

2002 Act review
Wildlife Management Team
Natural Resources Division
Directorate for Environment and Forestry
The Scottish Government
1-C North
Victoria Quay
Edinburgh
EH6 6QQ

31 March 2016

Review of the Protection of Wild Mammals (Scotland) Act 2002

Dear Lord Bonomy

The Scottish SPCA was established in 1839 and is Scotland's largest Animal Welfare Charity.

Qualified Scottish SPCA Inspectors are authorised by the Scottish Minister to enforce the welfare provisions of the Animal Health and Welfare (Scotland) Act 2006 and, act as a specialist reporting agency to the Crown Office Procurator Fiscal service in relation to all other animal related legislation.

The Scottish SPCA provided written submissions and oral evidence in the lead up to the introduction of the Protection of Wild Mammals (Scotland) Act 2002. At the amendment stage of the Bill, the Scottish SPCA warned about the potential loopholes being introduced.

There should have been a limit to the number of dogs that can be used to flush a fox to guns. The Act states that any dog – dogs used should be under control, it could be easily argued that a pack of loose hounds cannot be effectively under control. The Scottish SPCA highlighted at the time, that regardless of the right or wrong intention of the people involved, no one can predict that a wild fox will run towards a gun.

The intention to flush to a gun, simply means, that if a gun is in the vicinity of a flushed fox the people involved can claim that they are acting within the spirit of the Act, (vicinity is not defined in the legislation).

The Scottish SPCA accepts that certain creatures accepted as pests may require to be controlled to protect livestock etc, essential pest control should be carried out by the



most humane legal method available. The most effective humane method is by a competent shot potentially combined with lamping.

The Scottish SPCA does not approve of snaring (due to the indiscriminate nature of snares), however, if set in accordance with the law by a trained operator, they can be effective.

The opinion of the Scottish SPCA has not changed since the 2001 submissions; the Scottish SPCA still believes that dogs should not be allowed to kill wild animals, given that no one can predict the direction a flushed fox will take, unless there are a large number of guns on site, there is a very reasonable chance that a fox will evade a waiting gun, therefore, if a large number of dogs are involved, there is a greater chance that the dogs will catch and kill the fox.

The Act came into being primarily to address the issue of traditional mounted hunts using packs of dogs. Under the terms of the Act it is virtually impossible to enforce, as long as a gun is present, there is little chance if any to prove that the intention was allow the dogs to kill a fox.

Since the Act was introduced, the Scottish SPCA has received a number of calls alleging some of these hunts are acting illegally; the Scottish SPCA has been unable to substantiate these allegations.

Given that firearms are assumed to be present, the vast majority of complaints under this Act were dealt with by the various Police Forces and now Police Scotland.

An issue that has successfully been dealt with by the Scottish SPCA, Police Scotland and the Procurator Fiscal service under the Animal Health and Welfare (Scotland) Act 2006, is the deliberate setting of dogs to kill wildlife (not connected to traditional hunting).

Police Scotland has a good track record in relation to poaching matters. The Scottish SPCA has successfully reported cases to the Procurator Fiscal service where individuals have trapped wild foxes and badgers and then deliberately set dogs upon them. The people referred to in this paragraph, are not and cannot be linked to those involved in lawful Countryside activities.

Whilst the intention of the Protection of Wild Mammals (Scotland) Act 2002 is to be admired, as it is currently stands the Act is all but un-enforceable and gives the general public false expectations.

The Scottish SPCA would be happy to assist in any part of the review process.



Yours sincerely



Michael Flynn
Chief Superintendent
Scottish SPCA

