

Citizen Participation and Public Petitions Committee

8th Meeting, 2021 (Session 6), Wednesday 1
December 2021

PE1859: Retain falconers' rights to practice
upland falconry in Scotland

Note by the Clerk

Lodged	24 March 2021
Petitioner	Barry Blyther
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to amend the Animals and Wildlife Act 2020 to allow mountain hares to be hunted for the purposes of falconry.
Webpage	https://petitions.parliament.scot/petitions/PE1859

Introduction

1. The Committee last considered this petition at its meeting on [1 September 2021](#). At that meeting, the Committee agreed to write to the Scottish Government.
2. A summary of past consideration of the petition and responses to information requests are provided for the Committee's consideration.

Background

3. During its consideration of this petition, the Committee received 18 written submissions.
4. The SPICe briefing explains that following the passage of the Act, mountain hares are now a protected species under the Wildlife and Countryside Act 1981 (as amended). This means that it is illegal to intentionally or recklessly kill, injure or otherwise take a mountain hare at any time of year, apart from under specific circumstances where a licence can be obtained.

5. This means that mountain hares can no longer be hunted in the course of falconry practices such as 'game-hawking', where birds of prey are flown to hunt small mammals or other birds, unless they are done so for a licensable purpose, such as for forestry.
6. The [petitioner's submission of 7 June](#) references the Animal Health and Welfare (Scotland) Act 2006 and SSPCA/RSPCA guidance to state that there is a legal obligation to allow trained, captive bred birds of prey freedoms, including the freedom to express the natural behaviours of the species. The petitioner expresses his belief that the current legislation is taking that freedom away.
7. The Committee wrote to the Scottish Government on this issue, asking how it reconciles the freedom to express natural behaviours of falcons (as set out in the 2006 Act) with the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, which would prohibit captive bred birds of prey from hunting mountain hares.
8. Many written submissions indicated that NatureScot was unable to contribute to scrutiny of amendments to the Wildlife and Countryside Act 2020 with falconers suggesting that NatureScot would have "No hesitation in considering applications from falconers for licences to take hares for the purpose of falconry".
9. The Committee therefore wrote to NatureScot highlighting the information received and seeking its views on the action called for in the petition.

Scottish Government submission

10. The Scottish Government responded to the Committee's correspondence regarding the Animal Health and Welfare (Scotland) Act 2006 and the control of mountain hares, as set out in Schedule 5 of the Wildlife & Countryside Act 1981.
11. Its response confirms that the general responsibilities under the 2006 Act would apply to those keeping captive birds of prey and that any keepers of protected animals are responsible for their welfare.
12. Protected animals are listed in Schedule 4 of the Wildlife and Countryside 1981 Act – honey buzzard, golden eagle, white tailed eagle, goshawk, marsh harrier, merlin, Montagu's harrier, peregrine falcon and osprey.
13. The Scottish Government states that it does not believe that the licensing scheme for the control of mountain hares impacts on the ability of falconers to enable their birds to exhibit normal behaviour patterns because captive birds of prey can still be used to:

- take mountain hares for other purposes where carried out under a licence granted by NatureScot. For example, preventing serious timber damage, agriculture or natural habitat conservation; and
- legally hunt other species such as grouse and rabbits.

NatureScot submission

14. NatureScot's submission states that it has developed a licensing approach for mountain hares to reflect the legislative change, which means licences can be granted for specific purposes where there is no satisfactory alternative to control and where there will be no adverse impact on the mountain hare's conservation status.
15. Although NatureScot recognises the social and cultural aspects of falconry, it states that the legislation provides no specific licensable purpose for falconry.

Petitioner submission

16. At its last consideration, the Committee was interested in the number of falconers practising in Scotland. The petitioner has provided details of a survey of falconers in Scotland from February 2021 which revealed that –
 - There are 121 falconers with an interest in hare hawking in Scotland;
 - The average maximum number of mountain hares taken by a bird of prey in a day is 2; and
 - Two thirds of falconers said that it would be detrimental to the wellbeing of their bird if they were no longer able to hunt mountain hares
17. Based on the survey's findings, the petitioner calculated that the maximum possible number of hares that could be taken through falconry each year would be 2,886 if there were no barriers (such as weather conditions). He emphasises the impossibility of this scenario and that the real number is much lower.
18. The petitioner estimates that the number of mountain hares taken through falconry each year is likely to be 1,000 and notes that this is less than 4% of the average of quoted numbers previously accounted for by shooting.
19. The petitioner also highlights that there is evidence to suggest that claims about hare numbers declining on managed land is false.
20. In a further submission, the petitioner reiterates concerns about birds of prey and their freedom to demonstrate behaviour natural to the species. It is highlighted that areas for birds of prey to fly without the risk of taking hare would restrict them to the lowlands of the central belt.

Written submissions

21. The Committee has received a number of submissions since its last consideration. Issues raised in the submissions include –
- The cultural and historical significance of falconry in Scotland;
 - Birds of prey will not differentiate between species such as mountain hare and rabbits;
 - Falconers risk prosecution if their bird takes mountain hare; and
 - Welfare concerns for birds of prey that are unable to fly as a result of the legislation.

Action

The Committee is invited to consider what action it wishes to take. **Clerk to the Committee**

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting –

- [PE1859/F: Petitioner submission of 15 September 2021](#)
- [PE1859/G: Hazel Marshall submission of 29 September 2021](#)
- [PE1859/H: Alex Matossian submission of 29 September 2021](#)
- [PE1859/I: Petitioner submission of 30 September 2021](#)
- [PE1859/J: Amy Wallace submission of 30 September 2021](#)
- [PE1859/K: Roy Lupton submission of 30 September 2021](#)
- [PE1859/L: Keith Talbot submission of 30 September 2021](#)
- [PE1859/M: NatureScot submission of 7 October 2021](#)
- [PE1859/N: Lauren McGough submission of 16 October 2021](#)
- [PE1859/O: Scottish Government submission of 10 November 2021](#)
- [PE1859/P: Amy Wallace submission of 22 November 2021](#)
- [PE1859/Q: Alex Matossian submission of 24 November 2021](#)
- [PE1859/R: Keith Talbot submission of 25 November 2021](#)

Written submissions received on the petition can be viewed on its [webpage](#).