



Law Society  
of Scotland

# Consultation Response

Wildlife Management and Muirburn (Scotland) Bill:  
Use of snares and powers of Scottish SPCA  
inspectors

3 October 2023



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Rural Affairs sub-committee welcomes the opportunity to consider and respond to the Scottish Government's consultation on the use of snares and the powers of Scottish SPCA inspectors, in the context of the Wildlife Management and Muirburn (Scotland) Bill (the "**Bill**").<sup>1</sup> The sub-committee has the following comments to put forward for consideration.

## General Comments

We previously responded to the Scottish Government consultation *Wildlife Management in Scotland*,<sup>2</sup> and the Rural Affairs and Islands Committee's call for views on the Bill.<sup>3</sup> We also provided oral evidence on the Bill at the Rural Affairs and Islands Committee on 21 June 2023.<sup>4</sup> We continue to support the comments made in our previous engagement and note that our comments below should be read in context of these.

## Section 1 – Snaring

**Q1. Do you agree with our proposals to amend the Wildlife and Countryside Act 1981 Act so that it is an offence to:**

**a) use a snare or other type of cable restraint for the purpose of killing or trapping a wild animal and;**

**b) use a snare or other type of cable restraint in any way that is likely to injure a wild animal**

### Unsure

We note the existing regulation in relation to the use of snares as set out in the Wildlife and Countryside Act 1981 (the "**1981 Act**"). We would stress that any additional legislative or regulatory measures in this area

<sup>1</sup> [Wildlife Management and Muirburn \(Scotland\) Bill: use of snares and powers of Scottish SPCA inspectors: Consultation](#)

<sup>2</sup> Accessible [here](#)

<sup>3</sup> Accessible [here](#)

<sup>4</sup> [Meeting of the Parliament: RAI/21/06/2023 \(Official Report\)](#)

should be informed and supported by a robust evidence base, policy analysis, and be a proportionate response to the intended aims.

If such changes to the policy and legislative framework on this matter are introduced, this would merit an appropriate awareness-raising campaign so as to make individuals and businesses aware of the position.

**Q2. Do you think that the Scottish Government should consider allowing an exception for the use of snares for the live capture of mammals for research purposes for example, catching foxes to allow tracking devices to be fitted?**

**Unsure**

Any exemption(s) should be clearly defined so that exempted groups or acts can be appropriately identified. Similarly an appropriate awareness-raising campaign, including guidance and examples where appropriate, would be welcomed to ensure that all affected stakeholders are aware of the existence and scope of the exemption(s).

In relation to question 3, if the Scottish Government consider that a licencing regime should be introduced for use of snares in such circumstances, we consider that it is most appropriate that the responsibility for the administration of such licenses lies with NatureScot in the interests of consistency with other licensing regimes (and given that the current ID tag registration requirements for snares under the 1981 Act are administered by NatureScot).

**Q3. If you answered yes question 2, do you agree than anyone using snares for this purpose would require a licence from NatureScot.**

**Unsure**

**Q4. Other than for the purpose set out in question 2, are there any other purposes for which you think an exemption should be available to allow a person to use a snare or cable restraint to temporarily capture a wild animal?**

**Unsure**

We have no comments to make.

## **Section 2 – Powers of Scottish SPCA Inspectors**

**Q5. Do you agree with our proposal to provide Scottish SPCA inspectors who are acting under their existing powers under the 2006 Act, with additional powers to search, examine and seize evidence in connection with specific offences under the Wildlife and Countryside Act 1981?**

**No**

As noted at question 6 of the call for views on the Bill (in relation to section 8, i.e. proposals to give the Scottish SPCA additional powers to investigate wildlife crime), we consider that the most appropriate bodies for law enforcement and prosecution in Scotland of the offences under the Bill are Police Scotland and COPFS respectively. Whilst we note the current investigation powers of the Scottish SPCA in relation to specific animal welfare issues, we would not generally consider it appropriate that wider criminal investigation powers would be extended to it, particularly given its role and function as a registered charity.

**Q6. Do you agree with our proposal to provide Scottish SPCA inspectors who are acting under their existing powers under the Animal Welfare Act 2006, with additional powers to search, examine and seize evidence in connection with specific offences under the Wildlife Management and Muirburn Bill.**

**No**

We refer to our comments at question 5.

**Q7. Do you agree with the limitations and conditions placed on these proposals set out below?**

- **these powers would only be given to a Scottish SPCA inspector appointed by the Scottish Ministers under section 49(2)(a) of the Animal Health and Welfare (Scotland) Act 2006;**
- **inspectors would be individually authorised by the Scottish Government and that Authorisations could be withdrawn at the discretion of the Scottish Government;**
- **all inspectors would be required to undertake specified training prior to being given authorisation to exercise the new powers.**

**Unsure**

As noted above, we would not generally consider it appropriate that wider criminal investigation powers would be extended to the Scottish SPCA given its role and function as a registered charity. Nonetheless, we consider it appropriate for limitations and safeguards to be placed on such proposals if introduced. We consider it important that the legislation allows for any restrictions or conditions to be amended or added to as necessary.

**For further information, please contact:**

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