management Working Group was established in 2017, following reports by NatureScot in 2016 and the Scottish Parliament's Environment, Climate Change and Land Reform (ECCLR) Committee in 2017. Its report, published in January 2020, made 99 recommendations for changes to deer management arrangements, most of which were accepted, including phasing out the use of lead ammunition to cull deer, modernising existing deer legislation, developing robust deer management plans and enhanced monitoring of deer numbers.

In 2021, the Scottish Government established a Deer Management Strategic Board that comprises senior officials from NatureScot, Forestry and Land Scotland, Scottish Forestry, CNPA and LLTNP, and Scottish Government. The Board is established as a project under the Scottish Biodiversity Programme Board to encompass legislative and non-legislative components of ensuring effective deer management. This is intended to ensure an appropriate level of governance, while bringing deer management into consideration alongside biodiversity as the Scottish Biodiversity Strategy progresses.

In the 2021-2022 Programme, the Scottish Government progressed the Deer Management Working Group recommendations with proposals for introducing a new cull return system, to ensure proportionate deer management plans, modernising legislation, including deer close seasons and use of specialist equipment when managing deer, and designing future agricultural support schemes to encourage a reduction in grazing pressure in the uplands.

Two statutory instruments were laid at the end of June 2023, following limited stakeholder consultation. The Deer (Firearms etc.) (Scotland) Amendment Order 2023 derestricts the use of night sights when shooting deer and reduces the minimum weight of ammunition for shooting deer from 100 g. to 80 g., in order to make non-lead ammunition more accessible.

The Deer (Close Seasons) Amendment Order 2023 removes the close seasons for male deer, while retaining the existing close seasons for females. The policy note for this instrument cites the SAWC view that "Providing the normal requirements for high standards of public safety and animal welfare are adhered to – for example in terms of accurate shooting, following up on wounded deer and avoidance of harassment or

excessive movement of stags after the rut – we agree that there is no need for a close season for males.”

It should be noted that, in its comments on the Deer Management Working Group report, SAWC also stressed the importance of proposed legislation, including measures to protect the welfare of deer when they are subject to management measures.

If approved, the close seasons Order will come into force in October 2023, although it had not completed parliamentary process at the time of preparing this report, and the firearms Order in November.

Welfare of Dogs (Scotland) Bill

The Welfare of Dogs (Scotland) Bill was introduced in June 2023. This Member’s Bill, lodged by Christine Grahame MSP, will require the Scottish Government to issue a statutory Code of Practice for buyers of puppies and give powers to introduce registration of all puppies born. The Scottish Government has supported the principles of the Bill and stated that it will suggest amendments. SAWC also supports the Bill subject to relevant amendments.

Licensing of activities involving animals

A consultation on legislation, to extend the framework for licensing of activities involving animals, was launched on 4 July 2023 to cover dog walking, dog grooming, canine fertility clinics, greyhound racing, animal boarding and equine establishments.

Further consultation on performing animals and other “animal experiences” is expected in 2024/25.

3. UK legislation

In the 2021-2022 Programme, the Scottish Government committed to working with other UK administrations on legislation to control exports of livestock and imports of dogs, modernise zoo licensing, and control import and sale of products that raise ethical concerns such as fur.

This commitment referred to two pieces of potential Westminster legislation proposed as part of the UK government’s action plan for animal welfare, published in May 2021.

The Animal Welfare (Kept Animals) Bill, introduced on 8 June 2021, contained provisions that would have extended to Scotland, covering the export of livestock for slaughter or fattening, the importation of dogs, cats and ferrets, and improvements to zoo licensing, as well as other changes.

The Scottish Government and the Scottish Parliament supported these proposals. Regrettably, after considerable delay and uncertainty, the UK government announced on 25 May 2023 that it was withdrawing the Bill, although some of its intended measures would be taken forward as individual pieces of legislation.

A further proposed UK government bill, the Animals Abroad Bill, covering prohibitions on imports from trophy hunting, the sale and import of fur and foie gras, and the advertisement and sale of certain animal experiences overseas, such as elephant rides, was withdrawn prior to formal introduction. This bill had also been supported by the Scottish Government.

The Hunting Trophies (Import Prohibition) Bill was introduced to the UK Parliament in June 2022 by Henry Smith MP, with UK government backing. This Bill would ban the import of hunting trophies into Great Britain from species listed by the Government in regulations, including those already listed in existing Wildlife Trade Regulations, unless excluded by the government. The territorial extent of the Bill is England, Wales, Scotland and Northern Ireland as international trade is a reserved matter.

SAWC agrees with the Scottish Government that the changes proposed under both the Animal Welfare (Kept Animals) Bill and Animals Abroad Bill would have brought desirable animal welfare benefits, and regrets that progress could not be made in a more coherent way in the UK parliament.

The issue of low welfare animal activities sold to tourists abroad was also taken up at Westminster in the Animals (Low Welfare Activities Abroad) Bill lodged by Angela Richardson MP in early 2023, again with UK government backing. This Bill covers devolved matters and would have required the consent of the Scottish Parliament in order to extend to Scotland. Explaining the Scottish Ministers' decision not to lodge a Legislative Consent Motion, the Cabinet Secretary for Rural Affairs and the Environment told the Scottish Parliament that this was due to insufficient time given by the UK government to consider the provisions of the Bill. However, she did state that she was open to considering similar proposals to restrict the advertising in Scotland of unacceptable animal experiences abroad, provided that it was done "in a manner that respects the role of the Scottish Parliament and the other important animal welfare issues that the Scottish Government wants to address".

Proposed changes to the Zoo Licensing Act to allow more stringent conservation requirements, to be specified in licence conditions, have also been dropped by the UK government, although joint work continues to update GB guidance on zoo standards.

The 2021-2022 Programme included commitments for consultations on proposals to improve animal transport legislation, and phase out cages for gamebirds and laying hens, and farrowing crates for pigs. Apart from some continuing discussions with stakeholders on possible animal transport improvements, plans for potential joint consultations on these matters as well as animal welfare labelling were dropped by the UK Government.

4. Scottish Government - Policies and strategies

Natural environment

In December 2022 the Scottish Government met its commitment to publish a new Biodiversity Strategy, setting out its ambition for Scotland to be Nature Positive by 2030, and to have restored and regenerated biodiversity across the country by 2045. The Strategy represents the first element in Scotland's Biodiversity Delivery

Framework and is due to be followed by a Natural Environment Bill (a 2021-2022 Programme commitment) providing for statutory targets for nature restoration on land and sea, and a framework for setting, monitoring, enforcing and reporting on those targets. It includes a number of actions that have animal welfare implications and are therefore relevant to the SAWC remit, including a continued drive to reduce deer population densities, ongoing control and removal of invasive non-native species (INNS) and ensuring that grouse moor management sustains healthy biodiversity.

The Natural Environment Bill is due to be introduced in 2024.

Aquaculture

The 2022-2023 Programme included a commitment to developing a Vision for Sustainable Aquaculture, with enhanced emphasis on environment and community benefit, continuing to progress the regulatory review of aquaculture and providing measures to tackle associated environmental impacts, including implementation by SEPA of a new sea lice risk assessment framework. This spatially-based risk assessment framework aims to regulate the interaction between sea lice from marine finfish farms and wild Atlantic salmon by establishing a network of wild salmon protection zones in migration bottlenecks in coastal waters on the West Coast and Western Isles, such as sea lochs and sounds. The framework will be implemented in phases from the end of 2023, after which all proposals for new finfish farms, or increases in fish numbers at existing farms that could affect protection zones, will be subject to risk assessment and appropriate permit conditions.

The Scottish Government has also given directions to SEPA regarding the application of a new Environmental Quality Standard (EQS) for emamectin benzoate (EmBz), which is widely used in the marine finfish industry to control sea lice. The new EQS sets reduced EmBz discharge limits for marine finfish farms. A consultation on the timescale for implementation ran from 24 April to 24 July 2023.

The Vision for Sustainable Aquaculture was published on 21 July 2023. Improving aquaculture health and welfare is included as one of the strategic outcomes, described as “an ethical responsibility and a priority”.

The Health and Welfare section includes the aims of:

- improving health and welfare, and reducing cumulative mortalities over the finfish production cycle to the lowest possible levels
- continuing research into the use of cleanerfishes in aquaculture and developing a Code of Good Practice (CoGP) to support improved cleanerfish health, welfare and performance
- increasing adoption of new and innovative technologies, which achieve both positive environmental and health and welfare outcomes, including exploring the potential use of semi-closed and fully-closed containment systems
- understanding pathogen pathways and appropriate pest management options for seaweed farming.

Aquaculture is identified in the Vision as having a crucial role to play in meeting the commitment to becoming a Good Food Nation, although in this context emphasis is placed on food production and reduction of greenhouse gas emissions, rather than animal welfare. Promoting Scottish aquaculture products, to increase domestic consumption, is identified as a community aim in support of Scotland's ambition to become a Good Food Nation.

SAWC supports the aim of improving fish health and welfare, and reducing mortalities. The SAWC aquaculture working group is currently preparing a report on the welfare of cleaner fishes.

Scottish Veterinary Service

The 2021-2022 Programme proposed to create a new dedicated Scottish Veterinary Service and in February 2022 the Cabinet Secretary for Rural Affairs confirmed that the field animal health and welfare functions currently delivered by the Animal and Plant Health Agency (APHA) in Scotland would be replaced by a new Scottish Veterinary Service (SVS) within the lifetime of the current Parliament.

A Programme Board, representing organisations involved in the delivery and enforcement of animal health and welfare and food safety, was given responsibility for assessing the proposed functions of the SVS and what format these may take.

SAWC has supported the Scottish Government's aim of introducing efficiencies, better resilience, and strengthened delivery and enforcement across a range of animal health and welfare tasks. We are not aware of progress towards developing the proposed SVS since our last review.

Good Food Nation Plans

The passage of the Good Food Nation (Scotland) Act 2022 met a longstanding Scottish Government commitment, with the original consultation on a bill carried out in 2018. Section 1 of the Act requires Scottish Ministers and certain public authorities to produce Good Food Nation plans, setting out the main outcomes to be achieved, indicators for assessing progress, and the policies to be followed in pursuance of those outcomes. In determining the content of the national Good Food Nation plan, Scottish Ministers must have regard to the scope for food-related issues to affect outcomes in a number of social, environmental and community areas including animal welfare.

The Act also provides for the creation of an independent Scottish Food Commission, to provide oversight of the progress of the Good Food Nation measures. Last year, SAWC welcomed both the addition of principles that include animal welfare and the creation of the new Commission, and hoped to collaborate with the Commission as required on animal welfare issues and policy.

SAWC does not have information about progress towards integrating animal welfare into wider food policy. We are aware that Scotland's first Public Procurement Strategy: 2023 to 2028, published in April 2023, includes animal welfare as part of its Food Security objective. This strategy is intended to provide "a future high-level vision and roadmap for Scottish public procurement which all public sector bodies can align to and deliver against". SAWC would like to see the opportunity taken

through this process to educate both organisational purchasers and individual consumers on the role of animal welfare in food quality.

5. Scottish Government – Work in progress

Farmed animals

Scottish Government animal welfare officials have continued to hold discussions with other administrations and industry stakeholders on possible reforms to animal transport legislation.

Officials have continued to provide secretariat support for a UK Animal Welfare Committee (AWC) working group on castration and tail docking of lambs, which included consideration of alternatives to the conventional rubber-ring method. Publication of the report is expected this year.

Scottish Government has also supported the AWC's review of the 2014 recommendations on welfare of farmed fish at the time of killing, which is also expected to be published this year.

Updated Scottish pig welfare guidance has been developed and is expected to be issued in the near future, following AWC consideration.

Financial support for farmers, to undertake specific interventions to improve cattle and sheep animal health and welfare, was introduced as part of the Preparing for Sustainable Farming programme under the auspices of the Rural Payments and Inspections Division.

Animal welfare research

A Scottish Government Contract Research Fund project was awarded to Scotland's Rural College (SRUC), to investigate the welfare of cattle and sheep transported by sea from the Northern Isles. The project was commissioned by the Scottish Government Animal Welfare team, to inform consideration of how journey time at sea should be treated, following a recommendation by the UK Farm Animal Welfare Committee that this should be reviewed. Work has commenced and monitoring of journeys will take place in Autumn 2023.

The Scottish Government Strategic Research Programme 2022-2027 started on 1 April 2022. This includes several ongoing areas of research on animal welfare topics, mostly at SRUC:

- Precision livestock tools to improve sheep welfare; early detection of sheep scab, roundworm, mastitis. (Moredun Research Institute)
- Practical on-farm solutions for welfare and sustainability; solutions to chronic problems - evaluation of Precision Livestock Farming approaches for early warning of behaviour problems in pigs and diseases in sheep; evaluation of alternatives to farrowing crate systems; improving monitoring of nutritional management of cattle and sheep; reducing pain associated with management procedures (tail-docking, drying off); mother-offspring contact in dairy systems; male dairy calves in the value chain

- Practical on-farm solutions for positive welfare - environmental enrichment; understanding stakeholder views; inventory of enrichments for varied species and their effectiveness; assess use of enrichments; assess biological benefits of enrichment; propose actions to increase effectiveness
- EU Exit – challenges and opportunities for animal welfare; evaluate differences in welfare standards between Scotland and potential trading partners; provide evidence in support of maintaining or improving standards; monitor emerging areas and recommend policy priorities; evaluate, update, and standardise welfare measurement methods
- Solutions to improve laying hen welfare; decreasing the incidence and/or severity of feather pecking in non-cage systems; ways of reducing the prevalence of keel bone (sternum) fractures; alternative free-range systems for good hen welfare during temporary housing orders
- Influencing human behaviour to improve animal welfare: Case studies of exploring why tail-docking, castration and disbudding persist; body condition scoring in beef suckler cattle; the effect of Qualitative Behaviour Assessment on stockperson behaviour; educational interventions to enhance pig stockperson behaviour; farmer mental health and its interaction with animal welfare; the framing of animal welfare in communicating to stakeholders; livestock-worrying and responsible dog ownership; public demand for animal welfare.

Scottish Government officials continue to advise on commissioning and monitoring of a number of animal welfare projects funded by Defra from a GB research requirements budget.

Advisory activity

SRUC veterinary services provide a specific farm animal welfare advisory service funded by Scottish Government. This delivers advice to Scottish Government officials on existing and potential welfare problems, promotes awareness of animal welfare requirements to livestock keepers and livestock sector organisations through publicity campaigns and supports enforcement agencies in investigating suspected cruelty/crimes involving livestock and wildlife.

Wildlife: species licensing

The 2021-2022 Programme included a commitment to “Reviewing the wider species licensing system with a view to ensuring that the law is being applied correctly and that lethal control is only licensed where the conditions required for such a licence are demonstrably being met. The review will also assess the potential to apply the principle of full cost recovery to species licensing and the introduction of a public register of licences to improve transparency.”

SAWC understands that this work is under way and looks forward to further developments.

6. Discussion

Last year, SAWC was able to welcome a number of specific animal welfare legislative commitments in the 2021-2022 Programme. While the same is not true of the 2022-2023 Programme, that does not imply that government work on animal

welfare has slowed in Scotland. Quite the contrary: 2023 has seen the introduction of two major Bills affecting wildlife – the Hunting with Dogs (Scotland) Bill (now the Hunting with Dogs (Scotland) Act 2023) and the Wildlife Management and Muirburn (Scotland) Bill, which at the time of writing is still at Stage 1 in the Scottish Parliament. Both of these offer significant changes and improved protection for wild animals.

While the Scottish Government's Animal Health and Welfare Division, Wildlife Management Team and Marine Scotland all have direct or implied responsibility for animal welfare, much also derives from other work areas, such as food policy.

As noted in section 4, the inclusion of animal welfare in the Good Food Nation (Scotland) Act 2022 as one of the principles to be integrated in the national and public authority plans was a welcome development. Public policy and approaches to matters such as procurement have the potential to make a significant impact on the welfare of animals produced for food and on public attitudes to welfare. SAWC is keen to see animal welfare accorded due priority in the national and regional plans that will flow from the Act, with due consultation of animal welfare experts and advocates. We understand that the Scottish Government has asked relevant bodies to create and adopt these plans by 2025 and look forward to seeing further details.

As another example, June 2023 saw the commencement of important sections of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, allowing local authorities to designate Firework Control Zones where fireworks may not be used, prohibiting the sale of fireworks to under-18s and restricting the possession of fireworks in public places. Again, this is not animal welfare legislation *per se*, but it has far-reaching implications, as was recognised by inclusion of the Scottish SPCA on the Firework Review Group prior to the Bill. SAWC believes that the new licensing system for purchases, allied with restrictions on times and places of use, will significantly reduce the negative impacts of firework noise on pets, farmed animals, zoo animals and wildlife. During the passage of the Bill, SAWC asked the Minister for Community Safety to reconsider proposed exemptions for organised public firework displays and professional displays. While this recommendation was not taken up, we hope the issue of noise will be kept under review.

One constraint on progress is the need to rely on UK government to legislate on reserved matters, or on devolved matters with legislative consent where consistent legislation across the UK is particularly desirable. Scottish Government animal welfare team officials are regularly involved in discussions, research and preparations for UK legislation and Scottish animal welfare organisations join their English and Welsh counterparts in effective advocacy to support its development. When relevant Bills are abandoned by the UK government, Scottish animal welfare is disadvantaged. SAWC has no wider political or constitutional point to make on this issue, simply to observe that progress for animals in Scotland can be significantly affected – whether positively or negatively – by decisions that are not made by the Scottish Government.

Bills and statutory instruments are of course only one route for the Scottish Government to improve animal welfare. Programmes for Government also include

strategies to set out and implement policy in practical detail, and these need to be scrutinised along with legislation.

For example, the period of this review saw publication of the Vision for Scottish Aquaculture. Many millions of Atlantic salmon live in fish farm cages around the Scottish coast – all of them sentient individuals and all dependent on human keepers for their welfare. Currently, the Vision appears to prioritise sea lice as more of an environmental than an animal welfare problem: We think there could be benefit in addressing the latter aspect with some urgency.

Within the Vision, Good Food Nation policy is identified as one of the current and forthcoming policies and programmes that will contribute to the Vision outcomes, but animal welfare is not one of the themes listed as relevant to this policy. This might be an area where cross-disciplinary thinking could be harnessed to progress animal welfare.

As we have previously stated, SAWC welcomes the independence it has been accorded with regard to setting its agenda and to consider issues it considers important, in addition to those referred to it by the Scottish Ministers. We continue to welcome our freedom to prioritise and we submit the comments in this report in a constructive and positive spirit.

7. Acknowledgment

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