

## Hunting with Dogs (Scotland) Bill - Full Consultation Response

### **1. Do you agree the bill would make the offence to hunt a wild mammal using a dog in Scotland easier to understand and to enforce than under the 2002 Act?**

The introduction of the Bill is based on a number of false assumptions, including that the drafting and construction of the existing legislation has made the law hard to understand and therefore is a problem in terms of enforcement both for the police and courts. The courts have had no problem in applying the law and as with any law prosecutions have been successful where there has been the necessary evidence. Although there is no doubt that the drafting of the Protection of Wild Mammals (Scotland) Act is capable of improvement, as is the case for many other laws, there is little if any evidence to suggest that this has made the existing law difficult to understand or enforce.

### **2. Do you agree with the definition of a wild mammal set out in the bill?**

No. The definition of wild mammal is broader than the current legislation which specifically excludes rabbits and rodents. The Bill now includes rabbits and rodents other than rats or mice. We do not believe extending the scope of the legislation in this way is necessary or desirable. In particular, it would make the control of rabbits harder and raises questions about the ability to control non-native invasive species living in a wild state, such as the grey squirrel which is currently outwith the scope of the Protection of Wild Mammals (Scotland) Act. The wider the scope of the legislation and the more imprecise the definitions, the greater the likelihood of vexatious prosecutions and unintended consequences for those managing wildlife. It must always be remembered that in Scotland, unlike in England and Wales, the mere act of a dog searching for a wild mammal (even if no wild mammal is in fact present or found) is an act of hunting.

### **3. Do you agree the bill would make the offence for a land owner/occupier or dog owner/person who is responsible for a dog to knowingly cause or permit another person to hunt a wild mammal using a dog easier to understand and to enforce than under the 2002 Act?**

No. There is no problem with the wording of the existing law in terms of it being understandable and enforceable. The Bill makes no substantive difference to the ingredients of these offences as they exist in the 2002 Act and represents no improvement as far as making the law more understandable or enforceable. The Bill does, however, change the approach to the liability of dog owners and land owners by introducing a statutory defence where the defendant has the defence of showing that they had reasonable belief that any hunting fell within one of the exceptions to the main offence. This revised approach seems to have been drawn from Lord Bonyon's discussion of vicarious liability. While he rejected vicarious liability, the inclusion of a statutory defence seems to follow the alternative approach he suggested, in which by necessity landowners and dog owners will need to ensure they can show reasonable belief that they were giving permission for lawful activity when a person is convicted of a hunting offence.

We would note that the definition of 'owner' is very broad and includes a person who manages or controls the land or is authorised to give permission for hunting. This seems to extend beyond the current legislation which references only the owner or occupier of land. The definition used here seems to extend the category of persons from whom permission can be sought for excepted activities but this could result in confusion and also increase the categories of persons who could be prosecuted under the secondary offences.

**4. Do you agree with the exception for the management of wild mammals above ground for the specified purposes and if the conditions are met?**

Yes. It is vital that there is an exception that allows foxes to be flushed and shot for the listed purposes, which are also found in the existing law. Proponents of the original legislation used to argue that they had no problem with the use of dogs for 'pest control'. Their position now seems to have changed to an argument that there is no need for fox control at all despite increasing evidence that fox control, in particular, is vital in securing many threatened species as well as farming livelihoods. That fox control is not necessary is a view rejected by Lord Bonomy and the Scottish Government.

We would note that while it is best practice to follow up injured animals, a restriction to two dogs could extend the time before an injured animal is located and result in increased suffering. For legislation being promoted on the basis of a claim of some animal welfare benefit this is ironic. The requirement that injured animals are killed in a way that causes "the minimum possible suffering" contrasts with the existing law states that the injured animal is killed "as humanely as possible". The new wording suggests that the method deployed must be that which causes the minimum possible suffering without necessarily taking account of the circumstances, whereas the current wording simply requires the method which is most humane in the circumstances. We would suggest that the long-established expression "as humanely as possible" is preferable to the reference to "minimum possible suffering" and it would give greater certainty to those following up and despatching injured animals. These issues would apply to the other exceptions as well.

**5. Do you agree with the specified purposes set out in section 3(2) for which the exception for the management of wild mammals above ground would apply?**

Yes. However, it will be hard to achieve those purposes using only two dogs and with a licensing system to use more dogs that is not fit for purpose. Farmers will be unable to manage foxes with the resulting economic damage and increased suffering of livestock. We would also note that the Bill takes the existing purposes for which a wild mammal may be searched for, stalked or flushed above ground and separates them into those concerned with damage to livestock, woodland and crops or to prevent disease or to protect human health, and those viewed as being for conservation purposes. We see no logic or justification for this separation, other than as a means of justifying two different licensing regimes. Protecting livestock etc under the clause 3 exemption is just as important as the conservation purposes set out in the clause 7 exception. If the intention is to make the legislation easier to understand and enforce, then this distinction is unhelpful and unnecessary. There is also no justification in animal welfare terms. A fox being flushed and shot does not experience different welfare consequences depending on the purpose for which the flushing and shooting takes place.

**6. Do you agree with the conditions set out in section 3(3), including the proposed limit for up to two dogs, which would apply for the exception for the management of wild mammals above ground?**

The conditions imposed largely reflect the existing conditions although the restriction to two dogs cannot be justified on the evidence and necessitates the additional licensing provision so that those seeking to protect livestock etc will now need to apply for a licence in order to be able to conduct effective pest control. Douglas Batchelor, then Chief Executive of the League Against Cruel Sports, stated in August 2005 with reference to the Hunting Act in England and Wales: "The gun packs have realised that pairs of dogs are utterly useless in flushing to guns...". Significantly he went on to say "They (the dogs) can't be easily seen or closely controlled and the fox can easily run round just two dogs". His views were vindicated by the peer-reviewed research comparing the use of two dogs and packs of dogs carried out ten years later. That found that using two dogs was both less effective in terms of flushing foxes and, that as Mr Batchelor predicted, foxes can run around two dogs and the

length of pursuit before foxes were flushed by two dogs was much longer. Clearly, if fox control is to be effective in Scotland a restriction to two dogs would, as the League Against Cruel Sports have stated, make that impossible. The Scottish Government has been clear that it wants effective and humane pest control to continue and if this is the policy objective of the legislation then the two-dog limit cannot be justified. However, if it is to remain then the licensing system being proposed must actually be workable and fair so that more than two dogs can be deployed to ensure effective pest control in Scotland.

#### **7. Do you agree with the proposed licensing regime?**

We do not believe the licensing regime should be necessary, because the two-dog limit is not justified. As Lord Bonomy noted: *"7.26 ...I am persuaded by the submissions and such other evidence as there is, in particular that of the experience of those who work with packs, the scientific study paper by Naylor and Knott (taking full account of its limitations and the criticisms made of it) [Naylor and Knott, A pack of dogs is more effective at flushing red foxes to guns than a pair was subsequently peer-reviewed and published in the Wildlife Society Bulletin, June 2018] , and the fact that in England and Wales hunts do not generally flush to guns using two dogs, not only that searching and flushing by two dogs would not be as effective as that done by a full pack of hounds, but also that imposing such a restriction could seriously compromise effective pest control in the country, particularly on rough and hilly ground and in extensive areas of dense cover such as conifer woodlands..."*. If, however, there is to be a licensing regime then the current proposals are not workable. Moreover, decisions to issue licences would clearly be open to judicial review. We also believe that the discrimination inherent in the two licensing regimes between those wishing to protect their livestock and crops and those seeking an environmental benefit raises questions of the Bill's fairness and its human rights compatibility.

The licensing regime is unworkable in its current form. It fails to recognise that pest control is largely preventative and takes place to prevent damage that might otherwise occur. The management of predators, such as foxes, is a continual process that can require a multitude of methods, including the use of packs of dogs to be fully effective. It may take an entire lambing season for a crofter to gather evidence to justify a reactive licence, in which time the damage will have been done. A reactive licence is not a workable licence, particularly if it is severely restricted by time-limits. Limiting the number of days to a maximum of 14 in a consecutive 14-day period is impractical and would make effective fox control impossible. Would a farmer need to make repeated applications for a licence and at what cost both in terms of time and any fee required by the relevant authority. What will be considered 'serious' damage and what evidence will be necessary to allow the relevant authority to be satisfied that the licence is being issued for this purpose? It must be recognised that fox control has always been widespread and there is therefore limited evidence of damage that would otherwise occur in the absence of control as currently carried out. Will farmers have to wait a year or two and suffer increasing livestock losses until such time as they have the necessary evidence?

How is the relevant authority to be satisfied that there is no other solution which would be 'effective' in achieving the purpose for which the licence is sought? In most circumstances there will be an effective alternative but the fact that it might be effective does not mean it is practical. How is the relevant authority to satisfy itself as to what "the minimum number of dogs" that would be effective in achieving the purpose for which the licence is to be granted? Is the relevant authority going to determine number based on topography and what if one licence applies to a person who may be using dogs in large dense forestry plantations one day and more open country the next? Will site visits be required before licences are granted? Surely, practitioners with the experience on the ground, are

better placed to determine how many dogs are effective than someone in NatureScot's licensing department?

The licence must also specify the area within which the licence can be relied on but how is this to work in practice given that it is accepted by all in this debate that flushing to guns using two dogs does not work? A significant issue will be that if a particular area is assessed and a number of dogs specified, then who will then be licensed? If it is the landowner, then that licence will be specific to that land and boundaries will determine the effectiveness of the fox control. If the landowner is suffering loss and the fox den is on neighbouring ground, then the licence process has been a waste of time as the licence will not extend to other properties. If a pack or individual is licensed then effective control could continue over ground where the owner/occupier has given permission, making this specific part of the licence workable. Farmers, land managers etc will thus be dependent on licences which there is no certainty will be granted, and where the licensing authority is required to make judgements, the basis for which are uncertain and unclear. Moreover, a person applying for a licence cannot wait for weeks while evidence is gathered and the relevant authority tries to satisfy itself that the licence is necessary, determine the number of dogs (whatever this is based on), land etc, not least as the relevant authority could face judicial review unless their decisions are sufficiently robust.

**8. Do you agree with the exception for the management of foxes and mink below ground for the specified purposes and if the conditions are met?**

Yes. Once again, we would note Lord Bonomy rejected the arguments advanced by opponents of hunting regarding terrier work.

We would also note the definition of a dog being 'under control' has been changed in the Bill from that in the existing legislation and that this would be problematic for a dog used below ground as there may be situations when the dog may not be able to be directed by the responsible person "by physical contact or verbal or audible command". This may also be the case when dogs are put into huge areas of forestry especially when two dogs are less effective at flushing. It was for this reason that the 2002 Act included the further provision that a dog was under control "when carrying out a series of actions appropriate to the activity undertaken, having been trained to do so". It perhaps reflects the fact that the Bill has been drafted without a clear understanding of the realities of the use of dogs on the ground.

It is also a reminder that regardless of any perceived deficiencies in the drafting, the 2002 Act was the result of exhaustive evidence taken by the then Rural Development Committee and reflected the evidence that the need for effective pest control had to be retained. As such the Act banned traditional hunting but continued to allow dogs to be used for clearly defined purposes and under conditions that did not allow traditional hunting and minimised the chance of foxes being killed by dogs, although the Committee recognised that there would always be a percentage of foxes that were killed by dogs before they could be shot but this had to be balanced against the importance of effective pest control. As Lord Bonomy noted, and as did the Burns inquiry, the killing of a fox by dogs is not in itself a welfare concern given the swiftness with which death occurs. The phrase used is "almost instantaneous", which supports the Scottish Government's main concern of welfare.

While the Alliance does not believe any ban on hunting with dogs to be justified, it is also true that nothing in the intervening time justifies reopening the legislation as is being proposed. Indeed, the evidence, especially in relation to two dogs, would vindicate the approach of the existing legislation, as Lord Bonomy clearly confirmed.

**9. Do you agree with the specified purposes set out in section 5(2) for which the exception for the management of foxes and mink below ground would apply?**

No. We cannot see why a dog can be used below ground to protect livestock etc, but not for the environmental reasons. This seems entirely illogical and arbitrary and is more restrictive than the existing law where a dog can be used for the full range of purposes set out in 2(1) (a) to (f) of the 2002 Act. It can only be assumed that this was a drafting oversight as there is no other justifiable explanation for this situation.

**10. Do you agree with the conditions set out in section 5(3), including the proposed limit for one dog, which would apply for the exception for the management of foxes and mink below ground?**

No. The current law does not specify one dog in the section allowing the use of a dog below ground. While generally only one dog at a time is used below ground, there are very good reasons why there may be occasions when more than one dog may need to be used. The law should recognise this.

It is notable that the Scottish Government in its consultation on Lord Bonomy's recommendations asked: "Do you agree with Lord Bonomy's suggestion that the legislation should impose a restriction in line with the Code of Conduct of the National Working Terrier Federation that, wherever possible and practical, only one terrier should be entered to ground at a time". Lord Bonomy's recommendation was subject to the caveat that any restriction to one dog applied, "wherever possible and practical". In contrast the Bill creates an absolute restriction to one dog, going beyond Lord Bonomy's recommendation. The NWTF Code of Conduct at Rule 3.c. states -

*3.c. It is recommended, wherever possible and practical, that only one terrier is entered to ground at a time. Note: Typical exceptions would be for example if working large cairns, rock piles and similar structures with multiple entrances and exits and no clearly defined tunnel structures, or in the event of a locating equipment failure, or in order to facilitate a rescue.*

The intention of the 2002 Act (like the NWTF Code) is to ensure the quarry is flushed as quickly and safely as possible from below ground in order that it may be shot, and also to ensure the terrier spends the absolute minimum amount of time below ground and that's why 3.c. is written the way it is. This is about welfare, both of the dog and the fox (or mink).

In certain circumstances and in different types of earths (as described in 3.c.) the most effective, safe and humane practice may be to enter more than one terrier. The same applies to large areas of windblown forestry, which are quite common in Scotland.

Entering a single terrier into some of these places, is rather like entering a single dog (or just two dogs) into a large area of forestry, the fox can easily evade a single dog, it does not feel pressured and instead skulks about in there all day long.

The change being proposed in the current Bill would undermine the effectiveness of the use of terriers in some situations and represent a problem in animal welfare terms. It is worth recalling that Lord Bonomy was clearly supportive of terrier work and the important role it plays in pest control.

Lord Bonomy Concluded that:

*"6.22... Were the use of terriers below ground to be prohibited, then a significant proportion of the fox control work of mounted and foot hunts would be wasted effort. The fox having been located, the terrier is seen as part of the team to be deployed when otherwise the fox would escape to cause more damage."*

*“6.23 ... The fox can cause considerable loss to country enterprises through predation on poultry, game and livestock, particularly lambs. There is a powerful argument for completing the fox control exercise by digging out the fox once it has been located.”*

*“6.27 The material presented to the Review is persuasive of the need for the use of terriers to ensure the despatch of a fox gone to ground...”*

*“6.28 ...there is no firm scientific evidence of the extent of the impact on the fox. Indeed, it was observed in the Burns Report that the banning of hunting could have an adverse effect on the welfare of foxes in upland areas unless dogs could be used at least to flush foxes from cover. The same would apply in the case of young cubs orphaned below ground in a den.”*

**11. Do you agree with the exception for falconry, game shooting and deer stalking if the conditions are met?**

Yes.

**12. Do you agree with the conditions set out in section 6(2) which would apply for the exception for falconry, game shooting and deer stalking?**

The conditions are largely as in the existing legislation. However, the exception states the activity does not involve the use of two dogs. It then seems to imply that more than two dogs may be involved in the activity and that this is permissible so long as dogs do not come together to form a pack of more than two dogs. The drafting appears defective as it is having more than two dogs involved in the activity that is a condition. If a group of people are using dogs in the course of the activity of falconry, deer stalking or game shooting and there are more than two dogs present then by definition there are more than two dogs involved in that activity regardless as to whether they come together or not. The legislation needs to be clarified that it is not the number of dogs involved but whether they are a pack or not. Even then there remains the real possibility for example that where a number of guns are rough shooting and a hare is put up it is pursued by dogs numbering more than two, in which case an offence would have been committed. There is also the issue resulting from this two-dog limit of how members of the public will view an activity where lots of dogs are present and they may not understand the distinction the Bill is attempting to make between unlawful activity and the activity being undertaken by those engaging in exempt activity in the field.

As with the other exceptions there is a requirement to take reasonable steps to follow up injured animals and kill it in a way that causes “the minimum possible suffering”. In contrast the existing law states that the injured animal is killed “as humanely as possible”. The new wording suggests that the method deployed must be that which causes the minimum possible suffering without taking account of the circumstances, whereas the current wording simply requires the method which is most humane in the circumstances. We would suggest that the long-established expression “as humanely as possible” is preferable to the reference to “minimum possible suffering” and it would give greater certainty to those following up and despatching injured animals.

There is a certain irony that the Bill explicitly accepts that hunting for sport is acceptable if using a gun or a bird of prey, but hunting with a dog for sport is not acceptable and that even when used for pest control must be subject to strict conditions and restrictions. It is perhaps further evidence of the muddled thinking that lies behind the debate around hunting with dogs.

**13. Do you agree with the exception for environmental benefit?**

Yes. However, we do not see any justification for separating environmental benefits from the other purposes such as protecting livestock. We also question why a dog cannot be used below ground for environmental benefit.

**14. Do you agree with the specified purposes set out in section 7(2) which would apply to the exception for environmental benefit?**

Yes.

**15. Do you agree with the conditions set out in section 7(3) which would apply to the exception for environmental benefit?**

No. We do not agree with the two-dog limit. We would also note again that the reference to ‘minimum possible suffering’ is problematic and it should be clarified to make clear that the method deployed should be the one which causes the minimum possible suffering *in the circumstances* or better use the existing wording “as humanely as possible”.

We would also note that owner in Part 1 is defined broadly at 1(5), such that permission may be granted by several people. (see comments above).

**16. Do you agree with the proposed licensing regime?**

The licensing regime is not necessary because the two dog limit is not justified but if there is a licensing regime then it must be workable and fair. There is a clear discrimination in the Bill between the regime for licensing for environmental benefit and licensing for those seeking to protect livestock, crops, and preventing spread of disease or protecting human health. We cannot see why this distinction has been made, how it can be justified, or why the licensing regimes are different. Is the protection of livestock and human health etc somehow less important than protecting vulnerable wildlife?

As with all wildlife management, fox control is an ongoing process that is pre-emptive rather than reactive. Lord Bonomy made reference to the control of foxes in an area, understanding that the issue cannot be dealt with as a reactionary measure. He said “the use of packs of hounds to flush out foxes to be shot remains a significant pest control measure, both to control the general level of foxes in an area as well as to address particular problems affecting a farm or estate”. Not having the ability to control fox populations could be devastating and would likely cause excessive damage to the work that farmers and conservationists undertake.

We also believe the wording of the exception is problematic as the “killing, capturing or observing it” must be “as part of a scheme”. It is not clear how ‘a scheme’ is to be understood and what the relevant authority would regard as ‘a scheme’ as far as deciding whether to grant a licence.

Regardless of the number of dogs deployed, there is much conservation work carried out that may not be ‘part of a scheme’ however ‘scheme’ is to be understood. This could amount to a serious restriction on conservation efforts across Scotland. Those controlling predators using dogs to protect livestock also benefit vulnerable wildlife such as ground nesting birds. Once again, the approach seems to make unnecessary distinctions and assumptions and fails to see the interaction between wildlife management to protect livestock etc and the benefit this brings in environmental terms and vice versa. The Bill is in this sense profoundly and unnecessarily divisive.

As with licences in connection with section 3 (see above) similar questions arise as to how the authority is to be satisfied that the killing, capturing or observing the wild mammal “will contribute towards a significant or long-term environmental benefit. What is to be considered significant benefit or if significant benefit cannot be determined how will long-term environmental benefit be

established. It is hard to see how the relevant authority could determine a long-term benefit if it cannot satisfy itself that there would be a significant benefit. How will the relevant authority satisfy itself that there is no other effective solution? How will the minimum number of dogs that would be effective to achieve the environmental purpose be decided? Why is the licence grantable for a maximum of two years in a consecutive two-year period but farmers protecting livestock get only a maximum of 14 days in a consecutive 14-day period?

As with the other licensing regime the decisions of the relevant authority would be wide open to legal challenge not least because they are required to satisfy themselves of things where this may not be possible. The experienced practitioner using dogs under a licence must be better placed to decide how many dogs to deploy than someone who may never have worked with hunting dogs in NatureScots' licensing office, or are site visits planned for every application, in which case how will that work in terms of timescale and resources, specifically if 14-day licences remain.

**17. Do you agree the two licensing regimes should be managed by NatureScot?**

We cannot see who else would undertake the day to day issuing of these licences but NatureScot is going to need considerable additional resources to meet the demand for licences and to fulfil the criteria set out in the Bill for the granting of licences. They will also need to be prepared to defend their decisions in the courts.

**18. Do you think the bill should introduce vicarious liability?**

No. Lord Bonomy discussed the issue of vicarious liability and set out in detail why vicarious liability would be of little assistance. Lord Bonomy noted that: *"There are other possible approaches to vicarious liability"*. He suggested that: *There may be merit in providing that the owner who gives the hunt permission to hunt over the land would be guilty of an offence in the event that someone involved in the hunt commits an offence. Similar provisions were introduced into the Wildlife and Countryside Act 1981 by section 24 of the Wildlife and Natural Environment (Scotland) Act 2011. They provide that a person who has a legal right to kill or take a wild bird on or over land or manages or controls the exercise of that right is guilty of an offence where his employee or agent or an independent contractor engaged by him commits an offence. It is a defence for the landowner to show that he took all reasonable steps and exercised all due diligence to prevent the offence being committed. Those making the submission consider that the landowner engaging a hunt to perform pest control services would take a close interest in the arrangements being made to satisfy the requirements of section 2...*

In fact, the Bill in its offences of knowingly causing or permitting a dog to hunt, or land to be used to hunt has adopted a not dissimilar approach, in creating offences and then providing a statutory defence where the defendant would have to show that they had reasonable belief that the activity was excepted activity, even if in fact a hunting offence had occurred. While not strictly being vicarious liability, the effect will clearly be to make dog owners and land owners have due diligence when permitting activity under this legislation.

**19. Do you think the bill should reverse the burden of proof?**

No. The exceptions under the Bill cover a wide variety of activities some licensed and others not. The fundamental principle that a person is innocent until proven guilty should not be dispensed with lightly. Lord Bonomy has made clear that he accepts his position on reverse burden is probably in a minority amongst judges. He also notes that when the original Bill was considered by the Justice and Home Affairs Committee they "opposed placing the onus of proof of an exception on the accused". The examples presented by Lord Bonomy in his discussion of situations in which a reverse burden should, or can, be applied, all involve situations in which the evidential burden is relatively easy to discharge. In other words it may be said to be proportionate bearing in mind the nature of the offence



and the public interest. It must be remembered that for a prosecution to succeed it is only necessary to prove beyond reasonable doubt that any one of the conditions of an exception has not been met. A defendant would have to prove on the balance of probabilities that all conditions were met. If by reversing the burden the onus on the defendant is disproportionately great and unreasonable then the Article 6 ECHR right to a fair trial is infringed without the necessary justification.

As Lord Griffiths in *Nimmo v Alexander Cowan* notes:

“When all the cases are analysed those in which the courts have held that the burden lies on the defendant are cases in which the burden can easily be discharged.” This is not the case as far as the conditions of the exceptions are concerned under the Protection of Wild Mammals (Scotland) Act. We believe the same applies to this Bill.

There is also the danger of vexatious prosecutions being brought where the prosecution simply have to assert that an offence has been committed and the accused would have to show that all the conditions of the exemption on which they rely have been met. Prosecution could be used simply as a weapon against those operating under the legislation by those who do not accept the need for any fox control at all.

**20. Do you agree with the proposed ban on trail hunting?**

No. We are also surprised that the penalty for an offence under this part is set at the same level as that for the most serious welfare and wildlife crime offences. This seems disproportionate and fails to recognise the fundamental difference in the gravity of the offence.

**21. Do you agree with the exception to the ban on trail hunting?**

No, because this should not be necessary as there is no justification for the pre-emptive ban on trail hunting. However, if this ban is enacted then the possibility of using animal scents to train dogs must be preserved and we would support an exception that makes this possible.

**22. Do you agree with the conditions set out in section 12(2) which would apply for the exception to the ban on trail hunting?**

No. The Bill makes it a condition that the activity does not involve more than two dogs and then assumes that more than two dogs may be involved but they must not join together to form a pack of more than two dogs. These two provisions are simply incompatible. Most of the exempted activities will involve more than two dogs. Is the intention that no more than two dogs per person can be involved? As explained above in relation to shooting, falconry etc exception the drafting is confusing and hardly conducive to making the law more understandable and therefore enforceable.

**23. Do you agree with the provisions contained in Part 3 of the bill?**

The enforcement provisions in Part 3 largely replicate the provisions in the existing legislation and those found in other similar legislation. However, the Bill introduces confiscation orders. We would, note in respect of confiscation orders that these relate to dogs and horses but the disqualification order powers relate to dogs only. The inclusion of horses perhaps betrays the motivation of those who have been pushing for this legislation. Not only is it irrelevant in welfare terms what a person wears or the mode of transport they deploy, but if the law allows the confiscation of a horse used in the commission of an offence under this Bill why not any other mode of transport such as a quad bike?

**24. Do you support this Bill?**

No. We do not believe it is necessary. We do not think it is fair or workable in its current form and would need amendment to become so. We believe that it not only goes beyond what the available

evidence would support but actually seeks to legislate contrary to the evidence. In doing so it is incompatible with the Scottish Government's policy objective of clarifying the law while allowing for effective and humane pest control in Scotland. The licensing systems which seek to 'get around' the obvious incompatibility of the general restriction to two dogs with the evidence of peer-reviewed research and Lord Bonyon's conclusions, are unworkable, overly complex and are burdensome on both the licensing authority and those who will now be forced to try and get these licences to protect their livelihoods, as well as wildlife. We also believe that the difference between the two licensing regimes systems is both discriminatory and unnecessary.

**25. Do you have any other comments to make in relation to the bill?**

We would note that at clause 21 Scottish Ministers are seeking very broad powers that would allow them to amend this legislation without the need for further primary legislation. This could include the removal of entire exceptions or one or both of the licensing systems.

Those in rural Scotland who have relied on the use of dogs to manage wildlife over centuries, to the benefit of livestock and wildlife, will now face an impossible situation and are asked to trust that licences will be granted in a fair and timely manner to ensure that they can continue to protect their animals, crops etc, and wildlife. There is no certainty that this will be the case and the consequences economically and environmentally will be hugely serious.

If this Bill is not to do untold harm to rural Scotland then it needs to be made fair and workable and the Scottish Countryside Alliance will do all it can to help improve a Bill, for which there is really no need.