

21st September 2023

The **Scottish Countryside Alliance** is a membership organisation that represent members' interests in fieldsports and rural matters across Scotland. We welcome the opportunity to comment on this consultation as many of our members use snaring as part of their toolkit in predator control and essential conservation activities.

Wildlife Management: use of snares and powers of Scottish SPCA inspectors in Scotland Consultation 2023

1. 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

No - This question is misleading. It is already an offence to set a snare or other cable restraint to kill a wild animal or to set a cable device in a way that is likely to injure a wild animal. Snares that killed were outlawed over a decade ago and the land management sector, as well as the GWCT, invested a lot of time and money in improving the design of snares to ensure welfare standards were not compromised. Humane Cable Restraints (HCRs) were developed so that they did not kill but held the target species in place so they could be humanely dispatched or if appropriate released elsewhere. Our industry has recently gone further in developing a much-improved version that minimises animal welfare concerns still further and a popular accreditation course is in place so that operators conform to specific regulations and standards. When set properly, a cable restraint is not "indiscriminate", a word used by animal rights organisations and recently paraphrased by the Minister overseeing the Bill. This word is used by those who have little or no practical experience of HCRs because it has a big "visual" impact on the reader but is fundamentally misleading and does not reflect the reality of modern HCRs. Very specific methods of cable restraint setting are taught to minimise unintended captures and, since it is part of an accreditation system, which creates accountability due the law requiring an ID number attached to each snare, it is very unusual for a legitimate operator to set a HCR incorrectly. Having held a snaring ID number for over a decade, I have, in that time, had only 1 unintended capture. This animal was quickly released unharmed. Having delivered accreditation courses, I am aware of the standard required to pass and can categorically state that those who pay to come on the course are the true conservationists and having committed time and money to the course, would not willingly jeopardise their ability to control pest and predator species in this way. Having been a part of the Technical Assessment Group for Trapping and Snaring, I have been involved in the development of devices and ensured that welfare remained a top priority. I have also acted as an expert witness for numerous police investigations where illegal snaring was alleged. Every single case that was brought to my attention by Police Scotland was an illegal snare, set by a criminal who had no regard for animal welfare. Some were home-made snares, but not one case that I was asked to comment on involved an accredited operator. Bringing in legislation that will ban trapping of this kind

will only serve to restrict those who champion conservation and whose wildlife management work is essential to protect wildlife and livestock. Criminal and illegal operators will continue to set illegal snares regardless of any ban and therefore this legislation will not achieve what it sets out to achieve. In December 2022, recommendations were made by the rural sector to reduce any animal welfare issues even further and these should be considered by Ministers. Restrictions on the control of predators are being introduced thick and fast by ScotGov and the coalition may be responsible for the loss of some of the most highly valued species in Scotland. Minister Martin recently stated that our natural biodiversity is in trouble and that some species are teetering on the brink... we agree, which is why we find it difficult to understand why the SNP repeatedly ignores those who work the land and have the experience required to save these species and make a tangible difference. We are going to lose the Capercaillie within 20-30 years unless we act now. Do our current Ministers want that kind of legacy, which will be the inevitable result on making effective pest and predator control in Scotland impossible? There seems to be total failure to understand that effective wildlife management requires a suite of methods to be deployed when and where most appropriate, including the use of modern HSRs.

2. 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?

Yes - If cable restraints are to be banned for general use, then an exception should be granted for research purposes and the accreditation system that is already in place would suffice. However, by allowing (or even suggesting this exception) the Scottish Government is publicly accepting that this practice is humane enough to allow it to continue under licence, so the question remains as to why a ban is being considered for regulated, general use. The phrase "we will not licence cruelty" has been spoken many times in the debating chamber so, if this exception is genuinely being considered, then the Scottish Government must admit that this is not the cruel and horrific practice that some portray it to be, otherwise it would not be allowed even for research purposes. There is a level of hypocrisy here and it seems that some practices are being thrown under the spotlight unfairly, with ScotGov picking and choosing in a discriminatory and illogical way. If it isn't cruel to utilise cable restraints properly for research purposes, then surely it isn't cruel to use cable restraints properly to protect livestock and vulnerable wildlife. The experience of a fox being trapped in a HCR (snare) does not change as a result of the purpose for which the HCR is set. Whether, having been caught, the fox is subsequently humanely despatch or fitted with a device and released is irrelevant in welfare terms. – This proposal is a clear recognition that snares properly used and for a legitimate purpose are humane. The purpose of protecting the welfare of livestock and wildlife is just as legitimate as the purpose of research and properly used HCRs are equally humane in both situations.

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

No.

4. 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?

Yes - This is not clear. Would the exception allow a person to capture an animal temporarily, or would the exception allow the capture of a pest or predator that was causing a specific issue, with the intention of humanely dispatching it? Pest and predator control should be able to continue, so if this is under an exception, accreditation scheme or a licence, it should be allowed if the use of HCRs were to be banned in general terms. Predators, such as foxes can often cause very specific and extensive damage so there should be an option of utilising an exception or applying for a permit or licence to deal with specific issues as they arise. Again, the experience of an animal snared is the same regardless of why that snare has been set. There seems to be a bizarre assumption that an animal that is caught and then released has some different experience of being caught than one that is despatched. All capture of wild animals is by its nature temporary, they are either released or killed. The law requires regular inspection to ensure that any period of capture is limited for good welfare reasons.

5. 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 – A charity should never be allowed statutory powers to investigate, and we are already concerned at the extent of the SSPCA's powers in the context of law enforcement. The SSPCA is already a reporting agency. There is clearly a conflict between the role of a charity in campaigning and fundraising and involvement in law enforcement. Giving additional powers to the SSPCA as is proposed also raises questions about the position in law of the SSPCA as to whether they are a public or private body which is particularly relevant in terms of the Regulation of Investigatory Powers Scotland Act 2000 (RIPSA).

SSPCA staff are not trained to a sufficient level to ensure vital evidence is secured and to ensure that a sufficient case file would make it into the courts. There is also the vital issue of ensuring that forensic evidence is properly gathered, and the integrity of that evidence is assured, which is particularly important in the context of wildlife crime.

As a former police officer, I had to be successful over another 49 applicants who will fail the initial selection process. Then followed 8 separate assessment days over a 6-month period whereby potential officers were frequently lost and numbers dwindled significantly. The successful candidates would then go on to an intensive 15-week law input, which included 3 major exam assessments. If this stage was completed, then the probationary officer would then have 2 years to gather evidence to support their progression to be fully inducted as a confirmed officer. A two-and-a-half-year assessment and training process so that evidence gathering could be perfected and investigations carried out correctly.

A current vacancy within the SSPCA for an Admin/Intelligence Officer asks for an application and, amongst other things, rota planning, input intelligence reports and link reports, conduct open-source

research, control holiday allocation, work with ARRC database (referrals and court outcomes), handle phone enquiries, spreadsheet work and the taking of minutes in meetings. This is not a specialised intelligence role, and the broad spectrum of work will ensure that an investigation will suffer from lack of experience, training and commitment to the task. Moreover, many cases rely on forensic evidence and the collection and storage of forensic evidence is of vital importance. The integrity of evidence is essential to prevent miscarriages of justice and while the police are publicly accountable a charity is not.

Police Scotland sat in a committee session in 2023 and categorically stated that they did not wish for the SSPCA to be given these powers, a conversation I have had on numerous occasions with Wildlife Crime Officers, all stating that the SSPCA do not have the training, resources or access to data and systems to enable them successfully to carry out a simple investigation to the standard required for a prosecution. If the committee and Scottish Government has been told this by Police Scotland, then why is it pursuing this proposal? If this does go ahead, then significant additional training will be required, and the money will come from the public purse. Would this money not be better spent in resourcing Police Scotland which is the law enforcement authority and subject to public scrutiny. What is proposed will blur lines even further as to whether the SSPCA is a stand-alone charity or a public enforcement agency akin to a private police force. The police are accountable in way that charities are not. If the SSPCA is to take on an expanded role as a policing/law enforcement body, then it needs to be subject to proper oversight and accountability and safeguards need to be in place to ensure public confidence and that the SSPCA's campaigning and fundraising objectives do not conflict with its enforcement role and the enforcement priorities it chooses to pursue.

6. 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 – See question 5

7. 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.

No – This suggests that the public purse will be funding these positions. It is highly unusual for a government to appoint and train employees of a charity, or employ someone to work for a charity, particularly as part of such an emotive piece of legislation. The Scottish Government has been told that this is an unwanted move by many organisations that represent hundreds of thousands of members and supporters combined. The Scottish Government has also been informed that this is

unwanted by Police Scotland, and that it may even hinder their formal investigations. If additional money is available then this should be used to support the work of Police Scotland in what is properly the work of the police as the public law enforcement agency, not on training the employees of a charity who are not publicly accountable.