

# Summary

## BALANCING DUTIES

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Like most public bodies, SNH is required by statute to take account of a range of other interests when discharging its remit. These duties are referred to as 'balancing duties' and reflect the Government's aim of achieving an integrated approach in which particular objectives are not pursued without reference to other interests.

**SNH views its balancing duties - which require it to be aware of, and take account of a range of other interests - as important in ensuring that natural heritage aims are fulfilled in a way compatible with society's wider needs. SNH will seek to understand the needs of others through liaison, consultation, and working in co-operation with relevant interests as appropriate.**

### Background

SNH has general aims and purposes as set out in the Natural Heritage (Scotland) Act 1991 to conserve and enhance the natural heritage, to foster its understanding and enjoyment, and to promote its sustainable use; and in the Deer (Scotland) Act 1996 to further the conservation, control and sustainable management of deer<sup>1</sup>.

Section 3 of the Act states:

'.....it shall be the duty of SNH in exercising its natural heritage functions to take such account, as may be appropriate in the circumstances, of:

- a) actual or possible ecological and other environmental changes to the natural heritage of Scotland;
- b) the needs of agriculture, fisheries and forestry;
- c) the need for social and economic development in Scotland or any part of Scotland;
- d) the need to conserve sites and landscapes of archaeological or historic interest;
- e) the interest of owners and occupiers of land; and
- f) the interests of local communities.'

Section 1(2) of the Deer (Scotland) Act 1996 states:

'.....it shall be the duty of SNH, in exercising its deer functions, to take such account as may be appropriate in the circumstances of:

- a) the size and density of the deer population and its impact on the natural heritage;
- b) the needs of agriculture and forestry; and
- c) the interests of owners and occupiers of land.

These are termed SNH's 'balancing duties'.

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<sup>1</sup> The purpose in relation to deer, and SNH's deer functions, were added by the Public Services Reform (Scotland) Act 2010 which effected a merger of the Deer Commission for Scotland with SNH

## **SNH's Position**

These balancing duties do not override primary aims and purposes for the organisation in relation to the natural heritage, or in relation to deer, as set out in Section 1(1) and 1(1A) of the 1991 Act. However, the duties are designed to ensure that, where appropriate, SNH does not focus upon its primary aims and purposes to the exclusion of all other considerations. The importance which should be placed on these interests, relative to SNH's aims and purposes, is a matter for SNH's discretion.

While the balancing duties deriving from the Act, as noted above, are different for SNH's natural heritage and deer functions, all the interests listed are considered important. Therefore, subject to the exceptions below, as a matter of policy SNH will exercise all the above balancing duties in relation to all its activities, regardless of whether they are 'natural heritage functions' or 'deer functions'.

SNH seeks to implement the balancing duties through good liaison with, and understanding of, other interests. The mechanisms used include liaison with national representative organisations, listening to representations, consultation with community and interest groups and participating within partnerships.

In advising other organisations on planning or similar consents, SNH considers these balancing interests whenever it is minded to object to a proposal on account of its adverse natural heritage impacts, or its adverse impacts on the conservation and management of deer. We will not object where the wider public benefits of a proposal clearly outweigh the significance of these impacts.

The inclusion of balancing duties in its founding legislation ensures that SNH will:

- respect the dynamism of the environment, focusing on conservation and sustainable use rather than preservation;
- recognise the need to mitigate and adapt to climate change;
- take account of the needs of agriculture, fisheries and forestry as reflected in Government and European Union policies;
- seek closer integration of environmental and socio-economic considerations;
- recognise the importance attached to areas of archaeological and historic interest; and
- build good links with land management and community interests.

## **Exceptions**

SNH interprets the balancing duties as applying to all of its functions and activities, except in the following specific circumstances where more specific legislative requirements take precedence. The areas of SNH's work to which 'balancing duties' do not apply are:

- the 'special functions', undertaken by the Joint Nature Conservation Committee (JNCC) on SNH's behalf and concerned with GB and international nature conservation matters, which are exempt from all the balancing duties except for the requirement to take account of ecological and other environmental changes to the natural heritage of Scotland;
- the notification of SSSIs which, under the terms of the Nature Conservation (Scotland) Act 2004, must be based solely on the degree of special interest in the flora or fauna or geology or geomorphology of the site;

- the selection of Natura 2000 sites, which EC Directives require to be based on ecological criteria alone; and
- the management of Natura 2000 sites, where the requirements of the EC Habitats Directive and the Conservation (Natural Habitats, &c) Regulations 1994 take precedence in requiring that projects or plans should not, other than in tightly defined circumstances, adversely affect the integrity of a site.

**References:**

All legislation from the Office of Public Sector Information  
[http://www.opsi.gov.uk/legislation/about\\_legislation](http://www.opsi.gov.uk/legislation/about_legislation)

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