

**Rural Affairs and Environment Committee**  
**Wildlife and Natural Environment (Scotland) Bill Stage 1**  
**Submission by Advocates for Animals**

Advocates for Animals is grateful for the opportunity to make a submission to the Rural Affairs and Environment Committee on the Wildlife and Natural Environment (Scotland) Bill.

**WELFARE OF WILD ANIMALS**

Scotland's wild animals are a precious and irreplaceable resource, and the focus of a wildlife tourism industry which generates a net economic impact in Scotland of £65 million and 2,763 FTE jobs.<sup>1</sup>

The sentience and the welfare needs of wild animals are increasingly being recognised by the public, but this understanding is not well reflected in legislation. Actions are permitted against wild animals that would be illegal if inflicted on domestic animals. Advocates for Animals would like to see the law in Scotland move to a more equitable position so that all animals of equal or comparable sentience receive equal protection.

We support the view that has been expressed elsewhere regarding the complex and confusing nature of Scotland's wildlife laws and we hope that these can be further clarified and consolidated as soon as possible.

In view of the expert commentary that has come from other parties on the provisions covering hares and rabbits (ss. 6 - 12), deer (ss.22 – 26) and badgers (s.27), we will comment only on the measures covering snaring and invasive non-native species in this submission.

**s. 13 SNARES**

Advocates for Animals is opposed to the use of snares and believes that only a full ban on their use can be effective in reducing the suffering caused by these indiscriminate traps.

There is extensive evidence of the indiscriminate nature of snaring. In 2006, a Scottish SPCA report<sup>2</sup> on snaring showed that, of 269 animals reported as having been caught in snares - ranging from badgers and deer to pet cats and dogs - only 23 per cent were "pests" such as foxes and rabbits. The report of the Independent Working Group on Snaring (IWGS) 2005<sup>3</sup> set the proportion of non-target captures between 21% and 69%.

Snares also inflict significant physical and mental suffering on animals. This was acknowledged in the IWGS report which listed the following likely adverse welfare impacts:

- the stress of restraint, which could include frustration, anxiety and rage;
- fear of predation or capture whilst held by the snare;
- friction, penetration and self-inflicted skin injuries whilst struggling against or fighting the tether;

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<sup>1</sup>*The Economic Impact of Wildlife Tourism in Scotland* <http://www.scotland.gov.uk/Publications/2010/05/12164456/8> An important aspect of the definition of wildlife tourism is that the *primary purpose* of a trip must be to view, study or enjoy wildlife.

<sup>2</sup> *Snaring in Scotland: A Scottish SPCA Survey of Suffering*, Scottish Society for the Prevention of Cruelty to Animals, Edinburgh, December 2006

<sup>3</sup> Kirkwood et al, *Report of the Independent Working Group on Snaring*, DEFRA 2005

- pain associated with dislocations and amputations especially with un-stopped snares;
- ischaemic pain (pain due to lack of blood supply) associated with ligation of body parts;
- compression or injuries in muscles, nerves and joints associated with violent movements against restraint;
- thirst, hunger and exposure when restrained for long periods;
- inflammatory pain and pain from contusions associated with injuries during restraint, and in some cases persisting following escape;
- pain and malaise associated with infections arising from injuries, in escapees;
- neuropathic pain in those escapees that experience nerve injuries; reduced ability of injured escapees to forage, move and hence survive;
- stress of capture and handling before despatch by the snare operator;
- pain and injury associated with killing by the snare operator if unconsciousness is not immediate.

### **Snaring and conservation law**

Under the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention), Contracting Parties are required to prohibit the use of snares<sup>4</sup> in relation to a number of species<sup>5</sup> including brown hare, mountain hare, red squirrel, pine marten, badger, stoat, weasel and polecat. Reservations placed by the UK on its adoption of the Convention in effect allowed the continued use in the UK of free-running snares for the capture of brown hares, stoats and weasels, but snares regularly catch many protected animals in addition to these particular species.

The same provisions are largely written into Council Directive on the Conservation of natural habitats and of wild flora and fauna (Directive 92/43/EEC 1992, “the Habitats Directive”). Article 15 of the Directive reflects Article 8 of the Bern Convention. Member states are required to prohibit (subject to certain exceptions) indiscriminate means of killing or taking of listed wild fauna.

The Habitats Directive does not specifically mention snaring as a prohibited means, but in Europe snaring is generally held to be covered by the descriptions of indiscriminate means and non-selective traps. This was the basis for Case C-221/04, where the European Commission took action against Spain in the European Court of Justice for permitting the use of fox snares in several private hunting areas where there was a risk of capturing otters.

The Habitats Directive is implemented in Great Britain by the Conservation (Natural Habitats & c) Regulations 1994. It is an offence to use “traps which are non-selective according to their principle or their conditions of use” to kill or take certain wild mammals (listed in Schedules 2 and 3 of the Regulations, and including wild cat, otter, mountain hare, pine marten and polecat). Again a number of these are often caught in snares and it may be asked whether permitting the widespread use of snares meets the standards of this conservation legislation.

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<sup>4</sup> Bern Convention, Appendix IV

<sup>5</sup> Bern Convention, Appendix III

### **Domestic laws in other countries**

A number of Members have inquired about the legal status of snares in other countries. Our enquiries<sup>6</sup> have established that:

- Neck snares are generally **permitted** in five Member States (Belgium, France, Ireland, Latvia and UK).
- Neck snares are either **banned outright or not used** in ten Member States (Austria, Cyprus, Czech Republic, Denmark, Estonia, Greece, Hungary, Lithuania, Luxembourg and Malta). Switzerland also has a complete ban on the use of snares.
- The use of neck snares is **strictly regulated and limited** in six Member States (Finland, Italy, Netherlands, Poland, Spain and Sweden).
- The position in the remaining six Member States (Bulgaria, Germany, Portugal, Romania, Slovakia and Slovenia) is **not yet confirmed**, although we believe that snares are banned in at least two of these states.

### **Snaring regulations in Scotland**

The Scottish Government announced in 2008 that it would not ban snares but would make regulations in an attempt to address acknowledged bad practice and some of the most severe welfare impacts.

The Snares (Scotland) Order 2010, introduced in March 2010, provided among other things for stops to be fitted on snares, for snares to be staked in place or anchored effectively, and for snares not to be set in places where the animal might become suspended, or drown. However, incidents documented by Advocates for Animals since the new Order came in show that snares continue to cause severe animal suffering, apparently because the Order is being ignored. We found rusty unstopped snares on a shooting estate in Scotland as recently as 31 August. In our view, as long as it is permissible to set snares in any form, a substantial minority of individuals will interpret the law to suit themselves, and only an outright ban will remove their ability to do so.

### **WANE Bill provisions on snaring**

We would like to offer some comment on the provisions in the Bill, without of course deserting our position that snares should be banned.

**s.13(2)(a)** This section is quite complex compared with the 2010 Order. We have already seen breaches of the Order regarding drag snares and setting by fences, and we are concerned that this complexity might encourage people to ignore the requirements.

**Inserted section 11A:** The provisions for identification of snares and compulsory training are also complicated. Any person who sets a snare must be trained in order to be allocated an identification number to be displayed on the device. A statement must be displayed on the tag to inform readers when the snare is intended to catch brown hares, rabbits or foxes. It would be helpful if the Scottish Government could clarify here what the position is regarding mountain hares.

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<sup>6</sup> Information gathered during 2010 from government departments and animal welfare organisations in EU Member States. There is a tradition of capturing foxes in sprung foot snares in some states: we have therefore referred to “neck snares” in this section to ensure that the terminology accurately reflects the type of trap under discussion.

The Bill does not specify the content of snaring training: Scottish Ministers may make provision in this regard but otherwise it appears that the onus will be on chief constables to decide what constitutes satisfactory training. It is expected that this will be based on land management industry training schemes already being delivered by industry groups. As far as we are aware there has been no independent scientific or veterinary input to these courses to address animal welfare issues.

We are concerned that the Bill will continue to allow people to set snares without a full knowledge and understanding of their adverse welfare impacts and how to identify and mitigate these, if at all possible. The training is already being delivered in the expectation that it will become the legal standard even though legislation is not yet in place and the measures and content have not been the subject of consultation.

**Inserted section 11B:** The requirement under the current Order for a person who sets a snare to “*check that it is free-running*” has been reduced to a requirement to “*inspect*” the snare “*to see*” whether it is free-running. According to the policy memorandum (para 55) this is to address concerns over the requirement for a physical check of the snare action. We understood that the original intention was for precisely such a physical check. A person carrying out an inspection must remove a snare if he finds that it is not free-running, but someone who fails to do so might plead in defence that he had not “*found*” or “*seen*” any such thing. In view of the widespread and well-documented failure to check snares properly, a stronger provision would have been preferable.

Recommendations from stakeholders that records of the exact locations of snares be kept, and that areas where snaring is taking place should be clearly marked with signs to protect some pets and livestock from being trapped, are not reflected in the Bill.

## **NON-NATIVE SPECIES**

**s.14 - 17** Advocates for Animals is opposed to the killing of wild animals and seeks to ensure that the new powers to order control are underpinned by improved measures to protect welfare.

**Release:** Inserted section 14(1)(a)(i) prohibits the release of “*any animal outwith its native range*”, whether invasive or not. Inserted section 14P defines the native range as “*the locality to which the animal or plant of that type is indigenous and does not refer to any locality to which that type of animal or plant has been imported (whether intentionally or otherwise)*”. We support a general prohibition on the release or keeping of non-native species where they pose a genuine risk to other animals, but we would not like to see rehabilitators prevented from returning a non-invasive animal to the wild where it had been living otherwise harmlessly, because the area is deemed outside its native range. It would be helpful to know which categories of release would be permitted under licence.

**Keeping:** The text of inserted section 14ZC WCA prohibits the keeping of any “*invasive*” animals as specified but is headed as a prohibition on the keeping etc of “*invasive non-native*” animals or plants. Either way, we would support this in principle so long as provision was made for the keeping of a rescued animal in order to protect its welfare.

**Sale:** We support the prohibition on sale etc of invasive animals and plants at inserted section 14A.

**Notification:** We support the requirement at inserted section 14B for certain persons to notify the presence of *“invasive animals or plants outwith their native range”*.

**Species control orders:** Inserted section 14D gives relevant bodies the power to impose species control measures for invasive non-native animals or plants. The orders would depend on the definition of the term *“invasive”* in inserted section 14P, as *“an animal or plant of a type which if not under the control of any person, would be likely to have a significant adverse impact on biodiversity, other environmental interests or social or economic interests”*.

Describing an animal as *“invasive”* because it would be *“likely”* to have a significant adverse impact on social or economic interests runs the risk of subjective judgments and the making of decisions which do not reflect the welfare of animals.

One way to mitigate this would be to provide that species control programmes should be subject to animal welfare impact assessments in the same way that many developments are now subject to environmental impact assessments. This would be a major step towards reconciling the goals of conservation and animal welfare<sup>7</sup>.

We would like to see provision for animal welfare impact assessments to include, among other things:

- Discussion of the general animal welfare principles to be applied.
- Highlighting the potential direct and indirect effects on wild animal welfare of the proposed actions including the nature of the harm caused, its duration, the number of animals affected and their capacity to experience suffering.
- If killing is part of the programme, a comparative assessment of methods that may be used.
- Consideration of the timing and duration of the operation: for example, assessing the welfare impact on dependent young, if lactating females are killed.
- Assessment of non-lethal methods such as translocation, as well as lethal control.
- A provision for ongoing monitoring or regular review of animal welfare issues.
- The involvement of an independent animal welfare monitor so that the appropriate issues are considered.

We hope that these comments are of assistance to the Committee.

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<sup>7</sup> See Littin KE *Animal Welfare and Pest Control: meeting both conservation and animal welfare goals* Animal Welfare 2010, 19:171-176