

REPORT TO: LICENSING COMMITTEE ON 9th MARCH 2011

SUBJECT: THE WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) BILL

BY: CHIEF LEGAL OFFICER

1. REASON FOR REPORT

1.1 The reason for this report is to advise the Committee of the proposed abolition of Game Dealer Licences.

1.2 This report is submitted to Committee in terms of Section F(1) and (2) of the Council's Administrative Scheme relating to the exercise of the function of the Council, as Licensing Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee notes the content of The Wildlife and Natural Environment (Scotland) Bill in so far as this impacts upon licensing under the Game Act 1831, and the Game Licences Act 1860.

3. BACKGROUND

3.1 The Wildlife and Natural Environment (Scotland) Bill ("the Bill") was introduced in the Scottish Parliament by Richard Lochhead MSP on 9th June 2010. The Bill comprises a relatively wide-ranging package of measures, including changes aimed to improve deer management structures, competence in deer stalking, snaring practice, the protection of badgers and the regulation of invasive and non-native species, as well as providing for the abolition of the Areas of Special Protection designation. The abolition of Game Dealer Licensing regime is therefore only one small part of the Bill and, being the only part of the Bill which impacts upon work within the remit of this Committee, the other parts of the Bill have not been considered in detail for the purposes of preparing this report.

3.2 The Policy Memorandum which accompanied the introduction of the Bill referred to the fact that Game Dealer Licences were abolished in England and Wales in 2007 and that the original basis for such a scheme, although unclear, was assumed to have been seen as a means of deterring poaching and/or to control the basis of game-dealing in general. The document went on to argue that, with the advent of food standards legislation the game dealer licensing system was considered to be generally redundant and that, on that basis, the Scottish Government believed that this area of law was suitable for deregulation and that the requirements to obtain such licences could be abolished without any negative effects.

3.3 Members will note however that, although the Bill contains a number of provisions relating to Deer Management and Deer Stalking, it preserves the

current Venison Dealer Licensing regime under the Deer (Scotland) Act 1996. The Senior Assistant Clerk to the Scottish Parliament's Rural Affairs and Environment Committee has advised that Scottish National Heritage has made submissions to the Scottish Government that the problem of deer poaching is still a very real one and that the number of deer illegally hunted has increased over the past two years with organised gangs killing deer in large numbers in some instances. It is understood to be on this basis that the Bill does not provide for a similar abolition of Venison Dealer Licences (paragraph 210 of the Stage 1 Report of that Committee on this Bill, also briefly refers).

- 3.4 Stage 2 consideration of the Bill ended on 19 January 2011. At the time of writing, the Stage 3 debate is due to be held on 2 March 2011. Consequently a brief update on the further progress of the Bill will be provided to Members at the 9 March 2011 meeting and thereafter the Chief Legal Officer will continue to monitor the position in view of the future implications for Game Dealer Licensing.

4. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement/Service Improvement Plan

The matters covered in this report accord with Outcome 15 regarding ensuring high quality, continually improving and efficient public services in keeping up-to-date with pending changes to civic government licensing legislation.

(b) Policy and Legal

This report is submitted to inform the Licensing Committee of the likely future abolition of the Game Dealer Licensing regime. The legal implications are therefore outlined in the main body of the report.

(c) Financial implications

Currently, an average of 9 Game Dealer Licence applications are received by the Licensing Authority per year for a fee of £31 per application. Not only is this a very small proportion of the overall fee income for the Civic Licensing function but, with the fee income covering only the administrative cost of processing the licence and containing no profit element nor any element of cross-subsidy, there will be no financial gain or loss for the Authority should Game Dealer Licensing be abolished as the Scottish Government proposes.

(d) Risk Implications

None.

(e) Staffing Implications

At an average of 9 applications per year, Game Dealer licences represent less than 2% of the civic licence applications received and processed by the relevant officer within the Litigation and Licensing section. Consequently there will no staffing implications should Game Dealer Licensing be abolished as the Scottish Government proposes.

(f) Property

None.

(g) Equalities

None.

(h) Consultations

As highlighted in the main body of the report, the writer has consulted with the Scottish Parliament in relation to the matters set out in paragraph 3.3.

5. CONCLUSION

5.1 The Committee is invited to note the terms of this report for information purposes.

Author of Report: Tim Haynes, Solicitor

Background Papers: Wildlife and Natural Environment (Scotland) Bill – (available to view at www.scottish.parliament.uk/s3/bills/52-WildNatEnv/b52as3-stage2-amend.pdf)

Bill Policy Memorandum – (available to view at www.scottish.parliament.uk/s3/bills/52-WildNatEnv/b52s3-introd-pm.pdf)

Stage 1 Report of Rural Affairs and Environment Committee, Scottish Parliament, paragraph 210 – (available to view at <http://www.scottish.parliament.uk/s3/committees/rae/reports-10/rur10-08-00.htm>)

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