



Guidance - Framework for modifying, suspending or revoking Section 16AA Licences

Background

The Wildlife Management and Muirburn (Scotland) Act 2024 introduced the requirement for land which may be used to kill or take red grouse to be licensed (section 16AA licences). The licence has been introduced to help tackle wildlife crime, particularly raptor persecution. NatureScot, as the licensing authority, is responsible for granting these licences, for modifying and for making decisions on suspension and revocation.

This Framework outlines NatureScot's approach to modifying, suspending or revoking licences.

Modifying a licence

NatureScot, as the relevant licensing authority, can modify licences at any time. It can modify licences to reflect a relevant change e.g. legislative change and it can modify individual licences where there is evidence that licence conditions have not been met.

Where the level of non-compliance is minor, NatureScot will follow the stepped approach below:

1. Notify the licence holder and provide advice

Where this doesn't resolve the issue:

2. Notify the licence holder and instruct on corrective steps to be taken

Where this doesn't resolve the issue:

3. Notify the licence holder, providing reasons for the decision to modify the licence.

Modifying a licence can mean adding conditions or increasing compliance monitoring checks.

Suspending or revoking a licence

NatureScot, as the relevant licensing authority, can suspend or revoke a licence. This will be considered in situations where there is evidence that non-compliance is of a serious nature and specifically where a relevant offence has been committed. These powers to suspend or revoke a licence can be used in the following circumstances:

- if the licence holder fails to comply with any licence conditions
- if the licence holder ceases to be in a position to ensure compliance with licence conditions
- if the licence holder, or a person involved in managing the land for the purpose of killing or taking red grouse (including predator control), has committed a relevant offence on the land within the area to which the licence relates
- if the licence holder, or a person involved in managing the land for the purpose of taking or killing red grouse (including predator control), has knowingly caused or permitted another person to do so

There is no prescribed period of suspension, but it will generally not exceed 12 months. Revocation can be for a period of up to 5 years.

Evidence

Decisions to suspend or revoke a licence will be based on evidence provided by Police Scotland in accordance with their crime recording standards and/or evidence gathered through NatureScot's compliance monitoring procedures.

Decisions to impose a suspension or revocation will be based on:

- a relevant offence or offences having been committed
- the offence being committed on land to which the licence relates
- the offence being committed by the licence holder or a person involved in managing the land

A decision to suspend or revoke may be based on one or more pieces of evidence provided to NatureScot by Police Scotland and/or evidence gathered by NatureScot staff. Decisions will be made on a case- by-case basis. In assessing its response to non-compliance and/or offending NatureScot will consider:

- the nature of the non-compliance/offence
- the severity and impact of the non-compliance/offending
- the date of the non-compliance/offending and the record of compliance/offending
- history of non-compliance/offending by (or caused or permitted by) the licence-holder
- whether corrective action could effectively be taken to bring the licence holder in line with relevant licensing conditions, within a timeframe usually not exceeding 12 months

What are the relevant offences?

The relevant offences are set out in the Wildlife Management & Muirburn (Scotland) Act 2024. They are:

- (a) Part 1 of the Wildlife and Countryside Act 1981,
- (b) the Protection of Badgers Act 1992,
- (c) Part 3 of the Conservation (Natural Habitats, &c.) Regulations 1994
- (d) section 1 of the Wild Mammals (Protection) Act 1996,
- (e) section 19 of the Animal Health and Welfare (Scotland) Act 2006
- (f) the Hunting with Dogs (Scotland) Act 2023.

Recommendation to suspend or revoke

NatureScot will review the evidence to determine whether:

- a licence holder has failed to comply with any conditions attached to the licence or has ceased to be in a position to ensure compliance with any conditions; and/or
- NatureScot is satisfied that the licence holder or a person involved in managing the land to which the licence relates, has committed a relevant offence or has knowingly caused or permitted another person to do so

Where NatureScot have a basis for considering suspension or revocation the Head of Wildlife Management will notify the licence holder, providing relevant information for which suspension or revocation is being considered. The licence holder can make representations to NatureScot on the evidence and information, setting out any reasons why the suspension or revocation should not be imposed.

The Director of Green Economy will make the decision (in consultation with the Head of Wildlife Management and the relevant Area Manager).

Decision Notice

The Director of Green Economy will notify the licence holder in writing (Decision Notice) of the decision to impose a suspension or revocation, the reasons for the decision and the duration of the suspension or revocation. Information on the Decision Notice will be shared with Police Scotland. The modification, suspension or revocation will come into effect 14 days after the notice is given.

The right to appeal a decision

The licence holder has the right to appeal the decision to not grant a licence, conditions of licence or the modification, suspension or revocation of a licence to the appropriate sheriff court.

An appeal must be made within 21 days of receiving the Decision Notice.

The sheriff may make interim orders, by dismissing the appeal or by giving direction to NatureScot in respect of the decision.

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