

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Follow Up - Section 16AA Licensing
Date: 25 July 2024 13:40:34
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

Hi [REDACTED]

The two additional sections are on the web: <https://www.nature.scot/professional-advice/protected-areas-and-species/licensing/species-licensing-z-guide/red-grouse-and-licensing>

- **Determining the area of land to which the licence relates**
- **Approach to enforcement**

In relation to NatureScot's power to suspend or revoke under section 16AA(9)(b)(ii), where the relevant offence has been committed on the land to which the licence relates but outside of the area on which killing or taking is permitted by the licence, NatureScot will only suspend or revoke where it is satisfied that there is a connection between the relevant offence and the management of the area on which killing or taking is permitted by the licence.

We haven't made changes to the Framework document itself – but I see a further email on this.

[REDACTED]
NatureScot | Great Glen House | Inverness | IV3 8NW | 01463 [REDACTED] | [REDACTED]
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED]@scottishlandandestates.co.uk>
Sent: Thursday, July 25, 2024 9:58 AM
To: [REDACTED]@nature.scot>
Cc: [REDACTED]@nature.scot>; [REDACTED]
[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>
Subject: RE: Follow Up - Section 16AA Licensing

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Hi [REDACTED]

I'm struggling a little today – but could call after 3.30? no change from our side as we won't have further legal advice until after 29 July. [REDACTED] mentioned the socials as part of your comms plan as well as updated guidance for applicants, if you were able to share any updates that would be really helpful.

Let me know what time suits later

Regards

[REDACTED]

[REDACTED]
[REDACTED]

From: [REDACTED]@nature.scot>
Sent: Thursday, July 25, 2024 9:18 AM
To: [REDACTED]@scottishlandandestates.co.uk>
Cc: [REDACTED]@nature.scot>; [REDACTED]
[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>
Subject: RE: Follow Up - Section 16AA Licensing

Hi [REDACTED],

Do you have some time later this morning or afternoon for a quick telephone call? Just conscious we haven't touched base this week.

We will also look to put some basic comms today on social media around need for licences before 12th August and link to where to apply – I think [REDACTED] mentioned this last week.

[REDACTED]

[REDACTED]

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nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED]@scottishlandandestates.co.uk>
Sent: Wednesday, July 17, 2024 3:13 PM
To: [REDACTED]@nature.scot>; [REDACTED]
[REDACTED]@scottishlandandestates.co.uk>
Cc: [REDACTED]@nature.scot>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>
Subject: RE: Follow Up - Section 16AA Licensing

-
Dear [REDACTED] et al

I wanted to update you on discussions we are having internally and with legal advisers – we are awaiting further advice from our KC and don't plan to issue any further guidance to members for the time being.

We really appreciate the ongoing discussions and the acceptance of some of the points we have made, but our fundamental issue in relation to the area to which the licence relates remains. Therefore, our advice to members to delay applications is still in place.

We will be in touch as soon as we receive further advice from the KC. [REDACTED]

[REDACTED] I am back online on Friday.

■■■■■

Both,

In principle, we accept that there will be areas within the land holding boundary which are not subject to any land management activity, such as villages or areas assigned exclusively for other business or recreational use and we are therefore comfortable these should be excluded from the licence application where it is preferable and/or easier for the applicant do so.

If there are any specific point of detail that emerge, I would encourage your members to contact [REDACTED] and the team directly to work through them.

Kind Regards,

114

Pronouns: he/him | If you receive this email late at night or early in the morning it means I am working flexibly but please do not feel that you have to pick this up outside of your own normal working hours.

From: [REDACTED]
Sent: 16 July 2024 12:45
To: [REDACTED] @scottishlandandestates.co.uk>; [REDACTED]

[REDACTED]@scottishlandandestates.co.uk>

Cc: [REDACTED]@nature.scot>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>

Subject: RE: Follow Up - Section 16AA Licensing

[REDACTED]

Thank you for your email and the discussion yesterday.

You will appreciate that NatureScot has taken legal advice on our approach, including in relation to the area of land to which the licences will relate, and we are comfortable that the process is robust. However, it would obviously be better if we can find a solution that stakeholders are comfortable with, provided that it continues to give effect to the legislative intention. So, on that basis there are a number of things that we can do to address most, if not all, of the concerns raised below:

1. [REDACTED]
[REDACTED]
[REDACTED]
2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
3. The perceived link between other types of game shooting (e.g., pheasant & red-legged partridge) and raptor persecution should not be addressed by expanding the land to which the licence relates. It is on the parliamentary record that such a correlation would be addressed by the addition of said birds to schedule 2 part 1B, at which point the land to which a section 16AA licence would relate might reasonably expand. – *Agreed – that is not what we are proposing to do. This licence relates to Grouse Moor Management.*
4. A tenant cannot be reasonably expected to ensure compliance with a code of practice over land to which they have no formal rights (and vice-versa). – *Agreed (although there is no obligation to ensure compliance) – so we will address this by changing the wording of the of the licence - Condition 2 of the Licence will be amended to state " You [as the Licence holder] must have regard for the code of practice <https://www.nature.scot/doc/guidance-code-practice-grouse-moor-management>*
5. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
6. A tenant may not possess a map illustrating the landholding boundary – *this is understood, but surely not insurmountable in discussion with the owner?*

I accept that some of these changes may not allay your main concerns about licensable area, but as you know in the interest of efficiency of process and to enable all those who wish to shoot grouse the opportunity to do so at the start of the season on 12 August, we are offering an automated service

which provides a default licence in which the licensable area will be the land holding boundary as provided by the applicant.

For applicants who are looking for a more nuanced licensable area (and I hope those are in the minority) then those individuals will need to contact the Licensing Team direct and we can manually assess the proposed bespoke area. However, applicants will need to be made aware that the time involved in assessing a bespoke area means they may not have their licence in place for the start of the grouse season, therefore it may be prudent to commit to the adaptive approach you suggest below and over time and refine the boundary to which the licence relates and we can modify those licences accordingly.

Finally, if any of your members are minded to appeal at this stage because they are not happy with the conditions attached to the licence that is issued – I would have thought that agreement could be reached that one appeal can be advanced and that we will adapt the scheme in accordance with any decision as required.

I hope that is helpful. We have some time scheduled to discuss this afternoon and hopefully agree this as a way forward.

Kind Regards,

[REDACTED]

[REDACTED]
[nature.scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

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From: [REDACTED] <[\[REDACTED\]@scottishlandandestates.co.uk](mailto:[REDACTED]@scottishlandandestates.co.uk)>

Sent: 15 July 2024 13:22

To: [REDACTED] <[\[REDACTED\]@nature.scot](mailto:[REDACTED]@nature.scot)>

Cc: [REDACTED] <[\[REDACTED\]@scottishlandandestates.co.uk](mailto:[REDACTED]@scottishlandandestates.co.uk)>; [REDACTED]

[REDACTED] <[\[REDACTED\]@nature.scot](mailto:[REDACTED]@nature.scot)>

Subject: Follow Up - Section 16AA Licensing

Importance: High

[REDACTED]

Thanks for your time, and especially to you, [REDACTED], for dialling on while on holiday. [REDACTED] and I spoke following our discussion and just wanted to follow-up with a couple of points.

The first is that SLE's preferred option by far would be to designate land *managed for the purposes of killing / taking red grouse as the land to which the licence relates*. This would be in line with the legislation and, crucially, would cover the commissioning of any relevant offences undertaken in pursuit of grouse moor management. If it would be of comfort to NatureScot to take an adaptive management approach - where the boundary of the land to which the licence relates relative to the commissioning of relevant offences by relevant persons is monitored - then we would be comfortable with that. Adopting this option would

cause minimum disruption to what has already been prepared, and SLE would make clear in subsequent guidance that any land being *managed* for the purposes of killing / taking red grouse should be shaded in blue, thereby constituting the land to which the licence will relate. This option is unlikely to result in any challenges to the Sheriff Court by prospective applicants, and would only require minor tweaking to NatureScot's existing guidance.

The other options discussed are likely to result in an outcome which SLE would not consider helpful at this crucial stage: namely the submission of applications which contain conscientious objections to the land to which the licence relates (currently proposed as being the landholding boundary). This may take a number of forms, but would ultimately result in licences being rejected and appeals subsequently lodged to the Sheriff Court. In that eventuality, our legal advice suggests that any Sheriff would likely be sympathetic to the following points, most of which we have discussed:

1. [REDACTED]
2. [REDACTED]
3. The perceived link between other types of game shooting (e.g., pheasant & red-legged partridge) and raptor persecution should not be addressed by expanding the land to which the licence relates. It is on the parliamentary record that such a correlation would be addressed by the addition of said birds to schedule 2 part 1B, at which point the land to which a section 16AA licence would relate might reasonably expand.
4. A tenant cannot be reasonably expected to ensure compliance with a code of practice over land to which they have no formal rights (and vice-versa).
5. [REDACTED]
6. A tenant may not possess a map illustrating the landholding boundary.

In summary, we feel an adaptive management approach which designates land *managed* for the purposes of killing / taking red grouse would likely strike the right balance given where we are. It would also avoid an immediate rush of appeals which are likely to reverberate and undermine the confidence in the licensing scheme at-large.

Happy to chat further on this and will issue guidance to members once your position is crystallised.

Best wishes,

[REDACTED]

[REDACTED]

Scottish Land & Estates

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M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bhò NàdarAlba.

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From: [REDACTED]
To: [REDACTED]
Subject: RE: SLE discussion 29/7/2024
Date: 31 July 2024 17:39:25

Caution! This message was sent from outside NatureScot.

Hi [REDACTED]

Please see my responses below – I think this covers all of the points for me, but let me know if not or if any clarification is required

Kind regards,

[REDACTED]



Fax: 0141 229 7148
Mob: [REDACTED]
The Ca'd'oro 45 Gordon Street Glasgow G1 3PE

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From: [REDACTED]@nature.scot>
Sent: Tuesday, July 30, 2024 4:36 PM
To: [REDACTED]@harpermacleod.co.uk>
Subject: RE: SLE discussion 29/7/2024

Hi [REDACTED]

[REDACTED] catching up on grouse licence discussions.

It would be good to catch up on the questions in the email below. I also have some other queries from another stakeholder, which it would be good to check our proposed answers to. I will get them across to you separately.

Have you got some time tomorrow?

Many thanks,

[REDACTED]

From: [REDACTED]@nature.scot>



From: [redacted]@axiomadvocates.com>
Sent: Friday, August 16, 2024 4:37 PM
To: [redacted]@harpermacleod.co.uk>
Subject: Re: NatureScot

Dear [redacted]

Thanks for your email. It's always helpful to get something down in writing and 'test' that.

I'm travelling back to Edinburgh this weekend but will look at in the early part of next week.

Kind regards

[redacted]

[redacted]

Sent from my phone - please excuse typos and informal language.

[redacted]

[redacted]@axiomadvocates.com

www.axiomadvocates.com

Clerking team:



On 16 Aug 2024, at 17:29, [redacted]@harpermacleod.co.uk> wrote:

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] gillespiemacandrew.co.uk; [REDACTED] (Scotland); [REDACTED] (Evidence)
Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates
Date: 22 August 2024 09:29:48
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
image007.png
image008.png
image009.png

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Good Morning All,

I hope this finds you well. We are looking forward to catching up with you tomorrow following our discussion last week on the land to which the licence relates for the purposes of section 16AA licensing.

We have had the opportunity to confer internally and with key member sub-groups since our last meeting. Suffice to say we remain committed to resolving this matter collaboratively rather than litigiously, and we will do all we can to assist you in finding a resolution. Please do not hesitate to reach out should you require any input from us.

That said, I am sure you will appreciate that we also have an obligation to safeguard our members' legal interests. To ensure this, this matter must be resolved no later than 15 September 2024. You will appreciate that there are timescales associated with legal challenges which we would be bounded should a collaborative resolution fail to materialise, and it is for that reason we have set the deadline we have.

We are confident that a collaborative resolution will be found ahead of then and look forward to working with you on this. Please let us know if you have any questions.

With best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] T: 0131 653 5400 W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

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■

From: ■ <■ nature.scot>
Sent: Wednesday, August 14, 2024 5:10 PM
To: ■ <■ scottishlandandestates.co.uk>; ■
<■ nature.scot>; ■ <■ nature.scot>
Cc: ■ <■ scottishlandandestates.co.uk>; ■
■ gillespiemacandrew.co.uk; ■ (Scotland) <■ basc.org.uk>; ■
■ <■ nature.scot>; ■ (Evidence) <■ basc.org.uk>; ■
■ <■ nature.scot>
Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Hi ■

Many thanks to you all for taking the time for the helpful and constructive chat this afternoon.

From a quick look at calendars 10:00 – 10:30 or 12:00 to 12:30 look like possibilities. I'm aware that we may prefer longer than half an hour so I will look to see if I can stretch either of these slots.

I hope this helps and will wait to hear back to whether or not these times suit.

Many thanks,

■

From: ■ <■ scottishlandandestates.co.uk>
Sent: Wednesday, August 14, 2024 4:58 PM
To: ■ <■ nature.scot>; ■ <■ nature.scot>
Cc: ■ <■ scottishlandandestates.co.uk>; ■
■ gillespiemacandrew.co.uk; ■ (Scotland) <■ basc.org.uk>; ■
■ <■ nature.scot>; ■ (Evidence) <■ basc.org.uk>; ■
■ <■ nature.scot>; ■ <■ nature.scot>
Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

■ ■ ■

With thanks for your time this afternoon – greatly appreciated.

If I could ask you to share your availability for Friday 23 August we will consult internally and revert with a suitable time – hope that's OK.

As discussed, SLE is due to have a meeting with some key members at 1700 on Monday 19

August via MS Teams. If it would be possible for a representative from NatureScot to attend then that would be greatly appreciated.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

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[REDACTED]

From: [REDACTED]

Sent: Wednesday, August 14, 2024 1:15 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

No problem [REDACTED] – thanks for confirming. [REDACTED] will join at 1630 unless her previous call finishes early.

[REDACTED]

[REDACTED]
[REDACTED]

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[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Wednesday, August 14, 2024 1:14 PM

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

[REDACTED] – I have got a hard finish at 1700 – so would prefer to stick with the timing we have planned if possible. [REDACTED] is on leave, so [REDACTED] and [REDACTED] are joining.

Cheers,

[REDACTED]

[REDACTED] | [REDACTED]
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From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: 14 August 2024 12:26

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

[REDACTED]

Hope this finds you well and looking forward to catching up this afternoon ref the matter below.

Could I ask if it would be possible to move the meeting to 1630-1730? [REDACTED] has another call which is due to conclude at 1630, so would mean she could join for the duration.

If this is possible, please let me know and I'll amend the invite. Thanks!

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
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Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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From: [REDACTED]

Sent: Sunday, August 11, 2024 8:28 PM

To: [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Thanks [REDACTED]

I have cross-checked availability with [REDACTED] on receipt of [REDACTED] below email. 1600 on 14 Aug would appear to work for all parties so have sent a MS Teams invite to that effect. [REDACTED] may be able to join for some of the discussion pending conclusion of an earlier meeting.

With best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

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From: [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Sent: Friday, August 9, 2024 3:30 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]

<[REDACTED]@scottishlandandestates.co.uk>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]

[redacted]@gillespiemacandrew.co.uk; [redacted] (Scotland) <[redacted]@basc.org.uk>; [redacted]
<[redacted]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Hi All,

I can do the times suggested on the 14th August and any time in the morning on the 15th August except between 11:15-11:45. I am out of the office on the 15th August.

Thank you.

Best,

[redacted]

From: [redacted] <[redacted]@nature.scot>

Sent: Friday, August 9, 2024 3:15 PM

To: [redacted] <[redacted]@scottishlandandestates.co.uk>

Cc: [redacted] <[redacted]@scottishlandandestates.co.uk>; [redacted]
[redacted]@gillespiemacandrew.co.uk; [redacted] (Evidence) <[redacted]@basc.org.uk>;
[redacted] (Scotland) <[redacted]@basc.org.uk>; [redacted]
<[redacted]@nature.scot>; [redacted] <[redacted]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Hi [redacted]

Apologies for the delay in responding to your email.

Would any of the following dates/times be suitable for yourself and [redacted] to meet next week?

14th Aug: 10:45 – 11:45 or 14:00 onwards

15th Aug: currently any time apart from 10:00 – 10:45

Kind regards,

[redacted]
NatureScot | Great Glen House, Leachkin Road, Inverness IV3 8NW | t: [redacted]
[nature.scot](https://www.nature.scot) | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [redacted] <[redacted]@scottishlandandestates.co.uk>

Sent: Wednesday, August 7, 2024 11:53 AM

To: [redacted] <[redacted]@nature.scot>; [redacted] <[redacted]@nature.scot>

Cc: [redacted] <[redacted]@scottishlandandestates.co.uk>; [redacted]
[redacted]@gillespiemacandrew.co.uk; [redacted] (Evidence) <[redacted]@basc.org.uk>;
[redacted] (Scotland) <[redacted]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only.

Morning Both,

Hope this finds you well. I just wanted to drop you a line to ask if you have had the opportunity to consider the below?

Depending on how far you have got, it may be worth our while scheduling a call to discuss – perhaps next week?

Let us know your thoughts when you can.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Friday, August 2, 2024 11:37 AM

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; Francesca Osowska <ceo@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>;
[REDACTED] (Scotland) <[REDACTED]@basc.org.uk>

Subject: Re: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

[REDACTED]

Thanks for this and to acknowledge receipt. We will of course consider and get back to you.

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] gillespiemacandrew.co.uk; [REDACTED] (Scotland); [REDACTED] (Evidence)
Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates
Date: 22 August 2024 09:29:48
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
image007.png
image008.png
image009.png

Caution! This message was sent from outside NatureScot.

Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only.

Good Morning All,

I hope this finds you well. We are looking forward to catching up with you tomorrow following our discussion last week on the land to which the licence relates for the purposes of section 16AA licensing.

We have had the opportunity to confer internally and with key member sub-groups since our last meeting. Suffice to say we remain committed to resolving this matter collaboratively rather than litigiously, and we will do all we can to assist you in finding a resolution. Please do not hesitate to reach out should you require any input from us.

That said, I am sure you will appreciate that we also have an obligation to safeguard our members' legal interests. To ensure this, this matter must be resolved no later than 15 September 2024. You will appreciate that there are timescales associated with legal challenges which we would be bounded should a collaborative resolution fail to materialise, and it is for that reason we have set the deadline we have.

We are confident that a collaborative resolution will be found ahead of then and look forward to working with you on this. Please let us know if you have any questions.

With best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

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M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

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■

From: ■ <■nature.scot>
Sent: Wednesday, August 14, 2024 5:10 PM
To: ■ <■scottishlandandestates.co.uk>; ■
<■nature.scot>; ■ <■nature.scot>
Cc: ■ <■scottishlandandestates.co.uk>; ■
■ gillespiemacandrew.co.uk; ■ (Scotland) <■basc.org.uk>; ■
■ <■nature.scot>; ■ (Evidence) <■basc.org.uk>; ■
■ <■nature.scot>
Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Hi ■

Many thanks to you all for taking the time for the helpful and constructive chat this afternoon.

From a quick look at calendars 10:00 – 10:30 or 12:00 to 12:30 look like possibilities. I'm aware that we may prefer longer than half an hour so I will look to see if I can stretch either of these slots.

I hope this helps and will wait to hear back to whether or not these times suit.

Many thanks,

■

From: ■ <■scottishlandandestates.co.uk>
Sent: Wednesday, August 14, 2024 4:58 PM
To: ■ <■nature.scot>; ■ <■nature.scot>
Cc: ■ <■scottishlandandestates.co.uk>; ■
■ gillespiemacandrew.co.uk; ■ (Scotland) <■basc.org.uk>; ■
■ <■nature.scot>; ■ (Evidence) <■basc.org.uk>; ■
■ <■nature.scot>; ■ <■nature.scot>
Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

■ ■ ■
With thanks for your time this afternoon – greatly appreciated.

If I could ask you to share your availability for Friday 23 August we will consult internally and revert with a suitable time – hope that's OK.

As discussed, SLE is due to have a meeting with some key members at 1700 on Monday 19

August via MS Teams. If it would be possible for a representative from NatureScot to attend then that would be greatly appreciated.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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[REDACTED]

From: [REDACTED]

Sent: Wednesday, August 14, 2024 1:15 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

No problem [REDACTED] – thanks for confirming. [REDACTED] will join at 1630 unless her previous call finishes early.

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Wednesday, August 14, 2024 1:14 PM

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

[REDACTED] – I have got a hard finish at 1700 – so would prefer to stick with the timing we have planned if possible. [REDACTED] is on leave, so [REDACTED] and [REDACTED] are joining.

Cheers,

[REDACTED]

[REDACTED] | [REDACTED]
[nature.scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

Pronouns: he/him | If you receive this email late at night or early in the morning it means I am working flexibly but please do not feel that you have to pick this up outside of your own normal working hours.

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: 14 August 2024 12:26

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

[REDACTED] [REDACTED]

Hope this finds you well and looking forward to catching up this afternoon ref the matter below.

Could I ask if it would be possible to move the meeting to 1630-1730? [REDACTED] has another call which is due to conclude at 1630, so would mean she could join for the duration.

If this is possible, please let me know and I'll amend the invite. Thanks!

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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From: [REDACTED]

Sent: Sunday, August 11, 2024 8:28 PM

To: [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Thanks [REDACTED]

I have cross-checked availability with [REDACTED] on receipt of [REDACTED] below email. 1600 on 14 Aug would appear to work for all parties so have sent a MS Teams invite to that effect. [REDACTED] may be able to join for some of the discussion pending conclusion of an earlier meeting.

With best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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From: [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Sent: Friday, August 9, 2024 3:30 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]

<[REDACTED]@scottishlandandestates.co.uk>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]

[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
<[REDACTED]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Hi All,

I can do the times suggested on the 14th August and any time in the morning on the 15th August except between 11:15-11:45. I am out of the office on the 15th August.

Thank you.

Best,

[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Friday, August 9, 2024 3:15 PM

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>;
[REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Hi [REDACTED]

Apologies for the delay in responding to your email.

Would any of the following dates/times be suitable for yourself and [REDACTED] to meet next week?

14th Aug: 10:45 – 11:45 or 14:00 onwards

15th Aug: currently any time apart from 10:00 – 10:45

Kind regards,

[REDACTED] | [REDACTED]
NatureScot | Great Glen House, Leachkin Road, Inverness IV3 8NW | t: [REDACTED]
[nature.scot](https://www.nature.scot) | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: Wednesday, August 7, 2024 11:53 AM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>;
[REDACTED] (Scotland) <[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only.

Morning Both,

Hope this finds you well. I just wanted to drop you a line to ask if you have had the opportunity to consider the below?

Depending on how far you have got, it may be worth our while scheduling a call to discuss – perhaps next week?

Let us know your thoughts when you can.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] [REDACTED] [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Friday, August 2, 2024 11:37 AM

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; Francesca Osowska <ceo@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>;
[REDACTED] (Scotland) <[REDACTED]@basc.org.uk>

Subject: Re: Restricted, Confidential & Legally Privileged - Opinion of Senior Counsel - The Land to which the Section 16AA Licence Relates

[REDACTED]

Thanks for this and to acknowledge receipt. We will of course consider and get back to you.

[REDACTED]

[REDACTED]

[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.



From: [REDACTED]@axiomadvocates.com>
Sent: Friday, August 16, 2024 4:37 PM
To: [REDACTED]@harpermacleod.co.uk>
Subject: Re: NatureScot

Dear [REDACTED]

Thanks for your email. It's always helpful to get something down in writing and 'test' that.

I'm travelling back to Edinburgh this weekend but will look at in the early part of next week.

Kind regards

[REDACTED]

[REDACTED]

Sent from my phone - please excuse typos and informal language.

[REDACTED]

[REDACTED]@axiomadvocates.com

www.axiomadvocates.com

Clerking team:



On 16 Aug 2024, at 17:29, [REDACTED]@harpermacleod.co.uk> wrote:

Dear [REDACTED]

Thanks for your email. It's always helpful to get something down in writing and 'test' that.

I'm travelling back to Edinburgh this weekend but will look at in the early part of next week.

Kind regards

[REDACTED]

[REDACTED]

Sent from my phone - please excuse typos and informal language.

[REDACTED]

[REDACTED] [axiomadvocates.com](mailto:[REDACTED]@axiomadvocates.com)

www.axiomadvocates.com

Clerking team:

[REDACTED]



On 16 Aug 2024, at 17:29, [REDACTED] <[REDACTED]@harpermacleod.co.uk> wrote:

[REDACTED]

I've promised to get back to SL&E tomorrow morning ahead of the meeting on Friday so would be good to have a steer on how to present it.

Are you around for a quick call at 9:45 tomorrow morning?

Thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Sent: Wednesday, September 11, 2024 4:56 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: FW: NatureScot

[REDACTED]

[REDACTED]

Fax: 0141 229 7148
Mob: [REDACTED]
The Ca'doro 45 Gordon Street Glasgow G1 3PE



From: [REDACTED] <[REDACTED]@axiomadvocates.com>

Sent: Wednesday, September 11, 2024 4:53 PM

To: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Subject: Re: NatureScot

Dear [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] KC

[REDACTED]

[REDACTED] axiomadvocates.com

www.axiomadvocates.com

Clerking team: [REDACTED]



From: [REDACTED] <[REDACTED]@harpermacleod.co.uk>
Sent: 11 September 2024 15:04
To: [REDACTED] <[REDACTED]@axiomadvocates.com>
Subject: RE: NatureScot

Thanks, [REDACTED]



PARTNER
DISPUTE RESOLUTION

Fax: 0141 229 7148
Mob: [REDACTED]
The Cal'doro 45 Gordon Street Glasgow G1 3PE

Recommended in Commercial Litigation, Media & Entertainment, Professional Negligence, Sport and Litigation



From: [REDACTED] <[REDACTED]@axiomadvocates.com>
Sent: Wednesday, September 11, 2024 2:59 PM
To: [REDACTED] <[REDACTED]@harpermacleod.co.uk>
Subject: Re: NatureScot

Dear [REDACTED]

This is on my to do list. I should be able to get back to you later today or tomorrow morning.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]





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-

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Clerking team: 



From:  < harpermacleod.co.uk>
Sent: 11 September 2024 14:30
To:  < axiomadvocates.com>
Subject: RE: NatureScot


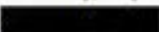

Dear 

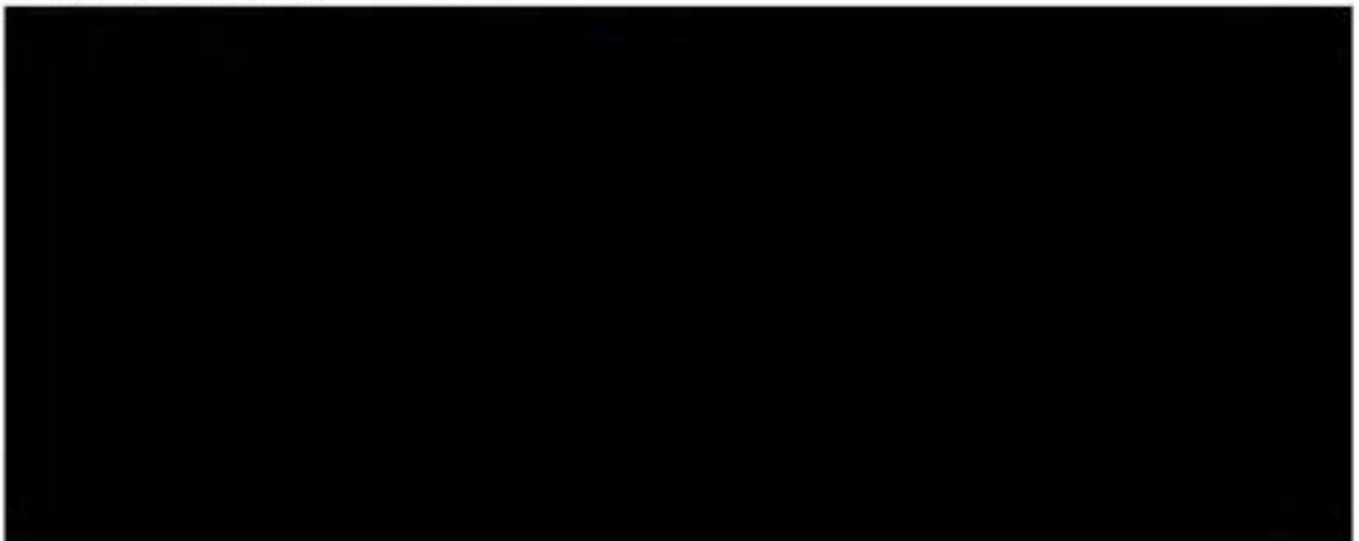
I am just following up on my email below. The clients have their rescheduled meeting with SLE on Friday morning and I said I would check with you to see if you have capacity to provide comment on this before then.

Kind regards,



 PARTNER DISPUTE RESOLUTION	Fax: 0141 226 7148 Mob:  The Ca'doro 45 Gordon Street Glasgow G1 3PE	 
<i>Recommended in Commercial Litigation, Media & Entertainment, Professional Negligence, Sport and Litigation</i>		

From: 
Sent: Friday, September 6, 2024 11:39 AM
To:  < axiomadvocates.com>
Subject: RE: NatureScot





[Redacted]

From: [Redacted] <[Redacted]@axiomadvocates.com>
Sent: Tuesday, August 27, 2024 3:56 PM
To: [Redacted] <[Redacted]@harpermacleod.co.uk>
Subject: Re: NatureScot



Kind regards

[Redacted]

[Redacted]

[Redacted]

[Redacted]@axiomadvocates.com

www.axiomadvocates.com

Clerking team: [Redacted]



From: [Redacted] <[Redacted]@harpermacleod.co.uk>

From: [REDACTED]
To: [REDACTED]
Cc:
Subject: FW: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences
Date: 17 September 2024 16:03:00
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
Advice on Condition 17 September 2024.pdf
Proposed Amendment - Section 16AA Licence Draft Condition.docx
Importance: High

Hi [REDACTED]

Would be good to discuss. I will try and give you a call in a moment.

Thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Tuesday, September 17, 2024 2:30 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>;
[REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] <[REDACTED]@basc.org.uk>
Subject: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences
Importance: High

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Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only

Dear All,

I attach the opinion of our senior counsel, [REDACTED] in the matter regarding the draft section 16AA licence condition which you kindly shared with us on 12 September.

Clearly this opinion puts us in a somewhat difficult position, and we are unable to accept the draft condition in its current form. However, in the spirit of finding consensus, I attach the draft condition with amendments by way of tracked changes which we believe will strike the right balance between safeguarding our members' legal interests and delivering the policy objective you have described. These amendments have been drafted in conjunction with senior counsel.

We look forward to having a fuller discussion on this tomorrow afternoon. In the meantime, we would be grateful if you could give our legal opinion and proposed amendments due consideration. We would also appreciate an update tomorrow on your commitment to update your guidance on *the area of land to which the licence is to relate* – noting your intent to update guidance by 30 September with modifications taking place shortly thereafter.

With best wishes,



Note – this email reflects the view of SLE and my BASC colleagues (copied) will confirm their view forthwith as soon as they have had the opportunity to confer internally.



Scottish Land & Estates

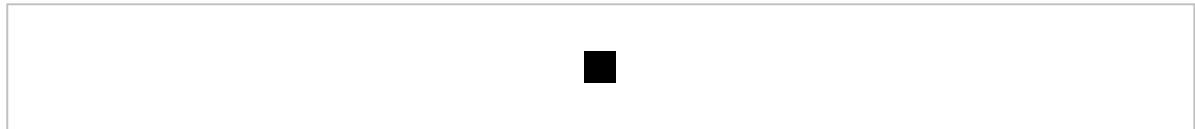
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] gillespiemacandrew.co.uk; [REDACTED] (Scotland); [REDACTED] (Evidence)
Subject: Re: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences
Date: 17 September 2024 16:24:40
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

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Dear All,

Further to my last, I can confirm the above email also reflects the position of BASC.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Tuesday, September 17, 2024 2:30 PM
To: [REDACTED]@nature.scot <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk <[REDACTED]@gillespiemacandrew.co.uk>;
[REDACTED] <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence)
<[REDACTED]@basc.org.uk>
Subject: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences

Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only

Dear All,

I attach the opinion of our senior counsel, [REDACTED], in the matter regarding the draft section 16AA licence condition which you kindly shared with us on 12 September.

Clearly this opinion puts us in a somewhat difficult position, and we are unable to accept the draft condition in its current form. However, in the spirit of finding consensus, I attach the draft condition with amendments by way of tracked changes which we believe will strike the right balance between safeguarding our members' legal interests and delivering the policy objective you have described. These amendments have been drafted in conjunction with senior counsel.

With best wishes,

[REDACTED]
[REDACTED]

M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

Restricted, Confidential & Legally Privileged

1 Conditions relating to land management

1.1 The licence holder shall ~~take reasonable steps to ensure that neither they nor any person within their employment or control does any act~~ ~~nothing is done~~ for the purposes of or in relation to the management of the land to which this licence relates; which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:

1.1.1 involves any of the species mentioned at 1.2 of this condition; and

1.1.2 takes place on land other than that to which this licence relates ~~but which is owned or occupied by the licence holder~~.

Commented [REDACTED]: "but the management of which is controlled by the licence holder" would be another permissible option.

1.2 The species referred to at 1.1.1 of this condition are as follows:

[Raptors etc.]

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] giles@macandrew.co.uk; [REDACTED] (Scotland); [REDACTED] (Exsistence)
Subject: RE: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences
Date: 20 September 2024 14:25:00
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

Dear [REDACTED]

Thank you for sharing this with us. We have discussed with our own external advisers, Harper Macleod LLP, and [REDACTED]

We believe that the condition as drafted is lawful, although we of course take account of what [REDACTED] says in his opinion and have been well advised as to the unpredictability of judicial review. We are in any event keen to find a solution that works for all stakeholders, provided that it meets the legislative intent of addressing the issues of raptor persecution in the vicinity of grouse moors.

With that in mind, and taking account of your suggested changes, we have revised the condition as follows:

1. *The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*
 - 1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*
 - 1.1.2 *takes place on land other than that to which this licence relates.*
2. *The species referred to at 1.1.1 of this condition are as follows:*

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)

The change at 1.1, is intended to address [REDACTED] "guarantee" point in respect of those in the employ or control of the licence holder. We do not consider that concern arises in relation to the licence holder's own acts.

We have not included the change you have suggested at 1.1.2 because that would leave it open to a licence holder to act or cause others to act contrary to those sections of the 1981 Act on land which they do not own or occupy and for the purposes of managing the land to which the licence relates, without breaching the conditions of the licence. For example, the killing of an eagle by such persons on land adjacent to but not in common ownership with the grouse moor, would not be caught.

We do not think that should cause concern to licence holders because any such act which is not for the purposes of or in relation to the management of the grouse moor would not be a breach of the condition.

We look forward to discussing this when we meet later today.

RE: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences
20 September 2024 15:04:21
image001.png
image002.png
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image005.png
image006.png

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In relation to 1.1.2, we did provide a secondary option in the comment margin which would not prejudice your ability to act in the circumstance you describe. I have reflected this amendment in red below for ease of reference and outlined the rationale below.

1. The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:

- 1.1.2 takes place on land other than that to which this licence relates **but the management of which is controlled by the licence holder.**

2. The species referred to at 1.1.1 of this condition are as follows:

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)

Grateful if this point

could be given consideration ahead of our call at 1630.

I also note your reference to the legislative intent: “addressing the issues of raptor persecution in the vicinity of grouse moors”. This being the case, we were surprised to see the Raven (*Corvus corax*) referend in the species at 1.2 given it is clearly a corvid and not a raptor. It would be useful to hear the rationale for this when we speak at 1630 and, in particular, whether consideration might be given to removing it from the species list.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] [REDACTED] [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 20 September 2024 14:26

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED]
[REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences

Dear [REDACTED]

Thank you for sharing this with us. We have discussed with our own external advisers, Harper Macleod LLP, and [REDACTED] [REDACTED]

We believe that the condition as drafted is lawful, although we of course take account of what [REDACTED] [REDACTED] says in his opinion and have been well advised as to the unpredictability of judicial review. We are in any event keen to find a solution that works for all stakeholders, provided that it meets the legislative intent of addressing the issues of raptor persecution in the vicinity of grouse moors.

With that in mind, and taking account of your suggested changes, we have revised the condition as follows:

1. *The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections*

1, 5 or 6 of the 1981 Act and which:

1.1.1 involves any of the species mentioned at 1.2 of this condition; and

1.1.2 takes place on land other than that to which this licence relates.

2. The species referred to at 1.1.1 of this condition are as follows:

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The change at 1.1, is intended to address [REDACTED] "guarantee" point in respect of those in the employ or control of the licence holder. We do not consider that concern arises in relation to the licence holder's own acts.

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We do not think that should cause concern to licence holders because any such act which is not for the purposes of or in relation to the management of the grouse moor would not be a breach of the condition.

We look forward to discussing this when we meet later today.

Kind Regards

[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: Tuesday, September 17, 2024 2:30 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@gillespiemacandrew.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences

Importance: High

Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only

-

Dear All,

I attach the opinion of our senior counsel, [REDACTED], in the matter regarding the draft section 16AA licence condition which you kindly shared with us on 12 September.

Clearly this opinion puts us in a somewhat difficult position, and we are unable to accept the

draft condition in its current form. However, in the spirit of finding consensus, I attach the draft condition with amendments by way of tracked changes which we believe will strike the right balance between safeguarding our members' legal interests and delivering the policy objective you have described. These amendments have been drafted in conjunction with senior counsel.

We look forward to having a fuller discussion on this tomorrow afternoon. In the meantime, we would be grateful if you could give our legal opinion and proposed amendments due consideration. We would also appreciate an update tomorrow on your commitment to update your guidance on *the area of land to which the licence is to relate* – noting your intent to update guidance by 30 September with modifications taking place shortly thereafter.

With best wishes,

[Redacted]

Note – this email reflects the view of SLE and my BASC colleagues (copied) will confirm their view forthwith as soon as they have had the opportunity to confer internally.

[Redacted]
[Redacted]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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From: [REDACTED]
To: [REDACTED]
Subject: Licence text - grouse - DRAFT - 23.09.24
Date: 25 September 2024 09:57:44
Attachments: Licence text - grouse - DRAFT - 23.09.24.docx

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Hi [REDACTED]

With some suggestions and comments.

Kind regards,

[REDACTED]



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From: [REDACTED]
To: [REDACTED]
Subject: RE: In confidence - wording as discussed
Date: 27 September 2024 12:38:03
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

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Hi [REDACTED]

Had a brief discussion with other colleagues on this and we think the proposed course of action would be preferable – provided it is permissible from the NatureScot perspective.

- Issue written notice of the intent to modify licences. The modification will make clear that the “land on which certain birds [red grouse] may be taken or killed” will become the land to which the licence is to relate through modification.
- The written notice will also make clear the following points:
 - Licence holders will have 14 days to resubmit maps if the “land on which red grouse may be taken or killed” is not accurately specified.
 - If previously submitted maps do accurately reflect “land on which red grouse may be taken or killed”, no action will be required. In practice this will mean that the specified area shaded in blue will become the land to which the licence is to relate, or – where a blue shaded area is not reflected – the specified boundary will become the land to which the licence is to relate.
- Modify licences with the following wording after 14 days: *“The land on which certain birds [red grouse] may be taken or killed is the area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the Wildlife and Countryside Act 1981.”*

Shout if you need any further input from us and look forward to catching up next week.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

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[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: 27 September 2024 08:51
To: [REDACTED] <[REDACTED]@nature.scot>
Subject: Re: In confidence - wording as discussed

Thanks [REDACTED] - yes, 1000 works for me.

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB
M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Friday, September 27, 2024 8:49:46 AM
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Subject: RE: In confidence - wording as discussed

Many thanks [REDACTED] How would 10am suit you for a chat?

Thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Thursday, September 26, 2024 10:32 PM
To: [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: In confidence - wording as discussed

Hi [REDACTED]

Thanks for this and apologies for the delay in coming back to you – I am not long in the door from parliament.

I understand the following wording is used on valid section 16AA licences: *“The Landholding is the area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the Wildlife and Countryside Act 1981.”* I’m also aware that your current guidance and licence application currently refers to the blue shaded area as: *“areas over which you have the right to kill or take grouse”*.

However, the *“area[s] over which you have the right to kill or take grouse”* is not a phrase that is used or recognised by the 2024 Act. Technically a landowner or occupier holds the right to kill or take grouse over any land where they hold the sporting rights – irrespective of whether grouse are actually present on said land or not.

The phrase used in the Act is “*land on which certain birds [red grouse] may be taken or killed*”. As we now understand, it is for the applicant to specify said area of land on which red grouse may be taken or killed as the area of land to which the licence is to relate.

The salient point here is that the “*area[s] over which you have the right to kill or take grouse*” (per your current guidance) and the “*land on which certain birds may be taken or killed*” (per the Act) are, technically, two different things. You have asked licence holders to apply for licences on the premise of the former – not the latter.

With this in mind, NatureScot will need to cease using the term “*area[s] over which you have the right to kill or take grouse*”. Given this phrase was the premise on which licence holders were erroneously asked to produce maps, you ideally need to ask licence holders to resubmit maps which specify:

- The land on which certain birds may be taken or killed, per 16AA(4)(c), in blue;
- The landholding boundary, per 16AA(4)(d), in red.

The wording on all section 16AA licences should then read: “*The land on which certain birds [red grouse] may be taken or killed is the area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the Wildlife and Countryside Act 1981.*”

You might be able to get away with simply modifying licences to read what I’ve set out in the above paragraph without requiring resubmission of maps, but technically people applied having shaded “*areas over which you have the right to kill or take grouse*” in blue - which is not strictly the same as “the land on which certain birds may be taken or killed”. To illustrate this, some estates decided to not specify the former in blue at all – principally because they hold the right to kill/take grouse over the full extent of the landholding, and felt there was no need to do so. If initial guidance stipulated that “the land on which red grouse may be taken or killed” be specified, some may have specified differently...

I appreciate this is not what you will want to hear and manifestly more complicated than we all envisaged. However, given what your current guidance says versus what we now understand, I think all licence holders will need to resubmit maps clear in the knowledge of what they are being asked to specify.

I’m around all day tomorrow except 1115-1200 and 1430-1600. Perhaps we should chat through by teams? I am genuinely happy to help with this as much as I can and appreciate this is both extremely complicated and onerous.

Best wishes,

[Redacted signature]

[Redacted name]
[Redacted title]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [Redacted] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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From: [REDACTED] <[REDACTED]@nature.scot>
Sent: 26 September 2024 16:52
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Subject: In confidence - wording as discussed

Hi [REDACTED]

Thanks for calling me back. Proposed, draft explanation as discussed:

The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is the area specified by the licence holder on the map submitted with the licence application as the area on which the licence holder has the right to kill or take red grouse

If you can let me know any comments that would be appreciated.

Thanks,

[REDACTED] | [REDACTED]
NatureScot | [REDACTED]
NatureScot | [REDACTED]
m: [REDACTED]

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

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See below from [REDACTED] at SLE.

[REDACTED] | [REDACTED]
NatureScot | Great Glen House | Inverness | IV3 8NW | 01463 [REDACTED]
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Thursday, September 12, 2024 9:57 AM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>;
[REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>;
[REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Subject: Re: Section 16AA Licence Area & Condition

[REDACTED]

Many thanks for sending this over. We will consider the detail of the licence condition and revert back to you with our view. Sharing it in advance is appreciated so thank you for that.

Regarding the land to which the licence relates, I note your intention "to consult on a slightly modified version of the scheme, in terms of which the perimeter of the area of land to which the licence relates would be reduced to only the area on which the applicant intends to undertake licenced activities".

I think we have been relatively clear that we need to see this matter resolved no later than 15 September so we can protect the legal interests of our members. The 2024 Act is absolutely clear on what is meant by the land to which the licence relates (per senior counsel's opinion), so I am not clear on why wider consultation on this issue (if that is what is intended) is necessary? This is a point of legal clarification and not a consultative matter.

Please could you confirm if licences will be modified (to ensure the land to which the licence relates is the area the applicant has specified as being the area over which certain birds are taken or killed) by 15 September.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Thursday, September 12, 2024 9:06 AM
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Subject: RE: Section 16AA Licence Area & Condition

Dear All,

We have received feedback from senior counsel and have summarised the proposals below. In drafting these we have carefully considered feedback from stakeholders on the current scheme, particularly the concerns expressed around the definition of the area of land to which the licence relates. In the hope of alleviating those concerns, NatureScot intends to consult on a slightly modified version of the scheme, in terms of which the perimeter of the area of land to which the licence relates would be reduced to only the area on which the applicant intends to undertake licenced activities.

The modified scheme will also propose a licence condition along the following lines:

1 Conditions relating to land management

1.1 *The licence holder shall ensure that nothing is done for the purposes of or in relation to the management of the land to which this licence relates, which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

1.2 *The species referred to at 1.1.1 of this condition are as follows:*

[Raptors etc.]

We will be consulting more widely on these modifications but would welcome any comments you may have at this stage. We will have an opportunity to discuss this and hear your views at tomorrow's meeting.

Many thanks,

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Wednesday, September 11, 2024 4:56 PM
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>;

[REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: RE: Section 16AA Licence Area & Condition

Hello [REDACTED]

Many thanks for this update and explanation of your position and for the quick catch up earlier. As discussed, we are awaiting feedback from senior counsel and we will update you tomorrow morning as soon as we can.

Many thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: Wednesday, September 11, 2024 1:18 PM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>;
[REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland)
<[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Subject: Section 16AA Licence Area & Condition

--

Dear [REDACTED] & [REDACTED]

I hope this finds you well. At our last catch-up meeting on the matter regarding the land to which the licence relates, you kindly offered to give us advanced sight of the proposed new condition so that we might consult senior counsel and form a view. We have been working on the understanding that the licence condition and the modification to existing licences to amend the land to which the licence relates would be implemented simultaneously, although please do advise if that is in fact not the case.

We also made clear following that discussion that we required the matter to be resolved no later than 15 September due to the timescales associated with judicial review, but on the understanding that litigation would likely not be required provided the matter is voluntarily resolved.

Assuming the intent is to modify licences and bring about both of the above changes, this does not leave us with much time to take a view on the licence condition and I'd ask for an update at your earliest convenience please. We would also be grateful if you could set out the timescale with regards to making the changes to the land to which the licence relates, and in particular whether this change will be made by 15 September.

Looking forward to hearing from you.

With best wishes,

[REDACTED]

[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

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Please consider the environment before printing this email

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] (Scotland); [REDACTED] (Evidence)
Subject: RE: Section 16AA Licence Area & Condition
Date: 12 September 2024 14:51:00

Thanks [REDACTED]

Following on from our quick chat just now and to keep everyone else in the loop here is a response to your points below. As you know, NatureScot has taken account of the opinion of senior counsel instructed by SLE as part of our consideration of stakeholder concerns. Whilst we have not conceded that the definition of the "land to which the licence relates" used in the current scheme is unlawful we are proposing an amendment to simplify the process for applicants, by removing the need for them to identify two or more areas of land in their application.

The proposed change will involve modifying existing licences so that the area of land to which the licence relates shall be the area upon which the licenced activity is to take place. We also propose to add the condition outlined below added to the licence conditions. As we understand it, this will satisfy concerns around the definition of the area of land to which the licence relates.

We will not be in a position to implement these changes by 15 September, but our intention is for the modifications to take effect as soon as possible.

I understand from speaking to you that the significance of 15th September is to ensure that all possible scenarios are covered with respect to the beginning of the 3 months within which a challenge can be made. However, we would welcome further clarity to ensure common understanding. As Section 16AA did not come into force until 22 July 2024, our understanding is that the challenges SLE has to the current scheme can be made within 3 months, which would take us to 21 October 2024.

Kind Regards,

[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Thursday, September 12, 2024 9:57 AM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Subject: Re: Section 16AA Licence Area & Condition

Caution! This message was sent from outside NatureScot.

Many thanks for sending this over. We will consider the detail of the licence condition and revert back to you with our view. Sharing it in advance is appreciated so thank you for that.

Regarding the land to which the licence relates, I note your intention "to consult on a slightly modified version of the scheme, in terms of which the perimeter of the area of land to which the licence relates would be reduced to only the area on which the applicant intends to undertake licenced activities".

I think we have been relatively clear that we need to see this matter resolved no later than 15 September so we can protect the legal interests of our members. The 2024 Act is absolutely clear on what is meant by the land to which the licence relates (per senior counsel's opinion), so I am not clear on why wider consultation on this issue (if that is what is intended) is necessary? This is a point of legal clarification and not a consultative matter.

Please could you confirm if licences will be modified (to ensure the land to which the licence relates is the area the applicant has specified as being the area over which certain birds are taken or killed) by 15 September.

Best wishes,

Scottish Land & Estates
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB
M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Thursday, September 12, 2024 9:06 AM
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Subject: RE: Section 16AA Licence Area & Condition

Dear All,

We have received feedback from senior counsel and have summarised the proposals below. In drafting these we have carefully considered feedback from stakeholders on the current scheme, particularly the concerns expressed around the definition of the area of land to which the licence relates. In the hope of alleviating those concerns, NatureScot intends to consult on a slightly modified version of the scheme, in terms of which the perimeter of the area of land to which the licence relates would be reduced to only the area on which the applicant intends to undertake licenced activities.

The modified scheme will also propose a licence condition along the following lines:

1 *Conditions relating to land management*

1.1 *The licence holder shall ensure that nothing is done for the purposes of or in relation to the management of the land to which this licence relates, which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

1.2 *The species referred to at 1.1.1 of this condition are as follows:*

[Raptors etc.]

We will be consulting more widely on these modifications but would welcome any comments you may have at this stage. We will have an opportunity to discuss this and hear your views at tomorrow's meeting.

Many thanks,

■

From: ■ <■@nature.scot>

Sent: Wednesday, September 11, 2024 4:56 PM

To: ■ <■@scottishlandandestates.co.uk>; ■
<■@nature.scot>; ■ <■@nature.scot>

Cc: ■ <■@nature.scot>; ■
<■@scottishlandandestates.co.uk>; ■ (Scotland)
<■@basc.org.uk>; ■ (Evidence) <■@basc.org.uk>

Subject: RE: Section 16AA Licence Area & Condition

Hello ■

Many thanks for this update and explanation of your position and for the quick catch up earlier. As discussed, we are awaiting feedback from senior counsel and we will update you tomorrow morning as soon as we can.

Many thanks,

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Wednesday, September 11, 2024 1:18 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>;
[REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland)
<[REDACTED]@hasc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@hasc.org.uk>
Subject: Section 16AA Licence Area & Condition

Dear [REDACTED] & [REDACTED]

I hope this finds you well. At our last catch-up meeting on the matter regarding the land to which the licence relates, you kindly offered to give us advanced sight of the proposed new condition so that we might consult senior counsel and form a view. We have been working on the understanding that the licence condition and the modification to existing licences to amend the land to which the licence relates would be implemented simultaneously, although please do advise if that is in fact not the case.

We also made clear following that discussion that we required the matter to be resolved no later than 15 September due to the timescales associated with judicial review, but on the understanding that litigation would likely not be required provided the matter is voluntarily resolved.

Assuming the intent is to modify licences and bring about both of the above changes, this does not leave us with much time to take a view on the licence condition and I'd ask for an update at your earliest convenience please. We would also be grateful if you could set out the timescale with regards to making the changes to the land to which the licence relates, and in particular whether this change will be made by 15 September.

Looking forward to hearing from you.

With best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB
M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

From:
To:
Cc:
Subject: RE: Modification process
Date: 02 October 2024 09:04:00
Attachments: ~WRD0000.jpg

Hi

Many thanks for your advice on this. As discussed on the phone I've edited the text further to reflect the wording and meaning in the Act that it is up to the licence holder to 'specify the area of land to which the licence will relate' and that this is area is the 'land over which red grouse may be killed or taken':

"The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is the area specified by the licence holder on the map submitted with the licence application as the area on which red grouse may be taken or killed"

The steps we propose to take to make this modification are:

STEP 1: Proactively inform the licence holder that their licences will be modified

Send an email to all licence holders letting them know that their licences will be modified, the reasons for the modification and when the modification will happen. Let them know that they can resubmit a map if they would like to within a specified deadline (2/3 weeks). The email will explain that if previously submitted maps accurately reflect "land on which red grouse may be taken or killed", they will not be required to take any action. However, if they believe that their map does not reflect this new definition they can submit a new map. For the maps already submitted the area shaded in blue or the smaller area (where two boundaries have been supplied) will become the land to which the licence is to relate.

STEP 2: Licences are modified and new maps (where submitted) added

Licensing officers will upload the new maps where they have been supplied by the licence holder. The new condition and revised text re the area to which the licence relates are inserted into all licences.

STEP 3: Send out notification that licence will be modified in 14 days and modified licence

Send an email to all licence holders letting them know that their licences have been modified and that the modification will come into effect in 14 days. The guidance on the website will be updated at this point. These modified licences will include the changed definition of the boundaries.

STEP 4: Modification takes effect

Can you confirm that this approach fits the legislative requirements?

Many thanks,

From: < harpermacleod.co.uk>
Sent: Thursday, September 26, 2024 2:19 PM
To: < nature.scot>
Subject: FW: Modification process

Caution! This message was sent from outside NatureScot.

Kind regards,

[Redacted]



From: [Redacted] <[Redacted]@nature.scot>
Sent: Wednesday, September 25, 2024 3:43 PM
To: [Redacted] <[Redacted]@harpermacleod.co.uk>
Subject: RE: Modification process

Hi [Redacted]

Thanks once again for these details. I'm hoping you can help with a couple of points for clarity:

- **Maps** - Description of which boundary on a map will be the area to which the licence relates

The proposed revised text explains that the relevant boundary is that which relates to

From: [REDACTED] (Scotland)
To: [REDACTED] (Evidence)
Cc: [REDACTED]
Subject: RE: Modifying licences to take or kill grouse
Date: 03 October 2024 16:12:01

Caution! This message was sent from outside NatureScot.

Dear [REDACTED]

Thank you for informing us in advance about NatureScot's plans to modify the licences issued under section 16AA of the Wildlife and Countryside Act 1981 ('the Act') and for confirming the intention to add a new condition to all licences.

The British Association for Shooting and Conservation (BASC) appreciates the effort to revise the definition of "land to which the licence relates." It is crucial that key aspects of the licensing scheme align with, and accurately reflect, the provisions of the Act. This modification should ensure that alignment moving forward.

We recognise NatureScot's plan to introduce a new licence condition and acknowledge the changes made to the initial draft, which we previously deemed unlawful.

Whilst we reserve our position on this matter, we must highlight that it is not in our power to prevent or restrict our members from exploring any legal options available to them. We look forward to continued positive engagement as these changes are being implemented.

Thank you once again for the advance notice regarding these modifications.

Best,
[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: 30 September 2024 11:26
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland)
<[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Subject: Modifying licences to take or kill grouse

Dear All,

Following on from discussions, please find below a statement on the intention to modify 16AA licences:

NatureScot will modify the licences to take or kill grouse, issued under section 16AA of the Wildlife and Countryside Act 1981. These modifications will provide a new definition of "land to which the licence relates". The new definition will be the area of land which the licence holder specifies as the area on which they will undertake the permitted activities (as opposed to the wider landholding which is the position under the existing licences). At the same time, a new condition will be introduced to ensure that the key aim of legislation –

the reduction in raptor persecution in the vicinity of grouse moors – will remain at the core of the licensing regime.

We will continue to discuss the timeframe of when this will be in place and can pick up on this at our meeting on Wednesday morning.

Kind regards,

[REDACTED]

[REDACTED] | [REDACTED]

NatureScot | [REDACTED]

NatureScot | [REDACTED]

m: [REDACTED]

nature.scot | [@nature_scot](https://twitter.com/nature_scot) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

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Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a- mach bho NàdarAlba.

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From: [REDACTED]
To: [REDACTED] (Scotland); [REDACTED] (Evidence)
Cc: [REDACTED]
Subject: RE: Modifying licences to take or kill grouse
Date: 03 October 2024 15:41:12
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

Caution! This message was sent from outside NatureScot.

Dear [REDACTED]

Thank you for advanced notification of NatureScot's intent to modify licences issued under section 16AA of the Wildlife and Countryside Act 1981 ('the Act'), and for confirming NatureScot's intention to impose a new condition on all licences.

Scottish Land & Estates (SLE) welcomes the intention to modify licences by revising the definition of what constitutes "land to which the licence relates". It is important that critical components of the licensing scheme accurately reflect the provisions of the Act, and this modification ought to ensure that this will be the case going forward.

SLE acknowledges NatureScot's intention to introduce a new licence condition. We also recognise and acknowledge the amendments that have been made to the initial draft of the condition which we considered unlawful. However, we reserve our position on this matter and we must be clear that we cannot bind our members not to pursue any legal avenue open to them when the condition is attached to licences.

SLE will continue to engage with you constructively as these changes are progressed. Thank you again for advanced notification of these changes.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

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From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 30 September 2024 11:26

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>;
[REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>;
[REDACTED] <[REDACTED]@nature.scot>
Subject: Modifying licences to take or kill grouse

Dear All,

Following on from discussions, please find below a statement on the intention to modify 16AA licences:

NatureScot will modify the licences to take or kill grouse, issued under section 16AA of the Wildlife and Countryside Act 1981. These modifications will provide a new definition of “land to which the licence relates”. The new definition will be the area of land which the licence holder specifies as the area on which they will undertake the permitted activities (as opposed to the wider landholding which is the position under the existing licences). At the same time, a new condition will be introduced to ensure that the key aim of legislation – the reduction in raptor persecution in the vicinity of grouse moors – will remain at the core of the licensing regime.

We will continue to discuss the timeframe of when this will be in place and can pick up on this at our meeting on Wednesday morning.

Kind regards,

[REDACTED]

[REDACTED] | [REDACTED]
NatureScot | [REDACTED]
NatureScot | [REDACTED]
m: [REDACTED]

[nature.scot](https://www.nature.scot) | [@nature_scot](https://twitter.com/nature_scot) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

Kind regards,

[REDACTED]



From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Wednesday, September 25, 2024 3:43 PM

To: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Subject: RE: Modification process

Hi [REDACTED]

Thanks once again for these details. I'm hoping you can help with a couple of points for clarity:

- **Maps - Description of which boundary on a map will be the area to which the licence relates**
The proposed revised text explains that the relevant boundary is that which relates to the area where the permitted activities will take place. Will this description work for licences that have maps with 2 boundaries but where there is not an explicit label/legend stating what each boundary relates to?
- **Timing of providing the modified licence**
When does the licence holder need to receive the modified licence? Is it after the 14 days notice period or at the same time but with a clear explanation that the modifications won't come into effect until 14 days later?

Many thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Sent: Wednesday, September 25, 2024 9:42 AM

MODIFYING LICENCES FOR LAND WHICH MAY BE USED TO TAKE OR KILL RED GROUSE

BRIEFING TO LICENCING OFFICERS, WILDLIFE MANAGEMENT OFFICERS AND OPERATION OFFICERS

Background

- The Wildlife Management and Muirburn (Scotland) Act 2024 introduced the requirement for anyone wanting to take or kill red grouse to need a licence
- This licence will be for the land to which the licenced activity will take place, therefore will apply over land where red grouse may be killed or taken, this may not always apply to an entire property and may only apply to part of a property.
- The licence is intended to be a deterrent for wildlife crime, and as such can be revoked or modified in the event of a relevant crime being committed.
- If revoked, this would mean no red grouse can be killed or taken on that licensed area.

Changes to licences

- All existing licences will be modified in two ways
 1. the description of the land to which the licence relates
 - This will mean it is up to the applicant to define what area of land will be licenced and a wider land holding boundary will no longer be required. We expect this area to be extent of any grouse moor on a property.
 - i.e. we will no longer require a red and blue boundary, instead we will only require a map outlining the area the taking or killing of grouse will be licenced
 2. inserting a new condition
 - This will require the licence holder or anyone under their control or employment to not commit any offences related to raptors in connection with the management of the grouse moor out with the area covered by the licence.
- A letter notifying the licence holders that their licences have been modified along with a modified licence will be issued in early November.
- The modification will take effect 14 days later (as per the Act).

How will we let licence holders know about these changes

We will be sending out an email on Wednesday 9th October letting licence holders know that their licences will be modified, how and why. This email will also let licence holders know that they can provide a new map should they wish to. If they don't we will assume that the area covered by the licence will be the smaller area on maps supplied with two boundaries and the whole area where there is one boundary. If a licence map shows multiple distinct polygons and is not clearly labelled indicating where the licence will apply, we will need to directly contact the licence holder or key contact to identify the correct boundary.

How will we let other stakeholders and those interested know about these changes

We will put a short, factual explanation of the proposed changes on the landing page for the grouse licences on the NatureScot website. We will add this content on Thursday 10th October.

Why are we making changes

- To ensure licences are lawful and legally compliant.
- Legal advice identified that it is the applicant's responsibility to specify the area the licence should relate.
- The new condition will be in place to maintain the policy intent of the legislation.

Media

Key messages and lines to take have been prepared

(<https://naturescot.nexus.objective.co.uk/documents/A4764121/details>)

Please ensure that [REDACTED] [REDACTED] [REDACTED] and [REDACTED] are made aware of any communications from the public regarding these changes.

DRAFT - 4th October

Red grouse: Upcoming changes

Dear ((Name)),

We are writing to let you know that we will soon be modifying all licences for land over which red grouse may be killed or taken.

You will receive an official notice per section 16AA(10)(a) of the Wildlife and Countryside Act 1981 and a modified licence in due course. The changes will take effect 14 days after the official notice has been issued (in line with legislation).

In this upcoming modification, we will:

- change the definition of the land to which your licence relates
- add a new condition around wildlife crime

Land to which the licence relates

The modified definition of land will mean that we will no longer require the landholding boundary. Instead, we will only need the boundary over which you 'may kill or take red grouse'. We expect this to be the extent of the grouse moor. This is likely be the smaller area outlined on the map which you submitted with your application (if you submitted two boundaries).

~~You do not need to do anything. If you submitted two boundaries on the map in your initial application, NatureScot will modify your licence so that the smaller area automatically becomes the land to which the licence relates. However, if the smaller boundary does not accurately specify the area over which red grouse may be taken or killed, you should submit a new map.~~

~~However, you may submit a new map if you wish to do so.~~ You must do this before **Friday 25th October 2024**.

Map guidance

The map must specify the area over which red grouse may be killed or taken.

We advise you use Ordnance Survey mapping (for example OS 1:25,000 or 1:50,000) and apply a scale bar to the map.

The file must be smaller than 10MB. Suggested file types include PDF, JPEG and PNG.

Submit your updated map with your licence number via email to licensing@nature.scot

Wildlife crime

The second change we will be making is to insert a new condition around wildlife crime. This condition will require the licence holder to take reasonable steps to ensure that they, or anyone under their control or employment, do not commit an offence in relation to raptors.

This condition will apply outside of the licensed area but only where offences committed are related to management of the grouse moor.

These changes will ensure our red grouse licences are legally robust, while continuing to act as a strong deterrent to wildlife crime as was the legislation's intent.

Regards,

Name / NatureScot Licensing

NatureScot | Great Glen House | Leachkin Road | Inverness | IV3 8NW | t: 01463 725364
NàdarAlba | Taigh a' Ghlinne Mhòir | Rathad na Leacainn | Inbhir Nis | IV3 8NW
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From: [REDACTED]
To: [REDACTED] (Scotland); [REDACTED] (Evidence)
Cc:
Subject: RE: Catch Up - NS/SLE/BASC
Date: 04 October 2024 13:00:20
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
IN CONFIDENCE DRAFT not for use until signed off - Email to licence holders re grouse modifications DRAFT 4th October 2024 (A4766829) - SLE-BASC Comments.docx

Caution! This message was sent from outside NatureScot.

Thanks for this and for the call. I attach the draft email with some small suggestions from SLE and BASC for consideration.

As discussed on our call, two of these are minor additions which hopefully you will find agreeable.

The more substantive change is in relation to the resubmission of maps. We believe this process could be made more streamlined for licence holders and NatureScot if there was a presumption in favour of reverting to the smaller boundary where two boundaries have been reflected on existing maps. This is bolstered by a statement making clear that a map should be resubmitted if the boundaries (or boundary) reflected do not accurately specify the area of land on which grouse may be taken or killed.

Grateful if you could consider these points and return a finalised version of the draft email to enable us construct member comms.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

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From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 04 October 2024 11:35

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland)
<[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>
Subject: RE: Catch Up - NS/SLE/BASC

Dear All,

Ahead of our catch up shortly please see the draft email, in confidence, to licence holders re the upcoming modifications to the licences.

Thanks,

[REDACTED]

-----Original Appointment-----

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: Thursday, October 3, 2024 1:51 PM

To: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Scotland); [REDACTED]
(Evidence)

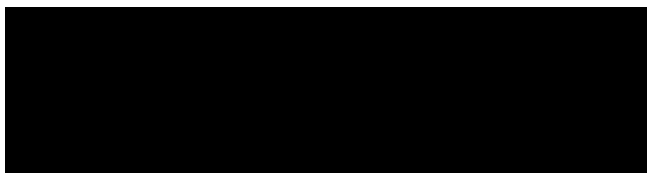
Cc: [REDACTED] [REDACTED]

Subject: Catch Up - NS/SLE/BASC

When: 04 October 2024 12:00-12:45 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Microsoft Teams Meeting

Microsoft Teams [Need help?](#)



For organizers: [Meeting options](#)

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From: [REDACTED]
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Subject: RE: Catch Up - NS/SLE/BASC
Date: 04 October 2024 13:00:20
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
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[REDACTED]
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Sent: 04 October 2024 11:35

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland)
<[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>
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[REDACTED]

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Sent: Thursday, October 3, 2024 1:51 PM

To: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Scotland); [REDACTED]
(Evidence)

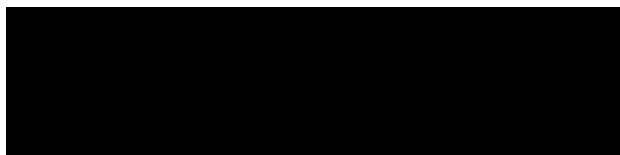
Cc: [REDACTED] [REDACTED]

Subject: Catch Up - NS/SLE/BASC

When: 04 October 2024 12:00-12:45 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Microsoft Teams Meeting

Microsoft Teams [Need help?](#)



For organizers: [Meeting options](#)

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Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-
mach bho NàdarAlba.

Summary of position with grouse licences and process to modify them for [REDACTED] - 3rd October 2024

Position

We have taken the decision to modify the licences for land over which red grouse may be killed or taken following on from legal advice on what is permissible under the Wildlife Management and Muirburn Act.

What problem are we looking to address?

The current licence application asks for a map showing the land holding boundary and area over which the applicant has the right to take or kill red grouse. However, the Act states that it is up to the applicant to 'specify the area to which the licence should relate'. We initially asked for the landholding boundary so that we could act where there were instances of relevant offences outwith the area over which grouse were shot.

What changes will be making?

We will be making two changes to the licences:

- 1) new definition of the land to which the licence relates; and
- 2) inserting a new condition around wildlife crime (see below).

The definition of the area to which the land relates will be changed from the landholding to the area specified by the applicant as that over which red grouse may be killed or taken.

The new condition around wildlife crime will allow us to suspend or revoke licences where there are offences related to raptor persecution which are connected to the grouse moor committed outside of the licensed area by the licence holder or anyone within their control or employment. We won't be able to revoke or suspend licences outwith the licensed area for the other relevant offences listed in the Act – only in relation to offences in connection with raptors.

Process to modify licences

The following steps will be taken to modify the grouse licences:

STEP 1: Proactively inform the licence holder that their licences will be modified

Send an email to all licence holders letting them know that their licences will be modified, the reasons for the modification and when the modification will happen. Let them know that they can resubmit a map if they would like to.

STEP 2: Licences are modified and new maps (where submitted) added

Licensing officers will upload the new maps where they have been supplied by the licence holder. The new condition and revised text re the area to which the licence relates are inserted into all licences.

STEP 3: Send out notification that licence has been modified and modified licence

Send an email to all licence holders letting them know that their licences have been modified and that the modification will come into effect in 14 days.

STEP 4: Modification takes effect

Modification will take effect.

Comms plan

Key messages and lines to take have been drafted and are awaiting sign off. Staff will be informed of these with further briefing provided for Licensing Officers, WMOs and Area staff.

These key messages are short and factual and summarise why the changes are being made and what the changes are.

Why: To ensure the licences are legally compliant and help to meet the policy intention.

What: We will no longer require the landholding boundary instead it will be up to the applicant to specify the area to which the licence relates. We will also be introducing a new condition which requires the licence holder or someone under their control or employment not to commit any offences related to raptors in connection with the management of the grouse moor outwith the area covered by the licence.

When: We are looking to issue modified licences by the beginning of November (tbc)

How: Modified licences will explain the new definition of land to which the land relates and will include an additional condition on wildlife crime. Modified licences will be issued to licence holders through the on-line system.

Proposed new condition to be added to licences

1.1 *The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

1.2 *The species referred to at 1.1.1 of this condition are as follows:*

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)

From: [REDACTED]
To: [AT WILDLIFE MANAGEMENT](#); [REDACTED]
Cc: [REDACTED]
Subject: Briefing on upcoming changes to Grouse Licences
Date: 08 October 2024 11:08:08

Hi Folks,

Please read the briefing paper linked below regarding the modifications to Grouse licences. This will provide everyone with information to respond to any queries you may get once licence holders are notified on 9th October.

If you need anymore information, please get in touch with me or [REDACTED] Findlay.

[Briefing paper - Grouse licence changes - 04 October 2024 \(A4766287\)](#)

Cheers,

[REDACTED]
NatureScot | Inverdee House | Aberdeen | AB11 9QA |
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

DRAFT NOT FOR CIRCULATION - 8th October

Red grouse: Upcoming changes

Upcoming changes to your licence

Following legal guidance, we will soon be modifying all licences for the killing or taking of red grouse.

The modifications will include:

- a change to the definition of the area of land to which your licence relates
- a new condition relating to the prevention of raptor persecution

We are writing to you at this stage to give you the opportunity to provide us with updated information about the area of land to which your licence relates.

For the avoidance of any doubt, this letter is **not** a written notice of modification for the purposes of 16AA(10)(a) of the Wildlife and Countryside Act 1981 Act (the '1981 Act'), which will be issued in due course.

Area of land to which the licence relates

The modified definition of the area of land to which the licence relates will mean that we will no longer require the landholding boundary. Instead, we will only need the boundary of land over which you 'may kill or take red grouse'. We expect this to be the extent of the grouse moor.

The map which will be included on your modified licence will depend on the content of the map you submitted with your initial application.

If you only ~~specified~~identified 1 boundary on the map submitted with your initial application, then your original, unaltered map, will be included on the modified licence.

If you ~~specified~~identified 2 boundaries on the map submitted with your initial application, we will specify the smaller area as the area of land to which the licence relates. That map will be included on your modified licence.

In either case, if you consider that the map which you have submitted with your initial application does not accurately ~~specify~~show the area of land over which you intend to kill or take red grouse, then you can submit a new map. The new map will then be included on your modified licence.

If you wish to submit a new map, you must do this before **Friday 25th October 2024**.

Map guidance

Any new map must specify the area over which red grouse may be killed or taken.

We advise you use Ordnance Survey mapping (for example OS 1:25,000 or 1:50,000) and apply a scale bar to the map.

The file must be smaller than 10MB. Suggested file types include PDF, JPEG and PNG.

Submit your updated map with your licence number via email to licensing@nature.scot

Wildlife crime

The second change we will be making is to insert a new condition relating to the prevention of raptor persecution. This condition will require the licence holder to take reasonable steps to ensure that they, or anyone under their control or employment, do not commit an offence in relation to raptors.

This condition will apply outside of the licensed area but only where offences committed are related to management of the grouse moor.

Regards,

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Submit your updated map with your licence number via email to licensing@nature.scot

Wildlife crime

The second change we will be making is to insert a new condition relating to the prevention of raptor persecution. This condition will require the licence holder to take reasonable steps to ensure that they, or anyone under their control or employment, do not commit an offence in relation to raptors.

This condition will apply outside of the licensed area but only where offences committed are related to management of the grouse moor.

Regards,

NatureScot Licensing

NatureScot | Great Glen House | Leachkin Road | Inverness | IV3 8NW | t: 01463 725364
NàdarAlba | Taigh a' Ghlinne Mhòir | Rathad na Leacainn | Inbhir Nis | IV3 8NW
nature.scot – Scotland's Nature Agency – Buidheann Nàdair na h-Alba – @nature_scot

DRAFT - 8th October

[Subject line:] **Red grouse: Upcoming changes**

[H1] Upcoming changes to your licence

Following legal guidance, we will soon be modifying all licences for the killing or taking of red grouse.

The modifications will include:

- a change to the definition of the are of land to which your licence relates
- a new condition ~~around-relating to the prevention of raptor persecution~~wildlife crime

We are writing to you at this stage to give you the opportunity to provide us with updated information about the area of land to which your licence relates.

For the avoidance of any doubt, this letter is **not** a written notice of modification for the purposes of 16AA(10)(a) of the Wildlife and Countryside Act 1981 Act (the '1981 Act'), which will be issued in due course.

[H2] Area of Land to which the licence relates

The modified definition of the area of land to which the licence relates will mean that we will no longer require the landholding boundary. Instead, we will only need the boundary over which you 'may kill or take red grouse'. We expect this to be the extent of the grouse moor.

The map which will be included on your modified licence will depend on the content of the map you submitted with your initial application.

If you only identified **1** boundary on the map submitted with your initial application, then your original, unaltered map, will be included on the modified licence.

If you identified **2** boundaries on the map submitted with your initial application, we will add a ~~legend-label~~ to that map which will specify the smaller area as the area of land to which the licence relates. That map, with the ~~legend-label~~ added, will be ~~issued with~~included on your modified licence.

In either case, if you consider that the map which you have submitted with your initial application does not accurately show the area of land over which you intend to kill or take red grouse, then you can submit a new map. The new map will then be included on your modified licence.

If you wish to submit a new map, you must do this before **Friday 25th October 2024**.

[H3] Map guidance

Any new map must specify the area over which red grouse may be killed or taken, which should be the perimeter of the relevant grouse moor.

We advise you use Ordnance Survey mapping (for example OS 1:25,000 or 1:50,000) and apply a scale bar to the map.

The file must be smaller than 10MB. Suggested file types include PDF, JPEG and PNG.

Submit your updated map with your licence number via email to licensing@nature.scot

Wildlife crime

Formatted: Font: Bold

The second change we will be making is to insert a new condition ~~relating to the prevention of raptor persecution~~~~around wildlife crime~~. This condition will require the licence holder to take reasonable steps to ensure that they, or anyone under their control or employment, do not commit an offence in relation to raptors.

This condition will apply outside of the licensed area but only where offences committed are related to management of the grouse moor.

~~These changes will ensure our red grouse licences are legally robust, while continuing to act as a strong deterrent to wildlife crime as was the legislation's intent.~~

Commented: Is this needed? Seems to be an unnecessary message to fortune

Regards,

NatureScot Licensing

NatureScot | Great Glen House | Leachkin Road | Invermess | IV3 8NW | T: 01463 725364
NàdarAlba | Taigh a' Ghlinne Mhòir | Rathad na Leacainn | Inbhir Nis | IV3 8NW
[nature.scot](https://www.nature.scot) – Scotland's Nature Agency – Buidheann Nàdair na h-Alba – @nature_scot

From: [REDACTED]
To: [REDACTED] (Scotland); [REDACTED] (Evidence)
Cc: [REDACTED]
Subject: RE: Catch Up - NS/SLE/BASC
Date: 08 October 2024 11:30:00
Attachments: IN CONFIDENCE DRAFT not for use until signed off - Email to licence holders re grouse modifications DRAFT 4th October 2024 (A4766829) v2.docx
image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

Hi [REDACTED]

Please find attached a draft email for circulation to licence holders to inform them about the upcoming changes to the grouse licences. We intend to send the email to all licence holders tomorrow to provide them with a heads up of the modification and to give them an opportunity to supply a new map.

Thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Friday, October 4, 2024 12:58 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Catch Up - NS/SLE/BASC

Caution! This message was sent from outside NatureScot.

[REDACTED]

Thanks for this and for the call. I attach the draft email with some small suggestions from SLE and BASC for consideration.

As discussed on our call, two of these are minor additions which hopefully you will find agreeable.

The more substantive change is in relation to the resubmission of maps. We believe this process could be made more streamlined for licence holders and NatureScot if there was a presumption in favour of reverting to the smaller boundary where two boundaries have been reflected on existing maps. This is bolstered by a statement making clear that a map should be resubmitted if the boundaries (or boundary) reflected do not accurately specify the area of land on which grouse may be taken or killed.

Grateful if you could consider these points and return a finalised version of the draft email to enable us construct member comms.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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Join today...



From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 04 October 2024 11:35

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland)
<[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>

Subject: RE: Catch Up - NS/SLE/BASC

Dear All,

Ahead of our catch up shortly please see the draft email, in confidence, to licence holders re the upcoming modifications to the licences.

Thanks,

[REDACTED]

-----Original Appointment-----

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: Thursday, October 3, 2024 1:51 PM

To: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Scotland); [REDACTED]
(Evidence)

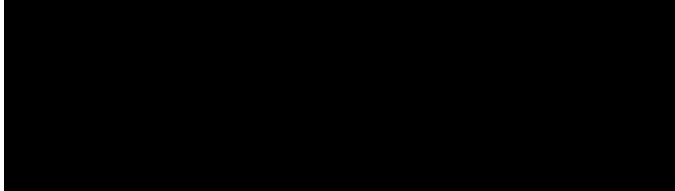
Cc: [REDACTED] [REDACTED]

Subject: Catch Up - NS/SLE/BASC

When: 04 October 2024 12:00-12:45 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Microsoft Teams Meeting

Microsoft Teams [Need help?](#)



For organizers: [Meeting options](#)

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

From: [REDACTED]
To: [REDACTED]
Subject: RE: Catch Up - NS/SLE/BASC
Date: 08 October 2024 16:26:49
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
IN CONFIDENCE DRAFT not for use until signed off - Email to licence holders re grouse modifications DRAFT 4th October 2024 (A4766829) - SLE Comments.docx

Caution! This message was sent from outside NatureScot.

Thanks for this. We have distributed comms to a limited list of members we know hold section 16AA licences as discussed.

I have also made some extremely minor amendments to your email which I hope is OK – all relates to a particular word used in the Act as you will see which I thought it best to carry across here.

Best wishes,

Scottish Land & Estates
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB
M: [REDACTED] **T:** [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

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From: [REDACTED] <[REDACTED]@nature.scot>
Sent: 08 October 2024 11:31
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Catch Up - NS/SLE/BASC

Hi [REDACTED]

Please find attached a draft email for circulation to licence holders to inform them about the

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: 04 October 2024 11:35
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Catch Up - NS/SLE/BASC

Dear All,

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Thanks,

-----Original Appointment-----

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Thursday, October 3, 2024 1:51 PM
To: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Scotland); [REDACTED] (Evidence)
Cc: [REDACTED] [REDACTED]
Subject: Catch Up - NS/SLE/BASC
When: 04 October 2024 12:00-12:45 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.
Where: Microsoft Teams Meeting

Microsoft Teams [Need help?](#)

[REDACTED]

For organizers: [Meeting options](#)

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From: [REDACTED]
To: [REDACTED]
Subject: RE: Catch Up - NS/SLE/BASC
Date: 08 October 2024 16:26:49
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png
IN CONFIDENCE DRAFT not for use until signed off - Email to licence holders re grouse modifications DRAFT 4th October 2024 (A4766829) - SLE Comments.docx

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Thanks for this. We have distributed comms to a limited list of members we know hold section 16AA licences as discussed.

I have also made some extremely minor amendments to your email which I hope is OK – all relates to a particular word used in the Act as you will see which I thought it best to carry across here.

Best wishes,

Scottish Land & Estates
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB
M: [REDACTED] **W:** scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

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From: [REDACTED] <[REDACTED]@nature.scot>
Sent: 08 October 2024 11:31
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Catch Up - NS/SLE/BASC

Hi [REDACTED]

Please find attached a draft email for circulation to licence holders to inform them about the

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: 04 October 2024 11:35
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] (Scotland) <[REDACTED]@basc.org.uk>; [REDACTED] (Evidence) <[REDACTED]@basc.org.uk>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Catch Up - NS/SLE/BASC

Dear All,

Ahead of our catch up shortly please see the draft email, in confidence, to licence holders re the upcoming modifications to the licences.

Thanks,

—Original Appointment—

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Thursday, October 3, 2024 1:51 PM
To: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Scotland); [REDACTED] (Evidence)
Cc: [REDACTED] [REDACTED]
Subject: Catch Up - NS/SLE/BASC
When: 04 October 2024 12:00-12:45 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.
Where: Microsoft Teams Meeting

Microsoft Teams [Need help?](#)



For organizers: [Meeting options](#)

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From: [REDACTED]
To: [REDACTED]
Cc:
Subject: RE: Briefing on upcoming changes to Grouse Licences
Date: 09 October 2024 09:26:00

H [REDACTED]

These are very good points! And I'm not sure we fully have the answers to some, but it would be good to pick these with you and go over the details!

Cheers,

[REDACTED]
NatureScot | Inverdee House | Aberdeen | AB11 9QA |
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED]@nature.scot>
Sent: Tuesday, October 8, 2024 12:25 PM
To: [REDACTED]@nature.scot>; AT_WILDLIFE_MANAGEMENT
<AT_WILDLIFE_MANAGEMENT@nature.scot>; [REDACTED]@nature.scot>; [REDACTED]@nature.scot>; [REDACTED]@nature.scot>; [REDACTED]@nature.scot>; [REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Briefing on upcoming changes to Grouse Licences

Hi [REDACTED]

Thanks for this.

I can foresee a few questions in relation to this. Do you have any steer on the following:

- With regard to the new condition for raptor offences outside the licenced area, how it can be shown that an offence was committed in connection to the management of a grouse moor?
- how will this apply where an organisation is the named licence holder and the organisation does not control nor employ anyone directly on the land, or if they do, how can we show this?
- Will the use of an organisation as the named licence holder also apply to future muirburn licences and trap licences, which have the same terminology for "the licence holder" under the Act? If so, how will the individual responsible be identifiable to enable criminal prosecution?

Thanks

[REDACTED]

[REDACTED]

NatureScot | [REDACTED]
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Tuesday, October 8, 2024 11:08 AM
To: AT_WILDLIFE_MANAGEMENT <AT_WILDLIFE_MANAGEMENT@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Subject: Briefing on upcoming changes to Grouse Licences

Hi Folks,

Please read the briefing paper linked below regarding the modifications to Grouse licences. This will provide everyone with information to respond to any queries you may get once licence holders are notified on 9th October.
If you need anymore information, please get in touch with me or [REDACTED]

[Briefing paper - Grouse licence changes - 04 October 2024 \(A4766287\)](#)

Cheers,

[REDACTED]
NatureScot | Inverdee House | Aberdeen | AB11 9QA |
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED]
To: [Francesca Osowska: Colin Galbraith](#)
Subject: FW: Follow Up - Section 16AA Licensing
Date: 18 July 2024 10:51:00
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image007.png](#)
Importance: High

Francesca/Colin,

Just keeping you sighted on the ongoing discussions with SLE about Grouse Licences.

I have had a couple of calls with [REDACTED] and [REDACTED] this week, trying my best to accommodate some of their outstanding concerns, but I think the reality is there is only so much we can do.

I have spoken to SG and officials are clear and supportive of our position. The Minister is also briefed and understands the issue, which in a nutshell is, if the licensable area is too small, then the policy intent of the bill is not realised.

Will update you on SLE position tomorrow and happy to have a word if we need it.

Regards,

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]
[nature.scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

Pronouns: he/him | If you receive this email late at night or early in the morning it means I am working flexibly but please do not feel that you have to pick this up outside of your own normal working hours.

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: 17 July 2024 15:13
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@scottishlandandestates.co.uk>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>
Subject: RE: Follow Up - Section 16AA Licensing

Caution! This message was sent from outside NatureScot.

Dear [REDACTED] et al

I wanted to update you on discussions we are having internally and with legal advisers – we are awaiting further advice from our KC and don't plan to issue any further guidance to members for the time being.

We really appreciate the ongoing discussions and the acceptance of some of the points we have made, but our fundamental issue in relation to the area to which the licence relates remains. Therefore, our advice to members to delay applications is still in place.

We will be in touch as soon as we receive further advice from the KC. Both [REDACTED] and I are off tomorrow [REDACTED] but I am back online on Friday.

Best regards

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Tuesday, July 16, 2024 4:02 PM
To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]

<[REDACTED]@scottishlandandestates.co.uk>

Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>

Subject: RE: Follow Up - Section 16AA Licensing

Both,

I said I would come back to you with some additional thoughts on the administrative boundary of the licence and the need to continue to rationalise it.

In principle, we accept that there will be areas within the land holding boundary which are not subject to any land management activity, such as villages or areas assigned exclusively for other business or recreational use and we are therefore comfortable these should be excluded from the licence application where it is preferable and/or easier for the applicant to do so.

On the subject of aligning applications with sporting leases, it is our view that in certain circumstances, it *maybe* appropriate for the area of the sporting lease to constitute the area of land to which the licence relates. Our expectation though is that this will be the exception rather than the norm and will address those larger properties e.g. [REDACTED] etc where the sporting beats are clearly defined and are almost akin to small estates in their own right.

If there are any specific point of detail that emerge, I would encourage your members to contact [REDACTED] and the team directly to work through them.

I hope that's helpful, in addition to the points made below and allows you to provide some reassurance to members.

Kind Regards,

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]
[nature.scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

Pronouns: he/him | If you receive this email late at night or early in the morning it means I am working flexibly but please do not feel that you have to pick this up outside of your own normal working hours.

From: [REDACTED]

Sent: 16 July 2024 12:45

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]

<[REDACTED]@scottishlandandestates.co.uk>

Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]@nature.scot>;
[REDACTED]@nature.scot>

Subject: RE: Follow Up - Section 16AA Licensing

[REDACTED]

Thank you for your email and the discussion yesterday.

You will appreciate that NatureScot has taken legal advice on our approach, including in relation to the area of land to which the licences will relate, and we are comfortable that the process is robust. However, it would obviously be better if we can find a solution that stakeholders are comfortable with, provided that it continues to give effect to the legislative intention. So, on that basis there are a number of things that we can do to address most, if not all, of the concerns raised below:

1. [REDACTED]
[REDACTED]
[REDACTED]
2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
3. The perceived link between other types of game shooting (e.g., pheasant & red-legged partridge) and raptor persecution should not be addressed by expanding the land to which the

licence relates. It is on the parliamentary record that such a correlation would be addressed by the addition of said birds to schedule 2 part 1B, at which point the land to which a section 16AA licence would relate might reasonably expand. – Agreed – that is not what we are proposing to do. This licence relates to Grouse Moor Management.

4. A tenant cannot be reasonably expected to ensure compliance with a code of practice over land to which they have no formal rights (and vice-versa). – Agreed (although there is no obligation to ensure compliance) – so we will address this by changing the wording of the of the licence - Condition 2 of the Licence will be amended to state " You [as the Licence holder] must have regard for the code of practice <https://www.nature.scot/doc/guidance-code-practice-grouse-moor-management>

5. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. A tenant may not possess a map illustrating the landholding boundary – this is understood, but surely not insurmountable in discussion with the owner?

I accept that some of these changes may not allay your main concerns about licensable area, but as you know in the interest of efficiency of process and to enable all those who wish to shoot grouse the opportunity to do so at the start of the season on 12 August, we are offering an automated service which provides a default licence in which the licensable area will be the land holding boundary as provided by the applicant.

For applicants who are looking for a more nuanced licensable area (and I hope those are in the minority) then those individuals will need to contact the Licensing Team direct and we can manually assess the proposed bespoke area. However, applicants will need to be made aware that the time involved in assessing a bespoke area means they may not have their licence in place for the start of the grouse season, therefore it may be prudent to commit to the adaptive approach you suggest below and over time and refine the boundary to which the licence relates and we can modify those licences accordingly.

Finally, if any of your members are minded to appeal at this stage because they are not happy with the conditions attached to the licence that is issued – I would have thought that agreement could be reached that one appeal can be advanced and that we will adapt the scheme in accordance with any decision as required.

I hope that is helpful. We have some time scheduled to discuss this afternoon and hopefully agree this as a way forward.

Kind Regards,

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]
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From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>

Sent: 15 July 2024 13:22

To: [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>

Subject: Follow Up - Section 16AA Licensing

Importance: High

Scottish Land & Estates

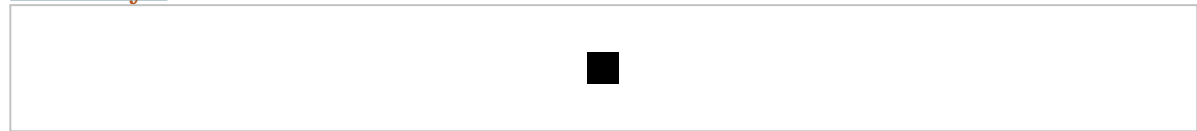
Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] **T:** [REDACTED] scottishlandandestates.co.uk **Twitter:** @ScotLandEstates

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

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Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a- mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach- sgrìobhaidh. Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Update on Request to Delay Applications for Grouse Shooting Licences
Date: 18 July 2024 13:25:00
Attachments: [Guidance for Members - Applying for Licences to Shoot Red Grouse.pdf](#)
Importance: High

[REDACTED]
we spoke – need to get our heads round the comms on this – so we are on the front foot where possible...

Happy to check in later with [REDACTED] and [REDACTED] once you have had time to digest...

[REDACTED] | [REDACTED] | [REDACTED]
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From: [REDACTED] harpermacleod.co.uk>

Sent: 18 July 2024 11:42

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]

[REDACTED]@nature.scot>

Subject: FW: Update on Request to Delay Applications for Grouse Shooting Licences

Caution! This message was sent from outside NatureScot.

[REDACTED]
Attached, as discussed.

Kind regards,
[REDACTED]

Please be aware of cyber-crime.

We will not change bank account details during the course of a transaction. If you are due to transfer money to Harper Macleod and have received an e-mail with sort code and account details you should call your Harper Macleod contact to corroborate these details. Please use a phone number from our website or terms of engagement letter and not one from the same e-mail as contains the bank account details. For other advice on protection from cyber-crime, see the National Cyber Security Centre website.

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Summary:

On Friday 12 July, Scottish Land & Estates (SLE) advised members to delay submitting applications for licences to shoot grouse ahead of the 12 August 2024. This was due to NatureScot changing its position on what would constitute **the area of land to which the licence is to relate**.

The definition of **the area of land to which the licence is to relate** is important in the context of licensing grouse shooting for two reasons:

- A relevant offence committed on the land to which the licence relates by a relevant person could carry implications for the licence – including licence suspension or revocation.
- A licence holder who fails to have regard to the code of practice on the land to which the licence relates could carry implications for the licence – including suspension or revocation

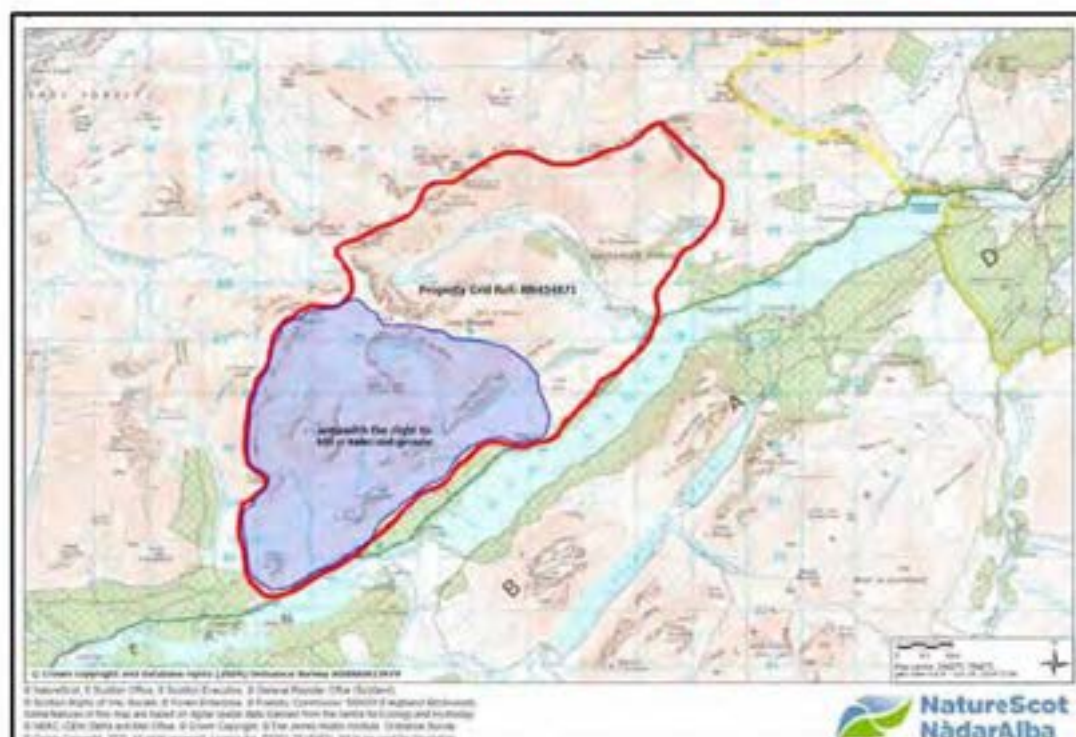
This concise briefing sets out NatureScot's revised position and our preliminary guidance in relation to it. If you have any questions or queries, contact details for relevant SLE staff can be found at the bottom of the briefing.

THE AREA OF LAND TO WHICH THE LICENCE IS TO RELATE

NatureScot's Initial Position

The initial position adopted by NatureScot was that land over which grouse are taken or killed would constitute **the area of land to which the licence is to relate**. In most cases, this would have covered land being managed for the purposes of shooting red grouse; or where red grouse could conceivably have been taken or killed.

NatureScot produced an example map – see below – setting out what they expect of applicants. In it, you will note the full landholding boundary is denoted in red, while the area over which red grouse are taken or killed is shaded in blue. NatureScot confirmed verbally to SLE in the w/c 01 July and in writing in the w/c 08 July that the blue shaded area – i.e., land over which grouse are taken or killed – would constitute **the area of land to which the licence is to relate**. NatureScot are entitled to ask for additional information (such as the landholding boundary) as part of the application, but the legislation states that it is for the applicant to specify **the area of land to which the licence is to relate**.



NatureScot's Revised Position [as of 12 July 2024]

On Friday 12 July 2024, NatureScot contacted SLE to clarify their position. NatureScot stated that the full landholding boundary (i.e., the red boundary above) would constitute **the area of land to which the licence is to relate** – even in circumstances where the majority of the landholding is managed for purposes other than grouse shooting, or where the sporting rights over part of said landholding had been assigned under the terms of a lease.

Such a position would lead to an unacceptable situation where a sporting tenant could potentially be held accountable for the actions of others over land to which they have no formal rights or responsibility. Similarly, inclusion of parts of a landholding not being managed for grouse shooting could see relevant offences committed by relevant persons on said land carrying implications for the licence to shoot grouse.

SLE's Response

Since Friday, SLE has been working back-channels to NatureScot to highlight the legal and practical implications of their revised position. We even took the unusual step of escalating the matter directly to the Minister for Agriculture and Connectivity, Jim Fairlie MSP, such was the extent to which we felt the goal posts had shifted. The upshot of those discussions is that NatureScot is standing by their revised position that the full landholding boundary (i.e., the red boundary above) will constitute **the area of land to which the licence is to relate**. This is clearly an unacceptable proposition and SLE is actively in the process of exploring options for challenging this. Unfortunately, the senior legal counsel we have sought advice from throughout this process, [REDACTED] is on annual leave until 29 July, so we will not have a clear picture on how legally and strategically best to proceed until the w/c 29 July.

GUIDANCE ON HOW YOU SHOULD PROCEED

Where possible, we would ask that you continue to delay submitting your application until we have received advice from senior counsel in w/c 29 July, at which point we will provide further guidance. As previously briefed, the application process is essentially autonomous, meaning the processing of applications is expected to be swift. A full list of actions you can take to prepare is available [here](#).

However, it is recognised and understood that estates may want licences in place as soon as possible to protect commercial interests, and that leaving the submission of applications until late July or early August may feel too close to the wire for some. To that end, if you do feel the need to apply for your licence at this stage, SLE is recommending the following steps are taken.

1. [Submit your licence application](#) per the revised guidance from NatureScot.
- a. If you are a landowner, you should ensure that your map specifies both the landholding boundary (red) and the area over which red grouse are taken or killed (blue), per the above example.
- b. If you are a sporting tenant, you should ensure that your map specifies the extent of your sporting rights (red) and the area over which red grouse are taken or killed (blue).
2. Provided the landholding boundary / extent of your sporting rights is different to the area over which red grouse are taken or killed, **you should submit the following statement to NatureScot on receipt of your licence:** *"Per the Wildlife Management and Muirburn Act, it is for an application to specify the area of land to which the licence is to relate. As the applicant, I had intended that said licenced area would constitute the area over which red grouse are taken or killed (shaded in blue). Any other information prescribed on the map constitutes additional information which NatureScot are entitled to ask for, but it is for the applicant to specify the area of land to which the licence is to relate."*

The practical implications of the above means that the area of land to which the will licence relate will encompass the full extent of your landholding / sporting rights – until such a time that this successfully challenged. It is imperative that the licence holder and relevant persons involved in managing the land for grouse shooting understand [the framework for modifying, suspending and revoking section 16AA licences](#) and [the code of practice for grouse moor management](#).

PLEASE DIRECT ANY QUESTIONS OR QUERIES TO:

[REDACTED]
[REDACTED]

E: [REDACTED] [scottishlandandestates.co.uk](mailto:[REDACTED]@scottishlandandestates.co.uk)
M: [REDACTED]

[REDACTED]
[REDACTED]

E: [REDACTED] [scottishlandandestates.co.uk](mailto:[REDACTED]@scottishlandandestates.co.uk)
M: [REDACTED]

From: [REDACTED]
To: [Francesca Osowska](#); [Colin Galbraith](#)
Cc: [REDACTED]
Subject: Grouse Licensing
Date: 19 July 2024 14:51:00

Afternoon Both,

A quick update on Grouse Licences before I head off on leave:

- The team are working through a list of tasks to continue to ensure that our guidance is clear, that the system is receiving applications and issuing licenses in line with the guidance
- I have spoken to [REDACTED] at SLE again today and we are both committed to continuing the conversation to reach sensible resolution and ideally avoiding legal action where we can.
- SLE Counsel is not back from leave until 29th July, so their legal position will be clearer after that.
- Our Comms Lines agreed for reactive queries are below.
- We are planning some proactive messages on social media channels over the next week or so (which I highlighted this to [REDACTED] who is supportive).
- [REDACTED] is back next week and will keep tabs on this, but I will be on the mobile if you need me.

Regards,

[REDACTED]

Line to take

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

We are aware of concerns raised about the extent of the area of land to which a licence will apply, and we are continuing to discuss this issue with Scottish Land & Estates and others. We are clear that licences we issue should relate to the full landholding and not just land over which grouse are taken and killed. This is because raptor persecution undertaken in connection with grouse moor management could take place anywhere on a property, not just on the grouse moor itself. We are happy to clarify any misunderstanding and there is advice available to help applicants who require any further support.

We would encourage those who need a licence to submit their application as soon as possible, providing all the information as requested, so that it is in line with our detailed guidance. This will ensure that licences can be in place before the start of the grouse shooting season on August 12.

Draft social media post

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

Anyone who needs a licence is encouraged to submit their application as soon as possible to ensure that it can be in place before the start of the grouse shooting season on August 12. Please follow the step-by-step guidance on our website and be sure to include all the required information and supporting documentation:

<https://www.nature.scot/professional-advice/protected-areas-and-species/licensing/species-licensing-z-guide/red-grouse-and-licensing>

[REDACTED] | [REDACTED] | [REDACTED]

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From: [REDACTED]
To: [REDACTED]
Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences
Date: 19 July 2024 10:39:00

Thanks [REDACTED] –and yes, I think we hold fire on social media until the lie of the land is a bit clearer...

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]
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From: [REDACTED]@nature.scot>
Sent: 19 July 2024 10:28
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

Okay thanks [REDACTED] Final version below if everyone happy with this?

Do we want to hold off on issuing the social media until we see how things play out over the next week or so?

Line to take

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

We are aware of concerns raised about the extent of the area of land to which a licence will apply, and we are continuing to discuss this issue with Scottish Land & Estates and others. We are clear that licences we issue should relate to the full landholding and not just land over which grouse are taken and killed. This is because raptor persecution undertaken in connection with grouse moor management could take place anywhere on a property, not just on the grouse moor itself. We are happy to clarify any misunderstanding and there is advice available to help applicants who require any further support.

We would encourage those who need a licence to submit their application as soon as possible, providing all the information as requested, so that it is in line with our detailed guidance. This will ensure that licences can be in place before the start of the grouse shooting season on August 12.

Draft social media post

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Anyone who needs a licence is encouraged to submit their application as soon as possible to ensure that it can be in place before the start of the grouse shooting season on August 12. Please follow the step-by-step guidance on our website and be sure to include all the required information and supporting documentation:
<https://www.nature.scot/professional-advice/protected-areas-and->

species/licensing/species-licensing-z-guide/red-grouse-and-licensing

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Friday, July 19, 2024 10:23 AM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

I get it, but would prefer 'should' if that's ok – because this is the point of debate (and as an aside there are some questions about whether the ones that have been issued actually comply). As for the rest happy with your suggested revisions.

[REDACTED] | [REDACTED] | [REDACTED]
nature.scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

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From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 19 July 2024 10:11

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

Thanks both, I have slightly simplified that addition for ease of reading and I would also suggest losing the word "should" – presumably we've already issued licences so we can be definite about this.

Happy with this version?

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

*We are aware of concerns raised about the extent of the area of land to which a licence will apply, and we are continuing to discuss this issue with Scottish Land & Estates and others. We are clear that ~~the licences~~ **we issue should** relates to the full landholding and not just land over which grouse are taken and killed. This is because raptor persecution undertaken ~~for the benefit of~~ **in connection with** the grouse moor management could take place anywhere on a property, not just on the grouse moor itself. We are happy to clarify any misunderstanding and there is advice available to help any applicants who require any further support.*

*We would encourage those who need a licence to submit their application as soon as possible, **providing all the information as requested, so that it is** ~~including the provision of all information in the manner requested so it is~~ **and** in line with **our** detailed guidance: ~~we have provided~~. This will ensure that licences can be in place before the start of the grouse shooting season on August 12.*

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Friday, July 19, 2024 9:55 AM

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: Re: Update on Request to Delay Applications for Grouse Shooting Licences

Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

Hi [REDACTED]

How about this –

Line to take

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

We are aware of concerns raised about the extent of the area of land to which a licence will apply, and we are continuing to discuss this issue with Scottish Land & Estates and others. We are clear that the licence relates to the full landholding and not just land over which grouse are taken and killed. This is because raptor persecution undertaken for the benefit of the grouse moor management could take place anywhere on a property, not just on the grouse moor itself. We are happy to clarify any misunderstanding and there is advice available to help any applicants who require any further support.

We would encourage those who need a licence to submit their application as soon as possible and in line with the detailed guidance we have provided. This will ensure that licences can be in place before the start of the grouse shooting season on August 12.

Cheers,

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]

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From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 18 July 2024 17:02

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

Hi all

A starter for 10 for comment:

Line to take

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

We are aware of concerns raised about the extent of the area of land to which a licence

will apply, and we are continuing to discuss this issue with Scottish Land & Estates and others. We are clear that the licence relates to the full landholding and not just land over which grouse are taken and killed. This is because... ([REDACTED] could you provide some brief detail on rationale) We are happy to clarify any misunderstanding and there is advice available to help any applicants who require any further support.

We would encourage those who need a licence to submit their application as soon as possible and in line with the detailed guidance we have provided. This will ensure that licences can be in place before the start of the grouse shooting season on August 12.

Draft social media post

NatureScot has been working closely with stakeholders to develop a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

Anyone who needs a licence is encouraged to submit their application as soon as possible to ensure that it can be in place before the start of the grouse shooting season on August 12. Please follow the step-by-step guidance on our website and be sure to include all the required information and supporting documentation:

<https://www.nature.scot/professional-advice/protected-areas-and-species/licensing/species-licensing-z-guide/red-grouse-and-licensing>

Many thanks

[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Thursday, July 18, 2024 1:59 PM

To: [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>;

[REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

Yes – free now if that suits everyone? [REDACTED] – can you send round a link?

[REDACTED] | [REDACTED] | [REDACTED]

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From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 18 July 2024 13:57

To: [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: RE: Update on Request to Delay Applications for Grouse Shooting Licences

Hi [REDACTED]

I've read the SLE note. Some questions and some thoughts. I'm free all afternoon for a call.

Should we bring [REDACTED] into this discussion as well?

[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Thursday, July 18, 2024 1:26 PM

To: [REDACTED] <[REDACTED]@nature.scot>

Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>

Subject: FW: Update on Request to Delay Applications for Grouse Shooting Licences

Importance: High

[REDACTED]

we spoke – need to get our heads round the comms on this – so we are on the front foot where possible...

Happy to check in later with [REDACTED] and [REDACTED] once you have had time to digest...

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]

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Pronouns: he/him | If you receive this email late at night or early in the morning it means I am working flexibly but please do not feel that you have to pick this up outside of your own normal working hours.

From: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Sent: 18 July 2024 11:42

To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]

<[REDACTED]@nature.scot>

Subject: FW: Update on Request to Delay Applications for Grouse Shooting Licences

-

Caution! This message was sent from outside NatureScot.

[REDACTED]

Attached, as discussed.

Kind regards,

[REDACTED]



From: [REDACTED]
To: [REDACTED]
Subject: FW: SLE discussion 29/7/2024
Date: 01 August 2024 14:51:00
Attachments: [-WRD0001.jpg](#)

From: [REDACTED] harpermacleod.co.uk>
Sent: Wednesday, July 31, 2024 5:39 PM
To: [REDACTED] nature.scot>
Subject: RE: SLE discussion 29/7/2024

Caution! This message was sent from outside NatureScot.

Hi [REDACTED]

Please see my responses below – I think this covers all of the points for me, but let me know if not or if any clarification is required

Kind regards,

[REDACTED]

[REDACTED]

From: [REDACTED] <[REDACTED] nature.scot>
Sent: Tuesday, July 30, 2024 4:36 PM
To: [REDACTED] harpermacleod.co.uk>
Subject: RE: SLE discussion 29/7/2024

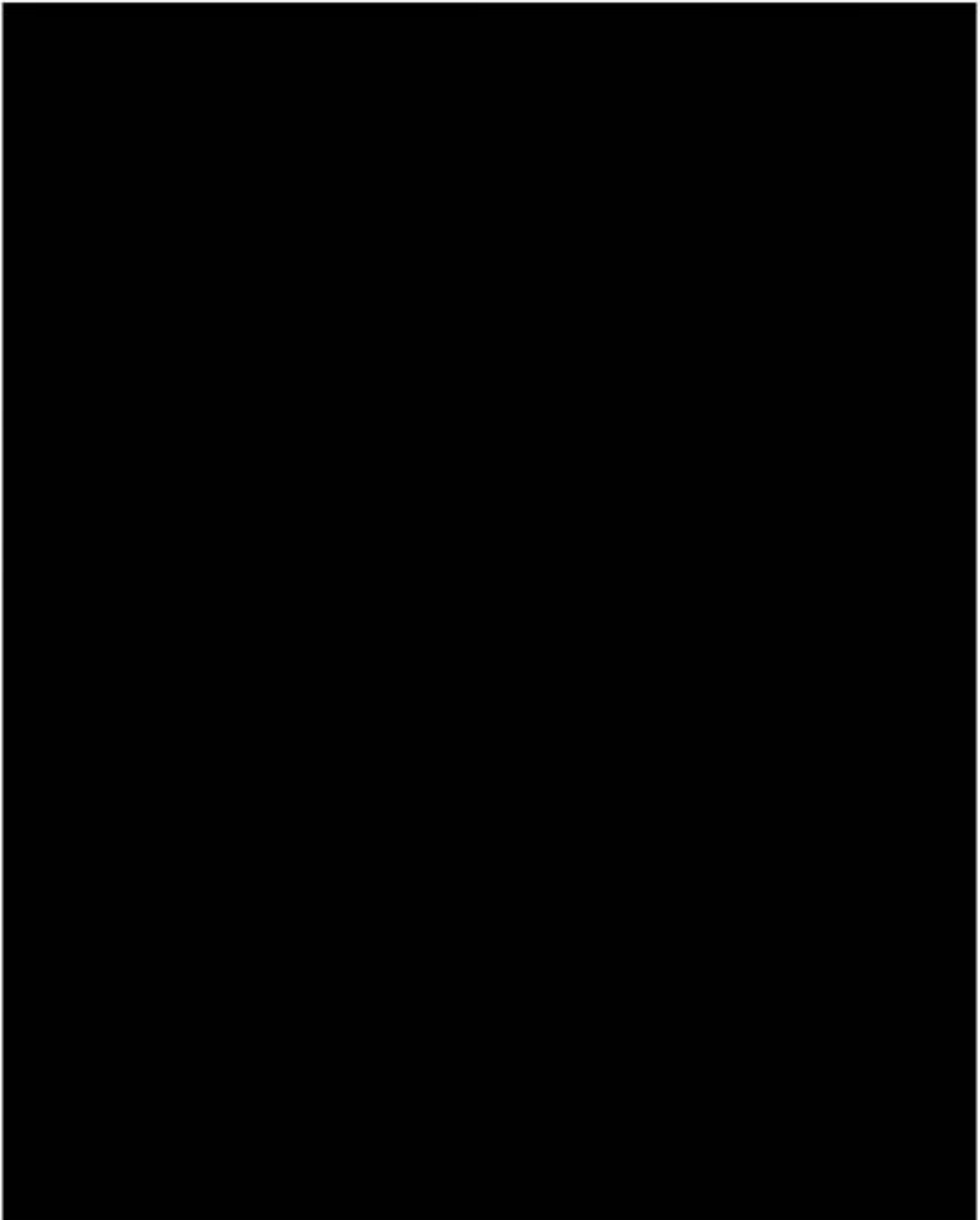
Hi [REDACTED]

[REDACTED] catching up on grouse licence discussions.

It would be good to catch up on the questions in the email below. I also have some other queries from another stakeholder, which it would be good to check our proposed answers to. I will get them across to you separately.

Have you got some time tomorrow?

Many thanks,



██████████, as expected please find attached from SLE. I'm at the game fair today so haven't been able to access the document yet but i'm available on the phone if you can consider and if we need to speak today.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] < [REDACTED]@ [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] @basc.org.uk>; [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] T: [REDACTED] W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

From: [REDACTED]
To: [REDACTED]
Subject: RE: Confidential and subject to legal privilege - Initial thoughts on conditionality approach
Date: 09 August 2024 06:59:00
Attachments: [-WRD00001.jpg](#)

Many thanks [REDACTED]

I'll get back to you with any thoughts as soon as I can.

Thanks,

[REDACTED]

From: [REDACTED] harpermacleod.co.uk>
Sent: Thursday, August 8, 2024 9:28 PM
To: [REDACTED] <[REDACTED]@nature.scot>
Subject: Confidential and subject to legal privilege - Initial thoughts on conditionality approach

Caution! This message was sent from outside NatureScot.

Hi [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Subject: RE: Confidential and subject to legal privilege - Initial thoughts on conditionality approach
Date: 12 August 2024 11:45:00

Hi [REDACTED]

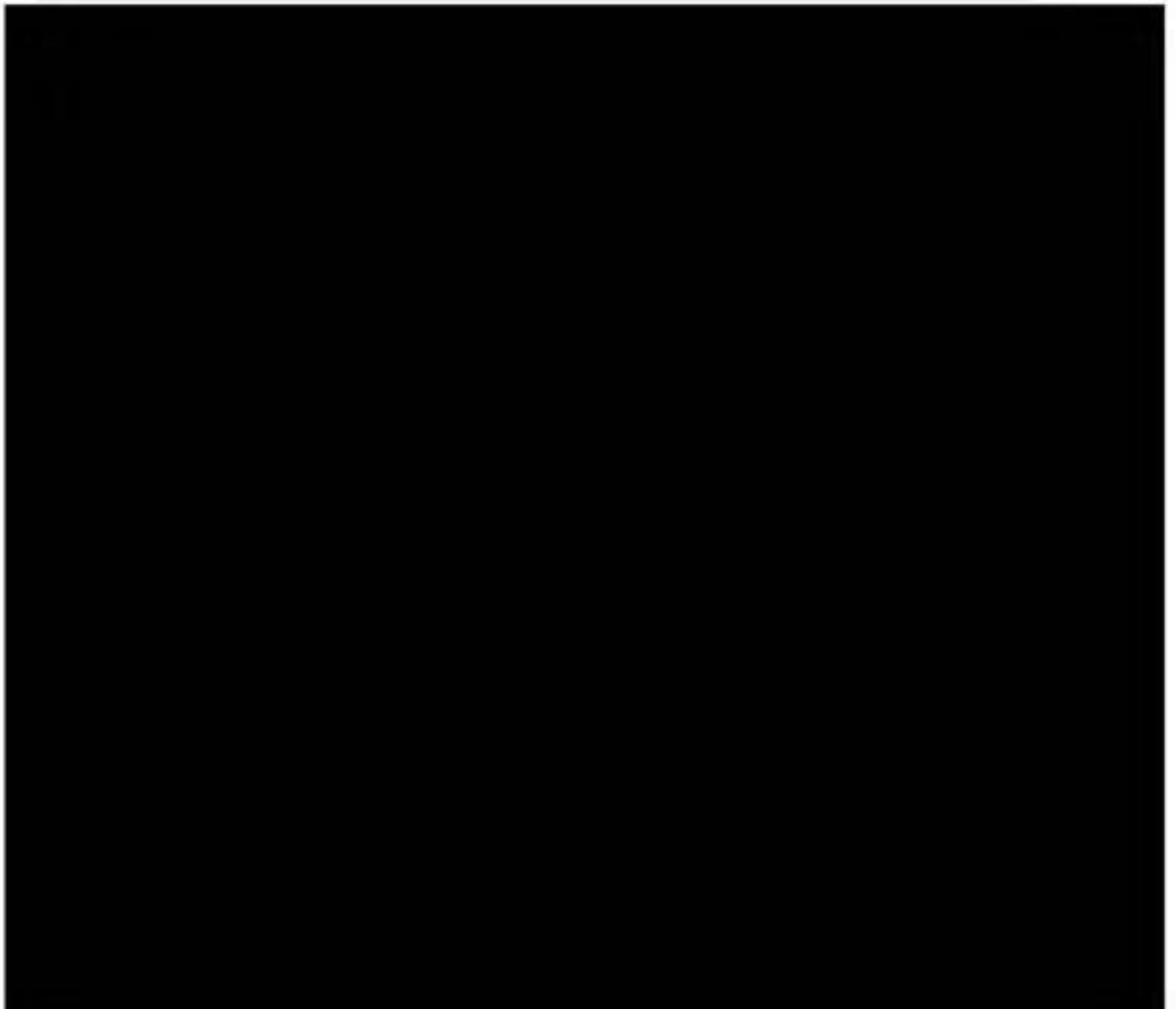
I hope you have had time to digest this more fully.

Can you let me know when would suit you today to discuss this? We have a meeting set up with SL&E & BASC on Wednesday and we are also getting media requests coming in thick and fast on the back of it being 12th August.

[REDACTED] and I are available all day – so if you can let me know when suits I will set up a call.

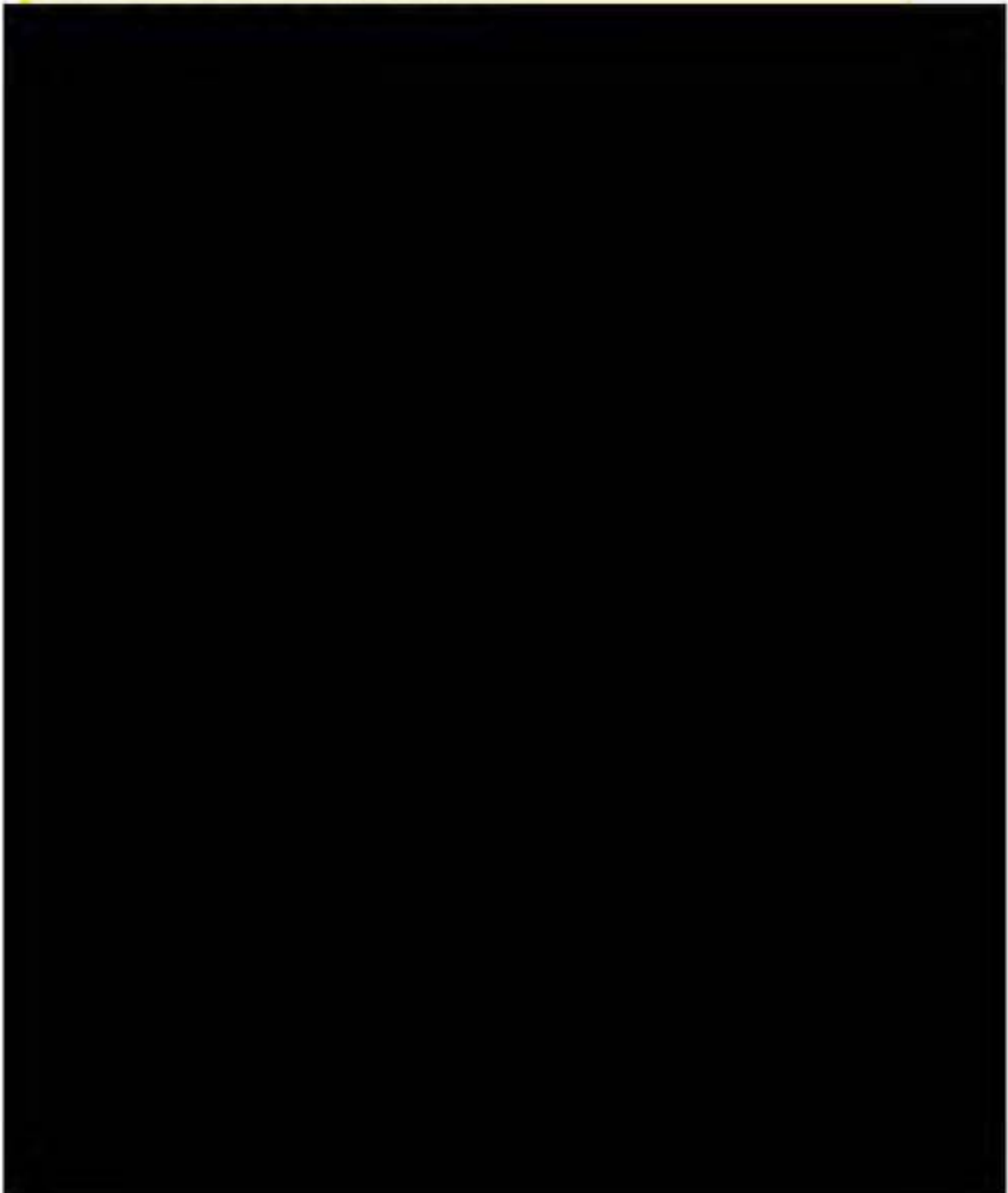
Many Thanks,

[REDACTED]





Caution! This message was sent from outside NatureScot.





We will not change bank account details during the course of a transaction. If you are due to transfer money to Harper Macleod and have received an e-mail with sort code and account details you should call your Harper Macleod contact to corroborate these details. Please use a phone number from our website or terms of engagement letter and not one from the same e-mail as contains the bank account details. For other advice on protection from cyber-crime, see the National Cyber Security Centre website.

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emails sent or received by it to enable it to comply with applicable law, operate its business, and/or to protect it or its clients.

From: [REDACTED]
To: [REDACTED]
Subject: RE: NatureScot
Date: 22 August 2024 08:40:00
Attachments: [-WB00000.jpg](#)

Hi [REDACTED]

Many thanks for these details around potential conditions.

Have you heard back from [REDACTED] We've got a meeting scheduled tomorrow morning with SL&E and BASC and it would be good to get any further thoughts or feedback ahead of this.

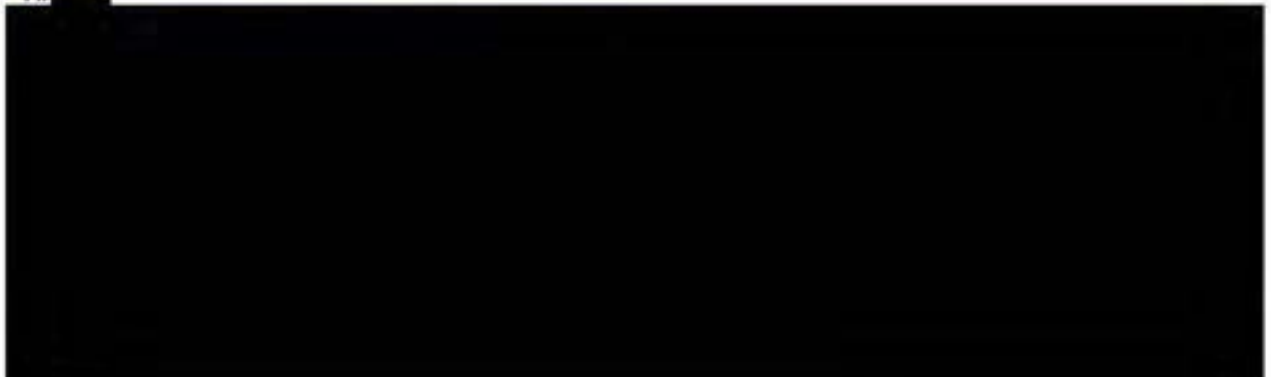
Many thanks,

[REDACTED]

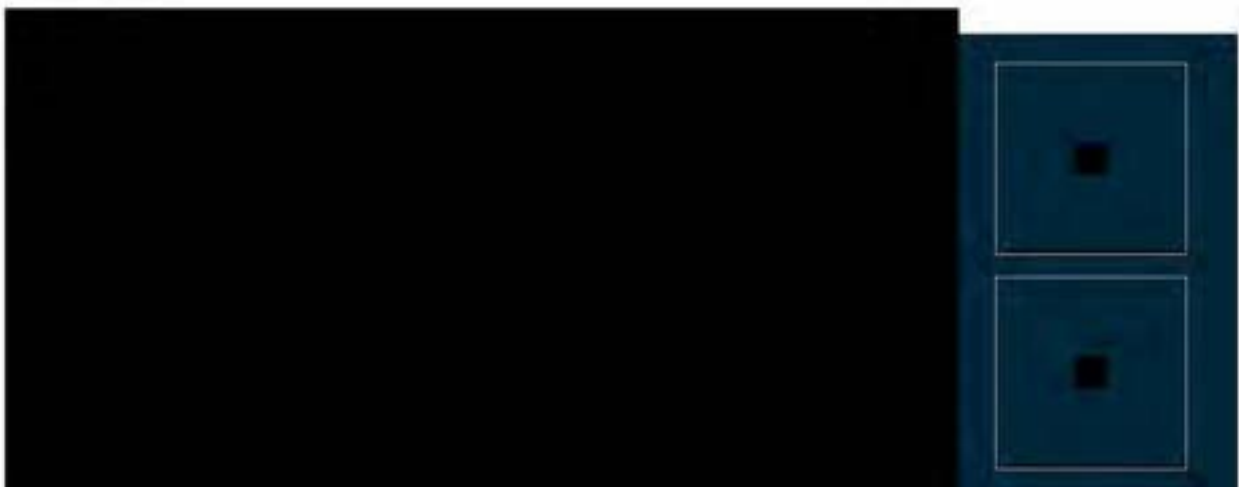


Caution! This message was sent from outside NatureScot.

Hi [REDACTED]



[REDACTED]



From: [REDACTED]

From: [REDACTED]
To: [REDACTED] [Scottish Government](#); [REDACTED] [Scottish Government](#)
Cc: [REDACTED]
Subject: Draft condition - grouse licence - in confidence
Date: 16 September 2024 14:43:00

Hi [REDACTED] & [REDACTED]

As you are aware, we are considering options to modify the grouse licensing scheme by changing the guidance around the area which the licence covers and adding a condition related to wildlife crime. We would welcome your views on the proposed condition, which has been drafted with input from senior legal counsel, set out below:

The modified scheme will propose a licence condition along the following lines:

1 ***Conditions relating to land management***

1.1 *The licence holder shall ensure that nothing is done for the purposes of or in relation to the management of the land to which this licence relates, which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

1.2 *The species referred to at 1.1.1 of this condition are as follows:*

[Raptors etc.]

We have given sight of this proposed draft to SL&E and BASC and are meeting with them again on Wednesday.

Many thanks,

[REDACTED]
[REDACTED] | [REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
m [REDACTED]

[nature.scot](#) | [@nature_scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED]
To: [REDACTED] - Scottish Government; [REDACTED] - Scottish Government
Cc:
Subject: FW: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences
Date: 20 September 2024 16:13:04
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

[REDACTED]

To keep you sighted on where we are in terms of moving to an applicant determining the land to which the licence relates with a conditioned approach to grouse licensing.

The JR timeframe means a way forward would need to be identified by end of next week.

[REDACTED]

[REDACTED] [REDACTED]
NatureScot | Great Glen House | Inverness | IV3 8NW | 01463 [REDACTED]
nature.scot | @nature_scot | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>
Sent: Friday, September 20, 2024 3:04 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk> [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED]@basc.org.uk; [REDACTED]
[REDACTED]@basc.org.uk>
Subject: RE: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences

Caution! This message was sent from outside NatureScot.

Restricted, Confidential & Legally Privileged - Intended for Subject Holders Only

[REDACTED]

Many thanks for your email which we acknowledge and look forward to discussing later this afternoon.

In relation to 1.1.2, we did provide a secondary option in the comment margin which would not prejudice your ability to act in the circumstance you describe. I have reflected this amendment in red below for ease of reference and outlined the rationale below.

-
1. The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections

1, 5 or 6 of the 1981 Act and which:

1.1.1 involves any of the species mentioned at 1.2 of this condition; and

1.1.2 takes place on land other than that to which this licence relates **but the management of which is controlled by the licence holder.**

2. The species referred to at 1.1.1 of this condition are as follows:

Honey Buzzard (*Pernis apivorus*), Red Kite (*Milvus milvus*), White-tailed Eagle (*Haliaeetus albicilla*), Eurasian Marsh Harrier (*Circus aeruginosus*), Hen Harrier (*Circus cyaneus*), Northern Goshawk (*Accipiter gentilis*), Eurasian Sparrowhawk (*Accipiter nisus*), Common Buzzard (*Buteo buteo*), Golden Eagle (*Aquila chrysaetos*), Osprey (*Pandion haliaetus*), Common Kestrel (*Falco tinnunculus*), Merlin (*Falco columbarius*), Eurasian Hobby (*Falco Subbuteo*), Peregrine Falcon (*Falco peregrinus*), Rough-legged buzzard (*Buteo lagopus*), Barn Owl (*Tyto alba*), Little Owl (*Athene Noctua*), Tawny Owl (*Strix aluco*), Long-eared Owl (*Asio otus*), Short-eared Owl (*Asio flammeus*), Snowy Owl (*Nyctea scandiaca*), Raven (*Corvus corax*)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Grateful if this point could be given consideration ahead of our call at 1630.

I also note your reference to the legislative intent: "addressing the issues of raptor persecution in the vicinity of grouse moors". This being the case, we were surprised to see the Raven (*Corvus corax*) referend in the species at 1.2 given it is clearly a corvid and not a raptor. It would be useful to hear the rationale for this when we speak at 1630 and, in particular, whether consideration might be given to removing it from the species list.

Best wishes,

[REDACTED]

[REDACTED]
[REDACTED]

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

M: [REDACTED] T: [REDACTED] V: scottishlandandestates.co.uk Twitter: [@ScotLandEstates](https://twitter.com/ScotLandEstates)

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[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>

Sent: 20 September 2024 14:26

To: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@scottishlandandestates.co.uk>; [REDACTED]
[REDACTED]@gillespiemacandrew.co.uk; [REDACTED]@basc.org.uk; [REDACTED]
[REDACTED]@basc.org.uk>

Subject: RE: Restricted, Confidential & Legally Privileged - Draft Condition - Section 16AA Licences

Dear [REDACTED]

Thank you for sharing this with us. We have discussed with our own external advisers, Harper Macleod LLP, and [REDACTED]

We believe that the condition as drafted is lawful, although we of course take account of what [REDACTED] says in his opinion and have been well advised as to the unpredictability of judicial review. We are in any event keen to find a solution that works for all stakeholders, provided that it meets the legislative intent of addressing the issues of raptor persecution in the vicinity of grouse moors.

With that in mind, and taking account of your suggested changes, we have revised the condition as follows:

1. *The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

2. *The species referred to at 1.1.1 of this condition are as follows:*

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)

The change at 1.1, is intended to address [REDACTED] "guarantee" point in respect of those in the employ or control of the licence holder. We do not consider that concern arises in relation to the licence holder's own acts.

We have not included the change you have suggested at 1.1.2 because that would leave it open to a licence holder to act or cause others to act contrary to those sections of the 1981 Act on land which they do not own or occupy and for the purposes of managing the land to which the licence relates, without breaching the conditions of the licence. For example, the killing of an eagle by such persons on land adjacent to but not in common ownership with the grouse moor, would not be caught.

We do not think that should cause concern to licence holders because any such act which is not for the purposes of or in relation to the management of the grouse moor would not be a breach of the condition.

We look forward to discussing this when we meet later today.

Requires Legal input

LICENCE REFERENCE NUMBER: NS-GRS-XXXXX

This licence has been granted under section 16(AA) of The Wildlife and Countryside Act 1981 (as amended) (the '1981 Act').

Licence holder

{{Name}}

{{Address}}

Role: {{Owner/Occupier/Owner-occupier}}

Valid from

{{dateFrom}}

Valid to

{{expiryDate}}

Landholding

The Landholding is the area specified as such on the map submitted with the application for this licence. Further details are provided at the end of this document.

The Landholding is the area of land to which this licence relates for the purposes of section 16AA(6)(a)(i) of the Wildlife and Countryside Act 1981.

Permitted activities

This licence permits the killing or taking of any type of bird included in Part 1B of Schedule 2 of the 1981 Act, only on the area of land specified on the map submitted with this application as the area on which such birds may be killed or taken.

[Conditional text A – for applications received on or before 30 September 2024]

This licence permits the killing or taking of any type of bird included in Part 1B of Schedule 2 of the 1981 Act.

The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is specified on the map submitted with this application as the area on which such birds may be killed or taken.

Where the map has 1 boundary, that is the area of land to which this licence relates.

Where the map has 2 boundaries, the area of land to which this licence relates is the inner boundary (within the wider landholding).

[Conditional text B – for applications received on or after 1 October 2024]

This licence permits the killing or taking of any type of bird included in Part 1B of Schedule 2 of the 1981 Act.

Summary of Comments on sensitive legal advice Licence text - grouse - DRAFT - 23.09.24 (A4841847).pdf

Page: 1

Author: [REDACTED] Date: 23/09/2024 17:14:00 +01'00'

Removed as the Landholding will no longer be the 'area of land to which this licence relates'

Author: [REDACTED] Date: 23/09/2024 17:22:00 +01'00'

Previous text under 'Permitted activities' (licences issued to date)

Requires Legal input

The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is marked on the map submitted with the application for this licence as the area on which such birds may be killed or taken.

Licence conditions

1. Regard for Code of Practice

You, as the Licence holder, must have regard for the code of practice:

<https://www.nature.scot/doc/guidance-code-practice-grouse-moor-management>

2. Recording and reporting requirements

You must keep details of number of red grouse killed or taken on the land throughout the licence period (even if it is nil). You must keep details of how you comply with the Code of Practice. You must provide these details on an annual basis.

3. General

If you no longer require this licence - for example, due to a change in ownership or lease agreements - you must notify NatureScot and submit all required returns.

NatureScot reserves the right to access the land associated with this licence for the purpose of compliance monitoring of the licenced activity and to ensure adherence to the licence conditions. NatureScot staff may be accompanied by other relevant person(s) to assist in this function.

You must be able to produce a copy of this licence to any Police Officer, authorised person, or official of NatureScot on demand.

You must inform NatureScot if there are any changes to your contact details.

You must inform NatureScot of any relevant convictions of anyone working under this licence.

Advisory notes

This licence is granted subject to compliance with the conditions as specified. Anything done otherwise than in accordance with the terms of this licence may constitute an offence.

This licence may be modified, revoked or suspended by NatureScot.

Methods of killing prohibited under section 5 of the Wildlife and Countryside Act 1981 include; automatic weapons and shot-guns with a barrel that has an internal diameter at the muzzle of more than one and three-quarter inches.

Map

The image below is a reference to the map of the area, to which this licence relates, submitted with this application.

Contact the Licensing team if you require a copy of the original file (full size).

This page contains no comments

Requires Legal input

Email: licensing@nature.scot
Telephone: 01463 725364

[Embedded map shows here]

This page contains no comments

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: In confidence - draft text for licence
Date: 24 September 2024 10:03:00
Attachments: [Licence text - grouse - DRAFT - 23.09.24.docx](#)

Hi [REDACTED],

Here is the draft text for the changed licence - the key section it would be helpful to get your feedback on is 'permitted activities' - this is where the changes re boundaries are explained.

As per our chat earlier it would be good to get your advice on the options for modifying licences and anything we need to take into account from a legal perspective. It would be good to also understand the process re notifying LH's and the 14 day period.

We are meeting with SL&E again on Wed and it would be helpful to provide them with some details on how we can give them a commitment to make the changes ahead of the changes coming into effect.

Many thanks

[REDACTED]

[REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
m: [REDACTED]

[nature.scot](#) | [@nature_scot](#) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

Requires Legal input

LICENCE REFERENCE NUMBER: NS-GRS-XXXXX

This licence has been granted under section 16(AA) of The Wildlife and Countryside Act 1981 (as amended) (the '1981 Act').

Licence holder

{{Name}}

{{Address}}

Role: {{Owner/Occupier/Owner-occupier}}

Valid from

{{dateFrom}}

Valid to

{{expiryDate}}

Landholding

The Landholding is the area specified as such on the map submitted with the application for this licence. Further details are provided at the end of this document.

The Landholding is the area of land to which this licence relates for the purposes of section 16AA(6)(a)(i) of the Wildlife and Countryside Act 1981.

Permitted activities

This licence permits the killing or taking of any type of bird included in Part 1B of Schedule 2 of the 1981 Act, only on the area of land specified on the map submitted with this application as the area on which such birds may be killed or taken.

[Conditional text A – for applications received on or before 30 September 2024]

This licence permits the killing or taking of any type of bird included in Part 1B of Schedule 2 of the 1981 Act.

The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is specified on the map submitted with this application as the area on which such birds may be killed or taken.

Where the map has 1 boundary, that is the area of land to which this licence relates.

Where the map has 2 boundaries, the area of land to which this licence relates is the inner boundary (within the wider landholding).

[Conditional text B – for applications received on or after 1 October 2024]

This licence permits the killing or taking of any type of bird included in Part 1B of Schedule 2 of the 1981 Act.

Summary of Comments on Licence text - grouse - DRAFT - 23.09.24 (002).pdf

Page: 1

Author: [REDACTED] Date: 23/09/2024 17:14:00 +01'00'

Removed as the Landholding will no longer be the 'area of land to which this licence relates'

Author: [REDACTED] Date: 23/09/2024 17:22:00 +01'00'

Previous text under 'Permitted activities' (licences issued to date)

Requires Legal input

The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is marked on the map submitted with the application for this licence as the area on which such birds may be killed or taken.

Licence conditions

1. Regard for Code of Practice

You, as the Licence holder, must have regard for the code of practice:

<https://www.nature.scot/doc/guidance-code-practice-grouse-moor-management>

2. Recording and reporting requirements

You must keep details of number of red grouse killed or taken on the land throughout the licence period (even if it is nil). You must keep details of how you comply with the Code of Practice. You must provide these details on an annual basis.

3. General

If you no longer require this licence - for example, due to a change in ownership or lease agreements - you must notify NatureScot and submit all required returns.

NatureScot reserves the right to access the land associated with this licence for the purpose of compliance monitoring of the licenced activity and to ensure adherence to the licence conditions. NatureScot staff may be accompanied by other relevant person(s) to assist in this function.

You must be able to produce a copy of this licence to any Police Officer, authorised person, or official of NatureScot on demand.

You must inform NatureScot if there are any changes to your contact details.

You must inform NatureScot of any relevant convictions of anyone working under this licence.

Advisory notes

This licence is granted subject to compliance with the conditions as specified. Anything done otherwise than in accordance with the terms of this licence may constitute an offence.

This licence may be modified, revoked or suspended by NatureScot.

Methods of killing prohibited under section 5 of the Wildlife and Countryside Act 1981 include; automatic weapons and shot-guns with a barrel that has an internal diameter at the muzzle of more than one and three-quarter inches.

Map

The image below is a reference to the map of the area, to which this licence relates, submitted with this application.

Contact the Licensing team if you require a copy of the original file (full size).

This page contains no comments

Requires Legal input

Email: licensing@nature.scot
Telephone: 01463 725364

[Embedded map shows here]

This page contains no comments

From: [REDACTED]
To: [REDACTED]
Subject: FW: Modification process
Date: 26 September 2024 15:19:00
Attachments: [In confidence - draft text for licence\(27789274.1\).msg.pdf](#)
[-WRD00004.jpg](#)

Just going into a meeting with [REDACTED] til [REDACTED]can catch up on any of details in email below after that

From: [REDACTED] harpermacleod.co.uk>
Sent: Thursday, September 26, 2024 2:19 PM
To: [REDACTED] <[REDACTED]@nature.scot>
Subject: FW: Modification process

Caution! This message was sent from outside NatureScot.

Maps – I have just gone through the online application and note that the applicant has to upload a map which *"must show the landholding boundary and area over which you have the right to kill or take red grouse. Your document must be smaller than 10MB"*

The system then produces a licence which defines the land on which permitted activities can take place as *"the area of land specified on the map submitted with this application as the area on which such birds may be killed or taken."*

The guidance explains to the applicant that they have to upload *"A map which shows the landholding boundary and areas over which you have the right to kill or take grouse – this will be the area to which the licence relates and the area over which red grouse may be killed or taken."*

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Timing – I think we covered this off in a subsequent call, but, for completeness, there is no obligation to reissue the licence as modified – it is sufficient to only give notice of the modification.

Kind regards,

[REDACTED]



From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: OFFICIAL - SENSITIVE - proposal to modify licences
Date: 27 September 2024 12:36:00

Hi [REDACTED]

Here is a link to a paper setting out the rationale and seeking sign for the decision to modify grouse licences:

OFFICIAL-SENSITIVE Proposal to modify licences to take or kill red grouse - paper to sign off decision

<https://naturescot.nexus.objective.co.uk/documents/A4754591/details>

And below is the proposed draft text to forward to SL&E and BASC to commit to making these changes (this incorporates advice from [REDACTED])

Based on challenges to the current approach to licensed areas and having taken advice from senior counsel NatureScot has taken the decision to modify the licences to take or kill grouse, issued under section 16AA of the Wildlife and Countryside Act 1981. These modifications will provide a new definition of "land to which the licence relates". The new definition will be the area of land which the licence holder specifies as the area on which they will undertake the permitted activities (as opposed to the wider landholding which is the position under the existing licences). At the same time, a new condition will be introduced to ensure that the key aim of legislation – the reduction in raptor persecution in the vicinity of grouse moors – will remain at the core of the licensing regime.

I spoke to [REDACTED] and have agreed to circulate the decision paper once signed off to him and [REDACTED]. I have also agreed to keep them sighted on comms messages, lines to take and timetable to both licence holders and wider stakeholders. They will update the Minister.

We've got a catch up on Wednesday afternoon so can provide more detail then.

Many thanks,

[REDACTED]
[REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
m: [REDACTED]

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**OFFICIAL- SENSITIVE
DRAFT**

Decision to modify licences to take or kill red grouse

Purpose

The purpose of this paper is to seek sign off for the decision to modify licences to take or kill grouse, issued under section 16AA of the Wildlife and Countryside Act 1981.

Action

- To note the rationale behind the decision to modify the licences to take or kill red grouse
- To sign off the decision to modify the licences to take or kill red grouse

Background

NatureScot was given delegated authority to introduce licences to take or kill red grouse in July 2024. The on-line application form was launched on 15th July. As of September 27th, 2024, there were 240 active licences. The policy intent of the licence to take or kill red grouse is to deter raptor persecution. Provisions sought to introduce an ability for licences to be suspended or revoked where there was evidence that a relevant offence had been committed where there was a connection between the licenced activity (management for the purposes of grouse shooting) by the licence holder or someone involved in managing the land to which the licence relates.

The Act as passed however restricted this provision to 'on the land' to which the licence relates. The Act also states that it is for the applicant to determine the land to which the licence relates. This has the effect of restricting the area to which relevant crimes can be considered for the purposes of suspension or revocation.

The licensing process currently requests a map showing the boundary over which the applicant seeks the licence to take or kill grouse and the landholding boundary (if different). All issued licences include an embedded map and text explaining that the area of land to which the licence relates is the landholding boundary and the area over which the applicant has the right to take or kill grouse is the area in which the permitted activities can take place.

This approach to determining the area of land to which the licence relates has been challenged on the basis that it went beyond the powers set out in the legislation. Senior Counsel opinion has confirmed potential grounds for successful challenge. However, this noted that the effect of restricting the area to which the licence related would make it difficult to achieve the policy intent where there were instances of relevant wildlife crime connected to the management of the grouse moor but outwith the licensed area.

Position and way forward

We have sought legal advice on addressing scenarios where wildlife crime related to the management of the grouse moor had occurred outwith the area specified in the licence. The advice has settled on developing a condition which requires the licence holder or persons under their employment or control to not commit any offences in relation to raptors outside of the licenced area. The approach and detail have been developed with advice and feedback from our solicitor and senior legal counsel. It has also been shared and discussed with those who had raised the potential legal challenge.

Care has been taken in drafting a 'reasonable' condition which does not innovate on the legislation and therefore is a defensible way forward. This may realise, at least in part, the intent of the legislation to address raptor persecution associated with grouse moor management. However the condition is restrictive in the circumstances in which it can be

applied and in the need for the licence holder to take 'reasonable steps to ensure..' offences have not been committed.

Modifying the (approx. 240) licences which are currently in place comes with risk in that individual licence holders appeal the modification to the sheriff court. There is also still a risk of Judicial Review.

To fully achieve what we believe to be the original intent of the legislation will require a change to the primary legislation.

Decision

On the basis of addressing the potential legal challenge and moving forward with a more defensible licensing approach approval is sought to modify licences to take or kill red grouse by:

- Accepting and changing the guidance around the area of land to which the licence relates to being that which the applicant specifies and not requiring details on the full boundary of the landholding.
- Adding a new condition (see Annex 1) around wildlife crime associated with raptors outwith the licensed area.

Annex 1. Proposed new condition to be added to licences

1.1 *The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

1.2 *The species referred to at 1.1.1 of this condition are as follows:*

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Summary of position with grouse licences and process to modify them for [REDACTED] (A4765291)
Date: 03 October 2024 16:49:00

Hi [REDACTED]

As promised, here is a summary of position and process re making changes to grouse licences:

Summary of position with grouse licences and process to modify them for [REDACTED]
<https://naturescot.nexus.objective.co.uk/documents/A4765291/details>

Happy to add any detail

Thanks,

[REDACTED]

Modifying licences for land which may be used to take or kill red grouse

Communications - Key messages and lines to take

Key messages

Background

- The Wildlife Management and Muirburn (Scotland) Act 2024 introduced the requirement for licences to be in place over land where shooting of red grouse would take place.
- NatureScot was given the delegated authority to develop and implement these licences.
- The intention of the licences is to act as a deterrent to wildlife crime. They can be removed where there is evidence of relevant offences being committed by anyone involved in managing the land under licence on the land to which the licence relates. Removing a licence would mean that it would be an offence for anyone to shoot red grouse on that area of land.
- The licences were launched in July 2024.

What is happening

- NatureScot will be modifying the licences for land which may be used to take or kill red grouse.
- We will be making two changes – 1) to the description of the land to which the licence relates and 2) inserting a new condition around wildlife crime.
- The changes will mean that it will be up to the person applying for the licence to specify the area to which the licence relates. We will no longer require the landholding boundary.
- In practice we expect that the area covered by the licence will be the extent of the grouse moor.
- At the same time, we will introduce a new condition which requires the licence holder or anyone under their control or employment to not commit any offences related to raptors in connection with the management of the grouse moor outwith the area covered by the licence.
- We are looking to issue modified licences in November.
- The modified licences will explain the new definition of land to which the land relates and will include an additional condition on wildlife crime. Modified licences will be issued to licence holders through the on-line system.

Why it is happening

- We will be making these changes to help ensure that the licences are lawful and legally compliant and that we are competent in our role as a regulator
- Legal advice identified that it is up to the applicant to specify the area over which the licence should relate.
- We have introduced a new condition to help ensure that we can help meet the policy intent of the legislation i.e. tackle raptor persecution.

Lines to take

NatureScot has been working closely with stakeholders and our legal advisors to develop and deliver a workable licensing scheme for grouse shooting that supports those who manage their grouse moors within the law and acts as a strong deterrent to raptor persecution.

Following further legal advice about the area of land to which the licence relates, we will be modifying licences. Licences will now cover the land specified by the applicant as the area

where they may kill or take red grouse. We will also add a new condition to licences which will allow us to act if raptor persecution which is connected to the grouse moor takes place outside of this licensed area.

This is a new licence for NatureScot and, as with all our licences, we continually review and develop our processes to identify improvements. These changes will ensure our grouse licences are legally robust, while continuing to act as a strong deterrent to wildlife crime as was the legislation's intent.

DRAFT - 4th October

Red grouse: Upcoming changes

Dear ((Name)),

We are writing to let you know that we will soon be modifying all licences for land over which red grouse may be killed or taken.

You will receive an official notice per section 16AA(10)(a) of the Wildlife and Countryside Act 1981 and a modified licence in due course. The changes will take effect 14 days after the official notice has been issued (in line with legislation).

In this upcoming modification, we will:

- change the definition of the land to which your licence relates
- add a new condition around wildlife crime

Land to which the licence relates

The modified definition of land will mean that we will no longer require the landholding boundary. Instead, we will only need the boundary over which you 'may kill or take red grouse'. We expect this to be the extent of the grouse moor. This is likely be the smaller area outlined on the map which you submitted with your application (if you submitted two boundaries).

If you submitted two boundaries on the map in your initial application, NatureScot will modify your licence so that the smaller area becomes the land to which the licence relates. However, if the smaller boundary does not accurately specify the area over which red grouse may be taken or killed, you can submit a new map. You must do this before **Friday 25th October 2024**.

Map guidance

The map must specify the area over which red grouse may be killed or taken.

We advise you use Ordnance Survey mapping (for example OS 1:25,000 or 1:50,000) and apply a scale bar to the map.

The file must be smaller than 10MB. Suggested file types include PDF, JPEG and PNG.

Submit your updated map with your licence number via email to licensing@nature.scot

Wildlife crime

The second change we will be making is to insert a new condition around wildlife crime. This condition will require the licence holder to ensure that they, or anyone under their control or employment, do not commit an offence in relation to raptors.

This condition will apply outside of the licensed area but only where offences committed are related to management of the grouse moor.

These changes will ensure our red grouse licences are legally robust, while continuing to act as a strong deterrent to wildlife crime as was the legislation's intent.

Regards,

Name / NatureScot Licensing

NatureScot | Great Glen House | Leachkin Road | Inverness | IV3 8NW | t: 01463 725364

NàdarAlba | Taigh a' Ghlinne Mhòir | Rathad na Leacainn | Inbhir Nis | IV3 8NW

nature.scot – Scotland's Nature Agency – Buidheann Nàdair na h-Alba – @nature_scot

From: [REDACTED]
To: [REDACTED]
Subject: Timetable and key dates for modifying grouse licences
Date: 07 October 2024 16:45:00

Hi [REDACTED]

Below is a summary of the proposed timetable for modifying the grouse licences:

Tues 8th Oct - circulate briefing to all Licensing Officers, Wildlife Management Officers and Operational Managers on key points re upcoming modification

Wednesday 9th Oct – send email out to all licence holders providing them with a heads up that modifications are planned. Put details on intranet about the changes so all staff are aware

Thursday 10th Oct - add factual details of the proposed modification on the grouse pages on the internet

w/c 28th October – look to issue modification notice and modified licences

Key messages and lines to take are in place -

<https://naturescot.nexus.objective.co.uk/documents/A4764121/details>. They've been shared with SG and [REDACTED] has also had sight. The email letting the licence holders know about the modification has been drafted with input from [REDACTED]

Let me know if you need any further details at this point or if you have any questions.

Many thanks,

[REDACTED]

[REDACTED] | [REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
NatureScot | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED]
m: [REDACTED]

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From: [REDACTED]
To: [REDACTED]@gov.scot; [REDACTED] - Scottish Government
Subject: RE: DRAFT not for use until signed off - Key messages and lines to take on modifying grouse licences - DRAFT 3rd October 2024 (A4764121)
Date: 08 October 2024 08:17:00
Attachments: [Key messages and lines to take on modifying grouse licences - 3rd October 2024 \(A4764121\).docx](#)

Many thanks [REDACTED]

Here is a final version. In relation to your comment, we have kept that bullet in as its aims is to try and reduce potential for smaller areas – hope that makes sense.

The plan is to circulate an email to licence holders tomorrow letting them know that changes will be coming. We will then add a summary of the proposed changes and why they are being made to the grouse licensing page on our website on Thursday. This will draw on the key messages.

Can you let me know if you have any comments on any of this?

Many thanks,

[REDACTED]

From: [REDACTED]@gov.scot; [REDACTED]@gov.scot
Sent: Friday, October 4, 2024 1:36 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] - Scottish Government
[REDACTED]@gov.scot
Subject: RE: DRAFT not for use until signed off - Key messages and lines to take on modifying grouse licences - DRAFT 3rd October 2024 (A4764121)

Caution! This message was sent from outside NatureScot.

Hi [REDACTED]

See a couple of changes and one comment. Also including [REDACTED] in case he would like to review early next week.

Thanks

[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Friday, October 4, 2024 9:59 AM
To: [REDACTED]@gov.scot
Subject: DRAFT not for use until signed off - Key messages and lines to take on modifying grouse licences - DRAFT 3rd October 2024 (A4764121)

[REDACTED]

Here are the draft key messages and lines to take re modifying the grouse licences.
Can you let me know any comments?

Many thanks,

[REDACTED]

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Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a- mach bho NàdarAlba.

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Modifying licences for land which may be used to take or kill red grouse

Communications - Key messages and lines to take

Key messages

Background

- The Wildlife Management and Muirburn (Scotland) Act 2024 introduced the requirement for licences to be in place over land where shooting of red grouse would take place.
- NatureScot was given the delegated authority to develop and implement these licences.
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This is a new licence for NatureScot and, as with all our licences, we continually review and develop our processes to identify improvements. These changes will ensure our grouse licences are legally robust, while continuing to act as a strong deterrent to wildlife crime as was the legislation's intent.



From: [REDACTED] <[REDACTED]@nature.scot>

Sent: Tuesday, October 8, 2024 8:49 AM

To: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Subject: RE: IN CONFIDENCE DRAFT not for use until signed off - Email to licence holders re grouse modifications DRAFT 4th October 2024 (A4766829)

Hi [REDACTED]

I note that the suggest edits remove the para on the additional condition. Would be good to get your views on this? The letter is intended to be a heads up of the changes which will be made as well as letting them know they could supply a different map – is there a reason for not including ref to the new condition in the letter?

Many thanks,

From: [REDACTED] <[REDACTED]@harpermacleod.co.uk>

Sent: Monday, October 7, 2024 11:25 AM

To: [REDACTED] <[REDACTED]@nature.scot>

Subject: IN CONFIDENCE DRAFT not for use until signed off - Email to licence holders re grouse modifications DRAFT 4th October 2024 (A4766829)

Hi [REDACTED]

I have revised, per attached. I think this reflects what is being attempted by Step 1 – although everything turns on the final definition of the map.

Kind regards,

Please use a phone number from our website or terms of engagement letter and not one from the same e-mail as contains the bank account details. For other advice on protection from cyber-crime, see the National Cyber Security Centre website.

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DRAFT - 8th October

[Subject line:] **Red grouse: Upcoming changes**

[H1] Upcoming changes to your licence

Following legal guidance, we will soon be modifying all licences for the killing or taking of red grouse.

The modifications will include:

- a change to the definition of the land to which your licence relates
- a new condition around wildlife crime

We are writing to you at this stage to give you the opportunity to provide us with updated information about the area of land to which your licence relates.

For the avoidance of any doubt, this letter is **not** a written notice of modification for the purposes of 16AA(10)(a) of the Wildlife and Countryside Act 1981 Act (the '1981 Act'), which will be issued in due course.

[H2] Land to which the licence relates

The modified definition of land will mean that we will no longer require the landholding boundary. Instead, we will only need the boundary over which you 'may kill or take red grouse'. We expect this to be the extent of the grouse moor.

The map which will be included on your modified licence will depend on the content of the map you submitted with your initial application.

If you only identified **1** boundary on the map submitted with your initial application, then your original, unaltered map, will be included on the licence.

If you identified **2** boundaries on the map submitted with your initial application, we will add a legend to that map which will specify the smaller area as the area of land to which the licence relates. That map, with the legend added, will be issued with your modified licence.

In either case, if you consider that the map which you have submitted with your initial application does not accurately show the area of land over which you intend to kill or take red grouse, then you can submit a new map. The new map will then be included on your modified licence.

If you wish to submit a new map, you must do this before **Friday 25th October 2024**.

[H3] Map guidance

Any new map must specify the area over which red grouse may be killed or taken, which should be the perimeter of the relevant grouse moor.

We advise you use Ordnance Survey mapping (for example OS 1:25,000 or 1:50,000) and apply a scale bar to the map.

The file must be smaller than 10MB. Suggested file types include PDF, JPEG and PNG.

Submit your updated map with your licence number via email to licensing@nature.scot

[H2] Wildlife crime

The second change we will be making is to insert a new condition around wildlife crime. This condition will require the licence holder to take reasonable steps to ensure that they, or anyone under their control or employment, do not commit an offence in relation to raptors.

This condition will apply outside of the licensed area but only where offences committed are related to management of the grouse moor.

These changes will ensure our red grouse licences are legally robust, while continuing to act as a strong deterrent to wildlife crime as was the legislation's intent.

Regards,

NatureScot Licensing

NatureScot | Great Glen House | Leachkin Road | Inverness | IV3 8NW | t: 01463 725364
NàdarAlba | Taigh a' Ghlinne Mhòir | Rathad na Leacainn | Inbhir Nis | IV3 8NW
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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] - RSPB
Subject: RE: Grouse Licensing issue
Date: 09 October 2024 08:20:00

[REDACTED]

We would be happy to meet and discuss this.

As you point out our licensing approach has to be informed by the wording in the Wildlife Management and Muirburn Act and we have been working with legal advice to determine how to help ensure that the licences are legally competent. This has highlighted an issue around boundaries and what the Act allows us to ask for by way of the land to which the licence relates. Advice from lawyers is that the Act does not allow for us to apply the licence to the landholding, unless this area is specified as being the area to which the licence should relate by the applicant. As a consequence, we will be changing our guidance on this, but we will be clear that we expect the licence to cover the extent of the grouse moor. From our understanding and from the licences we have to date there is no indication that applicants are looking to stipulate a tiny area. To ensure that we can still revoke a licence where there is raptor persecution outwith the licensed area, we will be adding a new condition to the licence.

We will add some explanatory text about these changes on our website tomorrow.

Let me know if you would like to discuss this further and I will look to set up a meeting.

Many thanks,

[REDACTED]

From: [REDACTED]@rspb.org.uk
Sent: Tuesday, October 8, 2024 6:46 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED]@rspb.org.uk
Subject: RE: Grouse Licensing issue

Caution! This message was sent from outside NatureScot.

Good afternoon folks,

At a recent meeting [REDACTED] and I had with Scottish Government officials, we expressed our concern that the wording of the Wildlife Management and Muirburn Act seems to enable a land manager to apply for a grouse shooting licence that only needs to include a tiny area around grouse shooting butts, because that is the precise area is where grouse "may be killed or taken".

We assume that in such a scenario, NatureScot cannot revoke or suspend that licence even if it is satisfied that a relevant offence by a person connected to the management of the wider grouse moor, away from the tiny area covered by the licence, has taken place?

We understood, from the below conversation, that NatureScot's position was that licences would relate to an entire landholding – we would be grateful if you could confirm if this is still the position. While you acknowledged previously that you were in dialogue with SLE about this issue, we would also be grateful if you could provide any information about wider stakeholders who were consulted during these discussions.

Given the scenario we describe earlier potentially undermines the primary purpose of the legislation, it would be good to know where NatureScot stands on this issue, and whether a future amendment to the legislation is required.

We're grateful for any information you can provide, and of course, will be happy to meet and discuss these issues.

Kind regards,

■

From: ■ <■@nature.scot>
Sent: Friday, July 19, 2024 1:27 PM
To: ■@rspb.org.uk>; ■@rspb.org.uk>
Cc: ■ <■@nature.scot>; ■ <■@nature.scot>; ■@rspb.org.uk>
Subject: RE: Grouse Licensing issue

■

Thanks for getting in touch.

In Summary – we are in dialogue with SLE about different interpretations of the act and how we are applying it. Specifically in relation to the area of land that 16AA licences relates to and whether it is the applicant or us as the licencing authority who ultimately decides.

We are clear that licences we issue should relate to the full landholding and not just land over which grouse are taken and killed, because as you well know, raptor persecution undertaken in connection with grouse moor management could take place anywhere on a property, not just on the grouse moor itself. I suspect this may rumble on for a couple of weeks yet and might ultimately end up in a legal challenge. I will ask ■ to catch up with you in more depth when he is back from leave next week.

Regards,

[REDACTED]

[REDACTED] | [REDACTED] | [REDACTED]
[nature.scot](https://www.nature.scot) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

Pronouns: he/him | If you receive this email late at night or early in the morning it means I am working flexibly but please do not feel that you have to pick this up outside of your own normal working hours.

From: [REDACTED] <[REDACTED]@rspb.org.uk>
Sent: Thursday, July 18, 2024 2:03:38 PM
To: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED] <[REDACTED]@nature.scot>
Cc: [REDACTED] <[REDACTED]@rspb.org.uk>
Subject: Grouse Licensing issue

[REDACTED]

I note the following from the GWCT's facebook page, posted today.

"Urgent Update: Licensing Scheme for Grouse Shooting Launch! "

We've been advised by Scottish Land & Estates that grouse moor managers should delay submitting grouse shoot licence applications, pending resolution of a legal issue which came to light in discussions between Scottish Land & Estates and NatureScot at the end of last week (12/7/24).

It was expected that this would be resolved this week, but the position remains unclear. The pause will ensure that all licences are submitted correctly and accurately.

The legal issue relates to the area of land to which the licence relates. Once there is clarity on the legal position from Scottish Land & Estates, we will provide a further update."

Grateful if you can provide any details.

Thanks,

[REDACTED]

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Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a- mach bho NàdarAlba.

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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED] [Scottish Government](#)
Subject: Licensing of Grouse Shooting
Date: 10 October 2024 13:25:57
Attachments: [Image001.png](#)

Caution! This message was sent from outside NatureScot.

[REDACTED]

We are very concerned that the grouse shoot licensing system that we and many others hoped and understood the Wildlife Management and Muirburn Act 2025 (WMA Act) would deliver is being steadily eroded, and that we are rapidly approaching a situation where we think it will be virtually impossible for the licensing authority to suspend or revoke a licence, even if a flagrant breach of the law occurs.

Many stakeholders had input to the Parliamentary process as the Bill proceeded through its various stages; responding to consultations; having meetings with MSPs; giving verbal and written evidence; and providing briefings. Scrutiny of the Bill and the amendments lodged was an open and transparent process. The Grouse Shooting Code of Practice meetings gave the opportunity for broad consensus to be achieved across a similar wide range of stakeholders, and it was accepted that there was an intrinsic relationship between the legislation, the Code and the licence conditions.

However, many of the organisations intimately involved throughout the independent "Werritty Review"; the passage of the Bill; and the formulation of the Code of Practice; have not, as far as we are aware, been given any opportunity to be involved in the process of drawing up, commenting on, or amending suggested licence conditions. In our view, this is contrary to what NatureScot said in evidence given in the Scottish Parliament, when it was stated more than once that in constructing a licensing framework that NatureScot "will work with stakeholders to set out the type of evidence that we will consider and the circumstances in which we would consider suspension, revocation or modification". However, NatureScot's robust position on land to be covered by a licence just a few months ago, appears to have changed markedly following exclusive discussions with SLE and perhaps also other land management stakeholders only.

We now appear to have a situation where grouse shooting licences are only required to cover the area where grouse are shot, rather than a whole landholding – while NatureScot have stated that they expect that to cover the whole grouse moor, that is entirely down to the applicant, who could simply map a ring round their grouse butts to be legally compliant. This is far from the understanding that we have had throughout the legislative process.

As a licence holder ourselves on RSPB Scotland land, we have recently been informed by NatureScot of a new grouse shooting licence condition about raptor persecution, which raises further questions. Until this new licence condition was announced, it appeared that any relevant offence occurring outside the mapped and licensed area did not fit into the criteria under the new section 16AA(8) of the WCA that could lead to a licence being suspended or revoked. The new wildlife crime licensing condition perhaps attempts to address this with respect to raptor persecution, but not any other offences.

The new condition also creates a 'due diligence' defence for a licence holder to have taken "reasonable steps" to ensure that their employees do not break the law with respect to raptor persecution. This 'defence' presumably is something that would be considered by a Sheriff if an appeal relating to a licence suspension is lodged, and is surely not for the licensing authority to assess? Given this defence is already written into vicarious liability legislation that is already part of the 1981 Act (as amended) we wonder why this is now included as part of a new licence condition?

The new guidance states that this new 'wildlife crime licensing condition' will apply outside of the licensed area of a landholding *but only where offences committed are related to management of the grouse moor*. In a scenario where a buzzard is found dying in an illegally-set pole trap on a sporting estate, 2km away from

the licensed grouse moor, we question what evidence will be required, and how it will be obtained, to allow an assessment if that crime was linked to grouse moor management, particularly if it was an estate that also had pheasant shooting? In summary, we believe that this new condition means that establishing a link between raptor persecution offences and grouse moor management, and to act as a meaningful deterrent to wildlife crimes, will now require a burden of proof that will be virtually impossible to achieve.

We are exceedingly concerned that the intention of the WMM Act will not be delivered by the current licensing system, largely because new licence conditions will allow estate employees to continue to commit wildlife crime offences and avoid any sanctions for their employer.

We urgently request written answers to the key questions we ask below:

- **Which stakeholders were consulted during the process of reassessing what area of land should be covered by a grouse shooting licence?**
- **Were Police Scotland or the National Wildlife Crime Unit involved in the drawing up of the new wildlife crime licence condition?**
- **Which stakeholders were consulted with regard to the new wildlife crime licence condition?**
- **Why does the new wildlife crime licence condition only relate to raptor persecution and not to the other relevant offences included in the Act?**
- **How does NatureScot intend to establish if an offence away from a licensed grouse shooting area is related to management of the grouse moor?**
- **We also ask what, if any, guidance NatureScot has had to ensure that an offence outside an area covered by a grouse shooting licence can lead to potential licence revocation or suspension that will stand up to legal challenge?**

We look forward to hearing your thoughts on these matters and would like a meeting to discuss these points at the earliest opportunity.

Best wishes

[REDACTED]
[REDACTED], RSPB Scotland
[REDACTED] [@rspb.org.uk](mailto:[REDACTED]@rspb.org.uk)
[REDACTED] [REDACTED] [REDACTED]

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From: [REDACTED]
To: [REDACTED]
Subject: RE: Final text from Legal
Date: 10 October 2024 16:00:00

Text re the reason:

Following a review of the licencing process, NatureScot has decided to change its approach to defining “the area of land to which the licence relates” for all existing and new licences.

The addition of the new condition relating to raptor control, will ensure that licence holders will remain responsible, in defined circumstances, for raptor persecution undertaken outside of the perimeter of the licenced area but as part of the management of the land to which the licence relates.

The changes will provide for greater clarity for new applicants and existing licence holders and provide for a more legally robust licensing scheme.

Thanks,

[REDACTED]

From: [REDACTED] <[REDACTED]@nature.scot>
Sent: Thursday, October 10, 2024 3:49 PM
To: [REDACTED]@nature.scot>
Subject: RE: Final text from Legal

Hi [REDACTED]

Still working on the text under ‘reasons for the modification’ but final text for new condition and permitted activities is:

The new condition (around raptor persecution).

‘1. The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the Wildlife and Countryside Act 1981 (as amended) and which:

- 1.1. involves any of the species mentioned at 2 of this condition; and*
- 1.2. takes place on land other than the area of land to which this licence relates.*

2. The species referred to at 1.1 of this condition are as follows:

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common

Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)'

Text for the 'permitted activities' section of the licence. The latest draft I have is:

'The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is the area specified on the map included in this licence.'

Thanks,

■

From: ■@nature.scot>

Sent: Wednesday, October 9, 2024 5:23 PM

To: ■ <■@nature.scot>

Subject: Final text from Legal

Importance: High

Hi ■

I am tidying up the remaining grouse tickets following sprint planning today.

Before you go on leave, please can you confirm the final text for:

The new condition (around raptor persecution). The latest draft I have is:

'1. The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the Wildlife and Countryside Act 1981 (as amended) and which:

- 1.1. involves any of the species mentioned at 2 of this condition; and*
- 1.2. takes place on land other than that to which this licence relates.*

2. The species referred to at 1.1 of this condition are as follows:

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus),

Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)'

Text for the 'permitted activities' section of the licence. The latest draft I have is:

'The area of land to which this licence relates for the purposes of section 16AA(6)(a)(ii) of the 1981 Act is the area specified by the licence holder on the map submitted with the licence application as the area on which the licence holder may take or kill red grouse.'

The 'Reason for modification' (this will be included in the modification email when sent to licence holders) – I have tweaked the latest draft based on the recent email – does this look ok?

'This licence was modified due to a change in NatureScot guidance.

The area of land to which this licence relates is specified in the map referenced on this licence.

A new condition was inserted relating to the prevention of raptor persecution.'

Thanks

[REDACTED]

[REDACTED]

[REDACTED] People and Organisational Development

NatureScot | Caspian House | Clydebank Business Park | G81 2NR | t: 0146 [REDACTED]
[nature.scot](https://www.nature.scot) | [@nature_scot](https://twitter.com/nature_scot) | Scotland's Nature Agency | Buidheann Nàdair na h-Alba

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Grouse licence condition [OFFICIAL]
Date: 31 October 2024 16:50:52

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OFFICIAL

Thanks [REDACTED] and [REDACTED]

I appreciate the attempt made to shore up the situation and know my concerns are too late but on looking at this I instantly see three issues:

- *take reasonable steps* – licence holder: “their contract of employment clearly stipulates they must not commit any wildlife crime”
- *for the purposes of or in relation to the management of the land* – we can’t evidence motive.
- *species referred to at 1.1.1 of this condition are as follows:* - why just the list of birds rather than the full list of relevant offences. Any of the full list of offences can be done with the motive being protection of grouse stocks.

Regards
[REDACTED]

From: [REDACTED]@nature.scot>
Sent: 31 October 2024 16:28
To: [REDACTED]@scotland.police.uk>; [REDACTED]
[REDACTED]@scotland.police.uk>; [REDACTED] nwcw.police.uk>; [REDACTED]
[REDACTED]@nwcw.police.uk>
Cc: [REDACTED] <[REDACTED]@nature.scot>; [REDACTED]
<[REDACTED]@nature.scot>
Subject: Grouse licence condition

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Hi all,

██████ has sent the new condition through and asked me to share it with you:

1. *The licence holder shall not do any act, and shall take reasonable steps to ensure that no person within their employment or control shall do any act, for the purposes of or in relation to the management of the land to which this licence relates which would be an offence under sections 1, 5 or 6 of the 1981 Act and which:*

1.1.1 *involves any of the species mentioned at 1.2 of this condition; and*

1.1.2 *takes place on land other than that to which this licence relates.*

2. *The species referred to at 1.1.1 of this condition are as follows:*

Honey Buzzard (Pernis apivorus), Red Kite (Milvus milvus), White-tailed Eagle (Haliaeetus albicilla), Eurasian Marsh Harrier (Circus aeruginosus), Hen Harrier (Circus cyaneus), Northern Goshawk (Accipiter gentilis), Eurasian Sparrowhawk (Accipiter nisus), Common Buzzard (Buteo buteo), Golden Eagle (Aquila chrysaetos), Osprey (Pandion haliaetus), Common Kestrel (Falco tinnunculus), Merlin (Falco columbarius), Eurasian Hobby (Falco Subbuteo), Peregrine Falcon (Falco peregrinus), Rough-legged buzzard (Buteo lagopus), Barn Owl (Tyto alba), Little Owl (Athene Noctua), Tawny Owl (Strix aluco), Long-eared Owl (Asio otus), Short-eared Owl (Asio flammeus), Snowy Owl (Nyctea scandiaca), Raven (Corvus corax)

Regards

██████

████████████████████ – Wildlife Management

NatureScot |

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Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NàdarAlba.
