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The **illegal killing** of **birds of prey** in **Scotland in 2008**



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Executive summary

2008 was a year when a white-tailed eagle, two red kites, 14 buzzards and three ravens were confirmed by the Scottish Government as being victims of illegal poisoning. Forty-two baits confirmed as being laced with highly toxic and illegal poisons were laid out indiscriminately in the open in Scotland's countryside. A red kite and five buzzards were confirmed as shot and peregrines and hen harriers nesting on driven grouse moors "disappeared" in circumstances that suggested human interference.

There are substantial areas of suitable habitat in Scotland currently unoccupied by breeding birds of prey as a direct result of their continued illegal killing. This report documents known incidents of the illegal killing of birds of prey in 2008; outlines the scientific evidence that illustrates that the crimes recorded here represent a fraction of the actual total; and makes recommendations towards improving the detection of these crimes and the successful prosecution of the perpetrators. As ever, we are grateful to members of the public, the police in Scotland and many others who provide the data on which this report is based.

Introduction

The majority of landowners and their employees in Scotland act within the law. RSPB Scotland have long-established partnerships with many land managers and their employees who have assisted in conservation work with species such as black grouse, corncrake, capercaillie, osprey and with re-introduction schemes for red kites and white-tailed eagles. Unfortunately, however, a number of individuals persist with the out-dated practice of illegal killing of birds of prey, rightly condemned by landowning representatives as well as conservation organisations and the Scottish government. A significant number of incidents continue to be reported to the police or other agencies each year.

The deliberate and illegal killing of Scotland's birds of prey has been a prominent issue for many decades. This matter is of serious conservation concern as it affects the populations and ranges of some of our most vulnerable bird species and contravenes both European Union and domestic legislation designed to safeguard and enhance bird populations. This illegal activity discredits the international reputation of Scotland as a place that takes pride in its natural heritage and undermines important industries, including tourism, that depend upon wildlife spectacles.

Many species, whose populations were either seriously reduced or eliminated from much of Scotland in the 19th and early 20th centuries, (eg buzzard) have made significant recoveries in recent years through natural re-colonisation or through re-introduction by conservation

agencies, as in the case of red kites. This has followed a reduction in killing sufficient to allow these recoveries, as legislation to protect these species has been strengthened and attitudes towards predators have become more enlightened and based upon a better understanding of ecology.

Sadly, this generally positive trend has not been universal. The poor conservation status of some species of birds of prey (eg golden eagles and hen harriers) remains of serious concern. It is clear that in some regions of Scotland, particularly in parts of the eastern and southern uplands, the intolerance shown towards protected predators and the law remains deeply ingrained, with no regard to the conservation status of the targeted birds and animals.

Over the last 10 years, a total of almost 300 protected birds of prey have been confirmed, by government laboratory testing, as being the victims of illegal poison abuse in Scotland. While the majority of victims have been buzzards, reflecting their more widespread status, these shocking statistics also include some 54 red kites, 14 golden eagles and four white-tailed eagles. The majority of these victims have been discovered purely by chance, by hillwalkers, birdwatchers, dog walkers and other members of the public visiting Scotland's countryside. Other casualties have been found during police, RSPB Scotland or SGRPID follow-ups to these incidents. To this catalogue of shame can be added over 100 confirmed victims of illegal shooting, trapping or nest destruction.

This is RSPB Scotland's 15th annual review of the illegal killing of birds of prey; it describes the extent of the known criminal destruction of birds of prey in Scotland during 2008. However, given that much bird of prey killing takes place in remote areas, in circumstances where direct witnesses are few and far between and where material evidence can be easily concealed or destroyed by the perpetrators, a large proportion of these incidents will never be uncovered or reported. Recent peer-reviewed scientific studies have illustrated the significant impact that illegal killing has on the populations of some of our most iconic species. It is readily apparent, therefore, that the number of incidents outlined in this report must be regarded very much as minimum figures.

Definition of incidents

Incidents are classified and described in the report as follows:

- **"confirmed" cases** – incidents where definite illegal acts were disclosed, that is the substantive evidence included birds or baits confirmed by Science and Advice for Scottish Agriculture (SASA – formerly Scottish Agricultural Science Agency) as containing illegal poisons; an offence seen/found by a witness and/or confirmed by post-mortem, illegally-set traps etc
- **"probable" cases** – those where the available evidence points to illegality as by far the most likely explanation but where the proof of an offence is not categorical

- "**possible**" cases – where an illegal act is a possible explanation but where another explanation would also fit the known facts.

Incidents are separated on the basis that any bait, victim, group of baits, victims etc that are:

- found on a different date
- found sufficiently far apart to be represented by a different six-figure grid reference
- found at the same grid reference and on the same date but in circumstances that otherwise separate them (eg a poison victim that is very decomposed beside a fresh bait – ie the bait could not have been responsible for the death of the victim) are classified as separate incidents.

2008 incidents

As with all preceding years' reports, threats to raptors are quantified under two main headings, these being:

- the use of poisons or poison baits
- other illegal killing: nest destruction, shooting and trapping.

Poisoning

Poisoning may be considered to constitute the greatest actual or potential threat of all forms of illegal activity, as it is totally indiscriminate. In contrast to shooting and to much trapping activity, which requires a sustained effort by the criminal concerned to produce a limited return, poisoning can have a substantial impact with only minimal effort. Poison baits continue to be lethal over a period of days or weeks and can kill multiple victims without further effort by the poisoner. Any poison bait used in the open within habitat used by birds of prey has the potential to kill those birds. This is true regardless of the intentions of the perpetrator.

In this report, we document actual cases of poisoned raptors; incidents where only a poison bait was found and the victim (if any) was not identified; and incidents where the victim was not a bird of prey but the location and circumstances put birds of prey at risk.

A total of 49 allegations or reports of poisoning activity in 2008 were received by RSPB Scotland (1999-2007 average = 60). All reports to RSPB Scotland came from identifiable individuals.

- Twenty eight were confirmed as pesticide abuse killing or threatening raptors (1999-2007 average = 29) and four further cases involved the possession of pesticides suspected to be for an illegal purpose.
- Four probable incidents were recorded, involving victims too decomposed to analyse, but found in circumstances and locations indicating this as a likely cause of death.

Following two years among the worst recorded for bird of prey poisoning in Scotland over the last 25 years, the continued high number of incidents recorded in 2008 re-iterates how widespread this indiscriminate practice continues to be, despite widespread public condemnation following recent high-profile cases. Confirmed abuse incidents are summarised in Table 1.

Table 1: confirmed poison abuse incidents, 2008

Month	Poison	Victim	Bait	Location	Area
January	Alphachloralose	Buzzard		nr Grantown-on-Spey	Inverness-shire
March	Alphachloralose	Buzzard (2)		nr Jedburgh	Borders
March	Alphachloralose	Buzzard		nr Gretna	Dumfries-shire
March	Alphachloralose	Buzzard	Rabbit	nr Gretna	Dumfries-shire
March	Alphachloralose	Buzzard (2)		nr Gretna	Dumfries-shire
March	Carbofuran	Buzzard		nr Grantown-on-Spey	Inverness-shire
March	Alphachloralose		(possession for use)	nr Peebles	Borders
April	Carbofuran		Pigeon	nr Sorn	East Ayrshire
April	Carbofuran		Rabbit	nr Sorn	East Ayrshire
April	Carbofuran		Pigeon	nr Sorn	East Ayrshire
April	Carbofuran	Buzzard (2)		nr Sorn	East Ayrshire
April	Carbofuran	Stoat		nr Sorn	East Ayrshire
May	Carbofuran	Red kite		nr Daviot	Inverness-shire
May	Carbofuran, Isophenfos, Bendiocarb	White-tailed eagle		nr Noranside	Angus
May	Bendiocarb	Buzzard		nr Noranside	Angus
May	Carbofuran, Isophenfos, Bendiocarb		Moutain Hare, Meat (4)	nr Noranside	Angus
May	Carbofuran, Isophenfos, Bendiocarb		Meat (5)	nr Noranside	Angus
May	Carbofuran, Isophenfos, Bendiocarb		Meat (5)	nr Noranside	Angus
May	Carbofuran, Isophenfos, Bendiocarb		Meat (7)	nr Noranside	Angus
May	Carbofuran, Isophenfos, Bendiocarb		Meat (8)	nr Noranside	Angus
May	Carbofuran, Isophenfos, Bendiocarb		Meat (3)	nr Noranside	Angus
May	Carbofuran		Rabbit (3)	nr Banchory	Aberdeenshire
June	Carbofuran, Isophenfos	Buzzard		Lowther Hills	Dumfries-shire

The illegal killing of birds of prey in Scotland in 2008

Month	Poison	Victim	Bait	Location	Area
July	Carbofuran		(possession for use)	nr Aberlour	Moray
Aug	Carbofuran	Red kite		nr Tomatin	Inverness-shire
Oct	Carbofuran	Buzzard	Rabbit	nr Leadhills	South Lanarkshire
Oct	Carbofuran		Meat	nr Noranside	Angus
Nov	Carbofuran	Raven (3)		nr Leadhills	South Lanarkshire
Nov	Carbofuran		(2 x possession for use)	Deeside	Aberdeenshire
Dec	Alphachloralose	Buzzard		nr Grantown-on-Spey	Inverness-shire

As has been the norm in recent years, carbofuran (or mixtures containing this chemical) has continued to dominate as the “poison of choice” in the vast majority of incidents recorded, despite the fact that this substance was withdrawn from approval as a legitimate agricultural pesticide in December 2001. However, despite mere possession being a criminal offence, there seems to be little evidence suggesting a decline in the use of this chemical. Indeed, it featured in 22 of the 28 (78.6%) incidents confirmed in 2008, compared to 83.4% of the total of 169 incidents confirmed between 2003 and 2007. Since the first case known to RSPB Scotland of carbofuran illegally used as a poison for killing wildlife in 1988, its abuse has become widespread, and since 1997 has been the most widely abused pesticide for killing wildlife.

This position was formerly held by alphachloralose; this chemical is only available to the public at low concentrations in rodenticide products, approved only for killing mice. Products containing alphachloralose at higher concentrations (including for control of birds such as feral pigeons) can only be bought, held and used by pest controllers under licence. However, it has continued to feature in a small number of incidents each year, including six (21.4%) in 2008. This figure compares with an average of 6.51% of the total of 169 incidents confirmed during 2003-07.

The monthly distribution of confirmed poisoning incidents in 2008 was similar to that noted in previous years, with a major peak in the spring and a smaller secondary peak in the autumn.

Figure 1: confirmed poisoning incidents 1987-2008

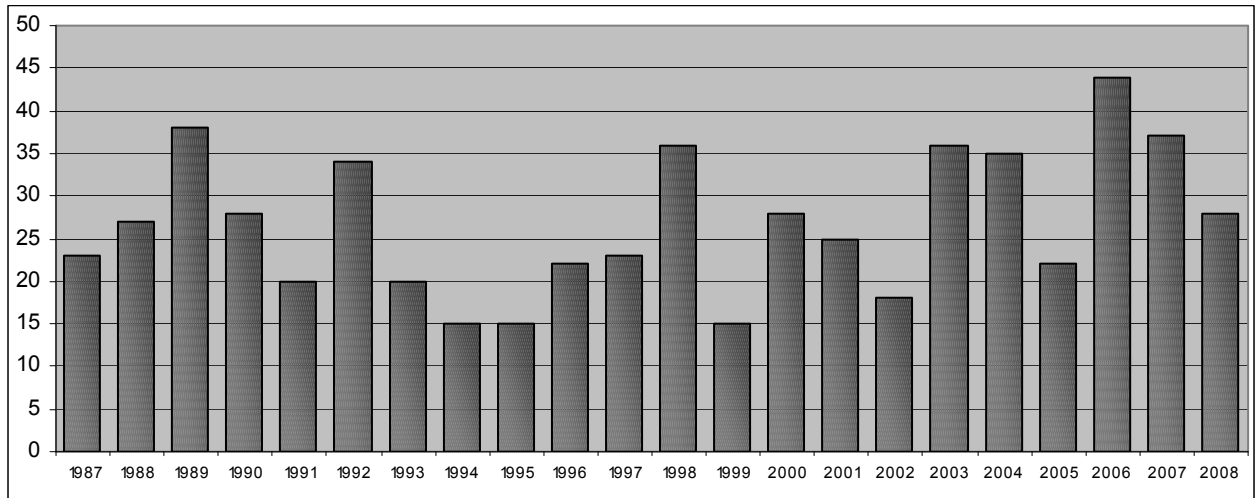


Table 2 documents the number of confirmed victims of poison abuse recorded since 1998. Whilst widespread species such as buzzards and corvids (included under “other bird species”) are, predictably, the most numerous victims, it is undoubtedly the number of scarce species, of international conservation concern, such as red kite, golden eagle and white-tailed eagle that provide the most shocking testament to the indiscriminate nature of this criminal practice. As many of these birds were discovered by members of the public, in remote areas, purely by chance, one can appreciate that the figures are indicative of a much bigger problem.

Table 2: number of confirmed victims of poison abuse 1998-2008 (includes data from previous RSPB Persecution reports 1998-2006)

Year	Species								Total
	Red kite	Golden eagle	White-tailed eagle	Buzzard	Peregrine	Raven	Other bird species	Animals	
1998	4	2		23	2		3	9	43
1999	1	2		7		2		1	13
2000	4	3		23			15	1	46
2001	10	1		9			9	2	31
2002	1	2	2	7	2		28		42
2003	10		1	23	3	4	33	1	75
2004	3			40	3		5	3	54
2005	2	1		14		2	3		22
2006	5	2		26	1	6	4	1	45
2007	12	1		15	4	2	3	4	41
2008	2		1	14		3		1	19
Total	54	14	4	201	15	19	103	23	433

Case study: a white-tailed eagle poisoned

On 4 May 2008, a dead white-tailed eagle was discovered by a member of the public adjacent to a grouse moor in Angus. The bird was recovered by Tayside Police, who sent it to SASA for toxicological analysis.



Poisoned white-tailed eagle, Glen Ogil, May 2008 (Tayside police)

On 7 May, RSPB Scotland Investigations staff assisted Tayside Police with a follow-up ground search of the area and soon found a dead buzzard, half a mile from where the eagle had been discovered. Shortly afterwards, the remains of a mountain hare, neatly cut in half, was found.

Close to where the hare was found was a double electric fence, with posts some 2 m in height, situated just inside the boundary of Glen Ogil estate. On top of one of these posts was found a small piece of dried-up meat. Closer inspection showed one or two blue-green granules visible to the naked eye. Immediately, nearby fence posts were inspected and another 31 of these held similar bits of meat, along about 800 m of the fenceline. The pieces of meat were immediately seized by the police, along with the hare remains and the buzzard; these too were delivered to SASA for analysis.



One of 32 meat baits, laced with poison, Glen Ogil, May 2009

On 25 May, SASA confirmed that illegal poisoning had caused the death of both the white-tailed eagle and the buzzard, and that the meat baits and the hare contained the same unusual concoction of illegal and highly toxic chemicals that had killed the eagle. The number of poisoned baits and the manner in which they had been set out was one of the worst cases of deliberate and systematic targeting of birds of prey seen in Scotland for some years. Police enquiries are continuing.

Other illegal killing

Other illegal killing typically involves one of the following methods:

- nest destruction – removal or destroying of eggs or young and/or physical removal of nest
- shooting
- use of uncovered spring traps – on poles or on the ground with or without bait
- use of cage traps – with either live or dead bait.

Seventy eight reports were received by RSPB Scotland in 2008 in which offences of this type were alleged (1999-2006 average = 79). Two allegations came from anonymous sources; the remainder were from identifiable individuals.

Of these, 11 were "confirmed" (as defined previously) and 20 were classed as "probable" cases of illegal killing. The probable incidents include cases where live, injured birds were recorded, nesting attempts that failed where there was some evidence suggesting human interference, and victims too decomposed to permit a complete analysis. In the remaining 48 cases, there was either insufficient evidence to either substantiate or disprove the original report.

The confirmed incidents are outlined in Table 3, with a summary of probable incidents in Table 4.

Table 3: confirmed incidents of illegal killing of birds of prey in Scotland, 2008

Month	Method	Victim	Location	Area
Mar	Crow cage trap – not checked for >24hrs	Buzzard	nr Biggar	South Lanarkshire
Mar	Feathers found in hawk trap	Goshawk	nr Drumoak	Aberdeenshire
Apr	Shot	Buzzard	Kirkcaldy	Fife
May	Shot	Sparrowhawk	nr Dunkeld	Perthshire
May	Unset pole trap found			Nairn
June	Shot	Red kite	nr Longformacus	Borders
July	Caught in crow cage trap	Kestrel (3)	nr Braco	Perthshire
July	Shot	Buzzard	nr Ellon	Aberdeenshire
Aug	Set spring-trap in illegal circumstances		nr Lockerbie	Dumfries-shire
Oct	Shot	Buzzard (2)	nr Longforgan	Perthshire



Case study: a red kite shot

A party of walkers found an injured red kite on a grouse moor in the Lammermuir Hills, Borders, on 14 June 2008. It was taken to a vet, where an X-ray showed that the bird had been shot with a shotgun. The bird subsequently died from its injuries. Police interviewed a potential suspect, but no charges were made.

Shot red kite X-ray

Table 4: probable incidents of illegal killing of birds of prey in Scotland, 2008

Month	Circumstances	Victim	Location	Area
Mar	Live bird with feather damage consistent with gunshot seen	Buzzard	nr Doune	Stirlingshire
Mar-Jul	Both adults suddenly disappeared	Hen harrier	nr Muirkirk	East Ayrshire
Apr	Dead bird found in stink pit	Buzzard	nr Kinlochranoch	Perthshire
Apr	Three individuals armed with shotguns at top of crag where peregrines nesting; nest later found to have failed	Peregrine	nr Kippen	Stirlingshire
Apr	Evidence of recent shooting near deserted, but previously occupied, nest site	Peregrine	nr Thornhill	Dumfries-shire
Apr	Evidence of recent shooting near deserted, but previously occupied, nest site. Adults disappeared	Peregrine	nr Thornhill	Dumfries-shire
Apr	Bird remains found ejected from rabbit burrow near crow trap	Buzzard	nr Huntly	Aberdeenshire
Apr	Adult bird disappeared. Evidence of recent shooting near nest site	Peregrine	nr Sanquhar	Dumfries-shire
Apr	Both adults disappeared	Peregrine	nr Sanquhar	Dumfries-shire
Apr	Adult bird disappeared	Peregrine	nr Muirkirk	East Ayrshire
Apr-Jun	Eggs disappeared from nest	Peregrine	nr Dolphinton	South Lanarkshire
Apr-Aug	Male disappeared	Peregrine	Tweedsmuir	Borders
May	Old pole trapping site found			Nairn
May	Adults disappeared during incubation	Hen harrier	nr Wanlockhead	Dumfries-shire
May	Eggs disappeared. No sign of predation	Hen harrier	nr Thornhill	Dumfries-shire
May-Jun	Eggs and adult female disappeared	Hen harrier	nr Rhynie	Aberdeenshire
May-Jun	Eggs and adult female disappeared	Hen harrier	nr Ballater	Aberdeenshire
Jun-Jul	Chicks disappeared, no sign of predation. Evidence of recent human access close by	Hen harrier	nr Muirkirk	East Ayrshire
June-Jul	Chicks disappeared, no sign of predation.	Hen harrier	nr Darvel	East Ayrshire
Sep	Two dead birds found close to site where two further dead buzzards confirmed shot	Buzzard (2)	nr Longforgan	Perthshire

Table 5: number of confirmed victims of shooting, trapping or nest destruction, 1998-2008 (includes data from previous RSPB persecution reports 1998-2007)

Year	Species								Total
	Red kite	Golden eagle	Buzzard	Peregrine	Hen harrier	Goshawk	Sparrowhawk	Kestrel	
1998		2	7	2			2		13
1999			2	3					5
2000			1	5	4	2			12
2001			8			1	2		11
2002	1		8	3					12
2003	1		7	4	3				15
2004			4	3			1	5	13
2005			2	7		1		1	11
2006			15	1					16
2007		1	10	1	1	1		1	15
2008	1		5			1	1	3	11
Total	3	3	69	29	8	6	6	10	134

Summary

The continued prevalence of poisoning and other illegal killing of protected birds of prey in Scotland, particularly in upland areas managed for driven grouse shooting, continues to have a significant impact on the conservation status of some of our rarest species. Many of the confirmed and probable victims of illegal activity in 2008 were found in such areas.

It is apparent that the number and nature of the incidents discovered vary substantially from year to year, meaning that making a statistically rigorous assessment of the trends is difficult.

Nevertheless, it is our view that:

- the illegal killing of raptors has been in generally long-term decline, particularly in the lowlands and North and West Highlands
- this decline is slowing or may have ceased
- for some raptor species and in some habitats (eg hen harriers nesting on driven grouse moors) there is – in contrast – no evidence of a decline in illegal killing or nest destruction
- illegal killing continues at wholly unacceptable levels and is still a significant threat to the populations and ranges of several scarce species.

The number of incidents detected will be a very small proportion of the total. The true level of illegal killing of raptors is very difficult to measure due to the nature of the terrain in which these offences take place and the secrecy surrounding such criminal activities.

The level of confirmed cases of illegal poisoning recorded over the last five years suggests that these offences continue to be widespread. As in previous years, the distribution of 2008 incidents, as shown by the

maps in the Appendices, reinforces the fact that incidents are not evenly or randomly spread throughout the country, but are largely concentrated in the upland areas of the east and south, co-incident with the distribution of driven grouse moors. Indeed this evidence coincides with a geographical analysis of the distribution of poisoning incidents published in peer-reviewed scientific literature, which shows that the illegal use of poison baits to control predators is disproportionately associated with grouse moors in Scotland (Whitfield *et al*, 2003).

The effects of illegal killing

The level of continuing illegal killing is still very much a cause for concern. Raptors' ecological characteristics make them particularly vulnerable to any additional mortality caused by deliberate killing. Raptors tend to be long-lived, breed slowly and produce few young. The killing of adult birds can thus quickly impact the conservation status of the species.

Golden eagle

In 2008, Scottish Natural Heritage (SNH) published *A Conservation Framework for Golden Eagles: implications for their conservation and management in Scotland*. This was produced in partnership with other members of the Scottish Raptor Monitoring Scheme: Scottish Raptor Study Groups, Rare Breeding Birds Panel, RSPB Scotland, BTO Scotland and Joint Nature Conservation Committee. In summary, the report stated that "a number of lines of evidence indicated that illegal persecution of eagles, principally associated with grouse moor management in the central and eastern Highlands, is the most severe constraint on Scottish golden eagles. These lines of evidence, based on population modeling and analyses using a Geographical Information System (GIS) are as follows:

- a) as carrion feeders, golden eagles are particularly vulnerable to poisoned bait. Records of the illegal use of poisoned baits were significantly associated with grouse moors, both nationally and within those regions where grouse moors predominated as a land-use. There was no evidence of a decline in records of poisoning on grouse moors between 1981 and 2000, even though poisoning incidents had declined in upland areas away from grouse moors
- b) records of illegal persecution of golden eagles (including poisoning, trapping, shooting) were also more common in those regions where grouse moor management predominated".

Hen harrier

Previous research into the hen harrier (Bibby and Etheridge, 1993; Etheridge *et al*, 1997) indicates that this bird is heavily persecuted on managed grouse moors, with productivity significantly lower in these areas compared with breeding attempts elsewhere in the uplands.

Whitfield *et al*, 2008, found good evidence that hen harrier killing and nest destruction was due to grouse moor interests. Human

interference was an important cause of breeding failures and was only recorded on land with an employed gamekeeper. Gamekeepers were implicated or confirmed as responsible for breeding failure due to interference. The study also highlighted that when human interference is prevalent and when the frequency of observer monitoring of harrier breeding attempts is low, then simple records of the number of observed failures (even if these could all be accurately ascribed to interference) will underestimate the actual number of failures due to interference.

In a repeat of the pattern of several recent years, in 2008, a significant number of hen harrier breeding attempts, particularly in south-eastern Strathclyde, failed suspiciously, with human interference strongly suspected. This evidence was uncovered through rigorous monitoring of the area by members of the local Raptor Study Groups and RSPB Scotland staff. Of particular concern is the fact that many of these failures occurred within the Muirkirk and North Lowther Uplands Special Protection Area (SPA), notified by the Scottish government due to its international importance for breeding hen harriers. SPAs, and the species they support, are required to be protected under European and domestic legislation.

Regardless of the number of recent confirmed records of illegal killing, the empirical evidence still shows the hen harrier to be continually absent from or declining in large areas of apparently suitable grouse moor habitat, including sites where it was well established in the recent past, for example in north and east Scotland (Summers *et al*, 2003). In a presentation to the SNH Species Management Conference in October, Thompson *et al* outlined a recent study which showed that, in 2008, in the whole of the UK, there were only five successful pairs of hen harriers on driven grouse moors, shot over during the preceding five years. This is in stark contrast to the expected 499 pairs that should be successful in this, their favoured habitat (Thompson *et al*, 2008).



Poisoned buzzard, Dumfries-shire, June 2008

Buzzard

This species continues to consolidate its population in much of lowland eastern and southern Scotland, despite this being an area that is still marred by illegal killing in some places. Fourteen buzzards were confirmed poisoned in 2008 (14 in 2007, 25 in 2006) and a further five were victims of other offences. They remain the most widely killed species of raptor.

The evidence that buzzard populations seem increasingly resilient to the effects of this illegal killing is one of the strongest empirical indicators of some overall long-term decline in general levels of illegal killing of raptors, particularly poisoning, although on a local level, problem areas still persist. There remain parts of the uplands where buzzards should be present, but are noticeably absent.

Peregrine

Scottish Raptor Study Group data consistently identify poorer breeding performance by peregrines on managed grouse moors than on other upland land-use areas. In a situation similar to that of the hen harrier, several breeding attempts in 2008 failed suspiciously, often with a concurrent disappearance of adult birds; in several cases, this was a repeat of several previous years' incidents at the same nest site. This pattern was particularly noticeable in Dumfries-shire, South Lanarkshire and the Borders.

Red kite

This species became extinct because of sustained killing in Scotland throughout the 19th century (Holloway, 1996); the red kite is currently being re-introduced in joint projects run by Scottish Natural Heritage and RSPB Scotland, with significant and welcome support from local communities, landowners and their staff. This work has been predominantly successful. However, the most substantial threat to this success comes from the poisoning and killing of the re-introduced birds, particularly in the north of Scotland.

The red kites' feeding behaviour as predominantly scavengers makes them extremely vulnerable to poison baits. Since the re-introduction of this species began in Scotland in 1989, a total of 58 birds have been confirmed as the victims of deliberate poisoning, with 12 victims found in 2007 alone. A further two poison abuse victims were found in 2008, with a third bird the victim of shooting.

Investigation and prosecutions

RSPB Scotland Investigations staff continued to liaise with all the Scottish Police forces, Scottish Government Rural Payments and Inspections Directorate (SGRPID) and other agencies in the provision of assistance, advice and personnel for follow up operations, particularly during the investigation of poisoning cases. In 2008, staff took part in joint operations with other agencies and the statutory authorities in Dumfries-shire, Ayrshire, Borders, Inverness-shire and Aberdeenshire.

So far, one 2008 case has resulted in a conviction.

- A Lanarkshire gamekeeper was convicted of taking a wild bird and failing to ensure its welfare at Culter Allers, Coulter, South Lanarkshire on 4 March 2008. At Lanark Sheriff Court on 1 October 2008, David Alexander Whitefield plead guilty to taking a buzzard under Section 1 (1) (A) of the Wildlife and Countryside Act 1981 and failing to take reasonable steps to ensure that an animal's needs were met under Section 24(1) of the Animal Health and Welfare (Scotland) Act 2006. He was fined £300.

In addition, one 2006 case was concluded in 2008.

- A Lanarkshire gamekeeper appeared at Lanark Sheriff Court on 11 November 2008, accused of killing a protected bird, positioning an

article to injure a wild bird and possession of a proscribed pesticide at Leadhills Estate on 27 September 2006. The charges against Andrew John Livingstone under Sections 1(1) (A), 5 (1) (A) and 15 (A) of the Wildlife and Countryside Act 1981, were found not proven.

A further case, dating from alleged offences in 2006, was concluded in early 2009.

- An Aberdeenshire gamekeeper appeared at Aberdeen Sheriff Court accused of possession of a proscribed pesticide at Clova Estate on 2 November 2006. Alexander Cowe was found not guilty of a charge under Section 15 (A) of the Wildlife and Countryside Act 1981.

Prosecution summary

In late 2008, RSPB Scotland carried out an analysis of prosecutions for offences relating to the illegal killing of birds of prey during 1998-2007. A total number of 298 cases involving illegal poison use and other offences targeting raptors occurred during the period. Twenty eight (9%) cases from the 298 went to court; 26 of these (93%) resulted in a "guilty" verdict on at least one of the charges faced. The remaining two cases were found "not proven". In addition, one conviction was overturned on appeal. The courts dealt with a total of 176 charges during these cases. "Not guilty" verdicts were returned for 96 (54%), "guilty" verdicts for 73 (41%), and "not proven" for 2 (1%).

Sentencing, other than in a few notable cases, has been very light – in contrast with penalties given for guilty verdicts for egg-collecting offences that have included jail sentences. Indeed, in 12 of 73 charges (16%) where a guilty verdict was reached, the accused was admonished or given an absolute discharge. Poisoning and illegal killing has a far greater impact on bird of prey populations than egg theft, but the courts have not translated this into sanctions when sentencing.

Cross compliance

In late 2007, a farmer near Lauder had £7,919 docked from his single farm payment for failing to meet the criteria of maintaining his land in Good Agricultural and Environmental Conditions (GAEC). This followed the conviction of his gamekeeper, George Aitken, for a number of offences, including possession and use of illegal poisons and use of illegal traps.

In August, a landowner at Glen Ogil estate in Angus had £107,650 taken off his single farm payment by the Scottish government, following the discovery in 2006 of poison baits and evidence of the same illegal poisons in vehicles, gamebags and other equipment used on the estate. The landowner concerned is appealing this decision.

In December, changes to cross compliance rules were made by the European Union, under the Common Agricultural Policy “Health check” process. This included the removal of some articles of the EU Birds Directive meaning that some non-selective methods of killing birds, such as poisoning, no longer feature. However, the articles forbidding the illegal use of pesticides as well as the illegal killing of wild birds both remain in force. The Scottish government criteria for assessing whether these particular requirements have been breached, and whether the subsidy recipient is implicated, remain unchanged. A single farm payment recipient implicated in the illegal poisoning, trapping and shooting of wild birds, or illegal use of pesticides, may still be liable to a penalty under cross-compliance rules, and lose some or all of their farm support payments.

Thematic review

In April 2008, the RSPB welcomed the publication of *Natural Justice*, a report presenting the findings of the joint thematic inspection by Her Majesty’s Inspectorate of Constabulary and Her Majesty’s Inspectorate of Prosecution of the arrangements in Scotland for preventing, investigating and prosecuting wildlife crime (<http://www.scotland.gov.uk/Resource/Doc/218661/0058716.pdf>). The report contained some 24 recommendations that were also widely welcomed and accepted by Scottish government. It is now a year since the report was published, and RSPB Scotland welcomes the developments with the Partnership Against Wildlife Crime Scotland (PAWS) in ensuring wildlife crime remains at the top of the political agenda. A significant number of the recommendations in the report are yet to be implemented; however, it is understood that progress will be reviewed shortly.

Bird of prey campaign

In 2008, the RSPB launched a three-year bird of prey campaign. This aims to foster a change of attitudes, by encouraging widespread condemnation of the illegal killing of birds of prey from all sectors of society. Hopefully, this will stimulate the government to promote more rigorous enforcement and novel legal mechanisms to bring pressure on the worst offenders. The recently-announced 2009 UK Wildlife Crime Priority to tackle “Raptor Persecution and Poisoning” is an encouraging step in the right direction. However, the priority will need to be accompanied by effective enforcement action on the ground to deliver its objective.

As part of the campaign, RSPB Scotland is asking people to sign the campaign pledge, which simply calls for an end to the illegal killing of birds of prey. In addition to thousands of concerned individuals, politicians and representatives of various countryside organisations have added their voices. Those who continue to flout the law damage not only bird of prey conservation, but also the reputation of the responsible members of the shooting community with whom RSPB has no quarrel.

The RSPB have also launched a confidential hotline to allow members of the public to report incidents of illegal killing of birds of prey on **0845 4663636**.

Conclusions

Sadly, in Scotland in 2008, the illegal killing of birds of prey continues. There is now an overwhelming weight of factual and scientific evidence that demonstrates the impact of illegal killing on the populations of some of our most magnificent bird species. It remains apparent that a small but significant minority of people who own, manage or are employed on some upland sporting estates in particular have no qualms about flouting the law. The use of illegal and highly toxic chemicals to lace baits placed in the open in our countryside indiscriminately risks the lives not just of wild birds and animals, but domestic pets and even potentially humans as well. It is time that the outdated approach of killing protected predatory birds was consigned to history, especially when legal methods, which are authorised under the General Licence, are now so widely available for land managers to employ to deal with problems from generalist predators such as foxes and crows.

What is evident, from long-term population studies and from anecdotal evidence, is that the victims of illegal killing documented in this, and previous reports, represent the tip of a significant iceberg. The chances of an incident being found are small; of a suspect being identified and charged remote; and of a successful conviction, seemingly negligible. The odds need to be changed so that the enforcement agencies are better resourced, the prosecutors more experienced and the sentences given to those convicted more meaningful. When this has happened, we might see a real decline in the illegal killing of our birds of prey.

Recommendations

The key to building on the high priority given by the Scottish government to tackling wildlife crime, of which the illegal killing of birds of prey is a key component, is the effective use of the legislation through robust enforcement. Because incidents involving rare species will, by their nature, be detected less often than those involving commoner species, enforcement priorities should recognize that the investigation of any incident involving a common species might represent the only opportunity to tackle a pattern of offending. Any consideration of the scale of illegal activity, and its impact on populations, must incorporate all available published research on the population dynamics of the affected species, as well as recognizing that a relatively low number of confirmed offences are directly witnessed.

We are committed to working with the representative bodies of game shooting interests and exemplar estates, to encourage good practice

and marginalise illegal activity. This should work in tandem with other Scottish government policies (such as cross compliance through the rural payments system) designed to act as a financial deterrent to illegal activity when “public goods” including birds of prey conservation have not been delivered in return for public subsidies, and wider awareness raising in key sectors.

RSPB Scotland recommends that:

- Scottish Chief Constables appoint at least one full-time Wildlife Crime Officer (WCO) – a serving police officer – in each Scottish force with a fully trained network of part-time WCOs in support (whilst still recognising the valuable contribution that full-time civilian WCOs do and should continue to contribute)
- Chief Constables ensure that middle managers within the police service understand the importance and significance of effective action against wildlife crime and allow both full-time and part-time WCOs the time and resources to work effectively and speedily once cases are reported
- there should be thorough consideration of revocation of firearms certificates for those convicted of wildlife crime offences
- the Scottish Courts use the powers granted by the Criminal Justice (Scotland) Act 2003 to jail those involved with serious wildlife crime offences
- the Scottish government should conduct a further review of the penalties available to the courts, and the use of these penalties in wildlife crime cases. We consider that levels of fines should be based on the damage that has been caused to the natural heritage (for example killing a rare or vulnerable species should attract higher fines)
- all cases of wildlife crime should be prosecuted by specialist Environmental Fiscals
- the network of specialist Environmental Fiscals should be increased and enhanced training provided
- the Crown Office Environmental Fiscals’ Forum should ensure that as many cases as possible proceed to trial with charges representing the ecological seriousness of cases
- the Crown Office Procurators Fiscal Forum should review cases that have stalled and learn lessons from cases that have failed
- the Scottish government and prosecutors must take steps to ensure the consistent application of rules on admissibility of evidence in order to ensure the considerable public benefits of prosecuting wildlife crime
- the Scottish government must ensure that the work of Science and Advice for Scottish Agriculture (SASA) and the Veterinary Laboratories Agency (VLA) continues to be supported via appropriate funding
- the list of proscribed chemicals listed in the Nature Conservation (Scotland) Act 2004 is reviewed regularly
- the Scottish Government and Rural Payments Inspectorate (SGRPID) must continue to investigate those in receipt of public land management payments, when wildlife crime offences are

committed, and assess whether breaches of cross compliance (and other relevant conditions) have occurred

- SGRPID continues to review the open general licences (which permit the control of "pest" species) to ensure they conform fully with the present conservation status and scientific knowledge of the alleged "problem species" concerned and with proper reference to the EU Birds and Habitats Directives
- the National Wildlife Crime Unit (NWCU) must be resourced appropriately to ensure the continuity of the Unit. Future NWCU actions should be targeted towards Scottish conservation and wildlife crime priorities
- there must be a clear link between the NWCU, WCO networks, partner organisations and Procurators Fiscal
- there should be a central system for the recording of wildlife crime incidents and prosecutions in Scotland
- the Partnership for Action Against Wildlife Crime (Scotland) (PAWS) should take a central role in providing advice to the Scottish government in implementing the findings of the Thematic Review of Wildlife Crime; all recommendations arising from the Thematic Review should be implemented in full
- representative bodies of land managers should lead from the front, working with the police by reporting crimes to stop illegal activity, condemning illegal practices and expelling any members prosecuted for wrongdoing.

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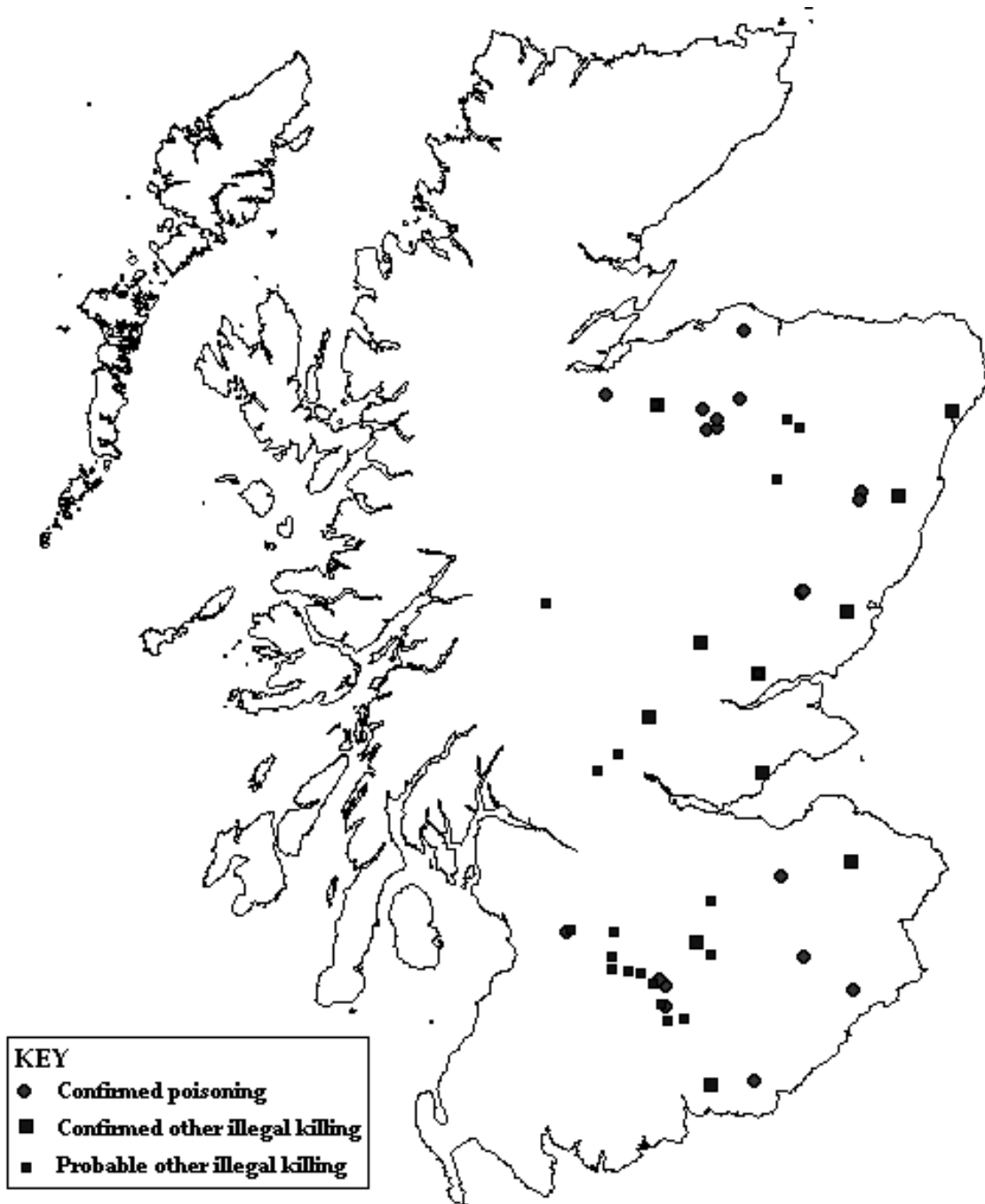
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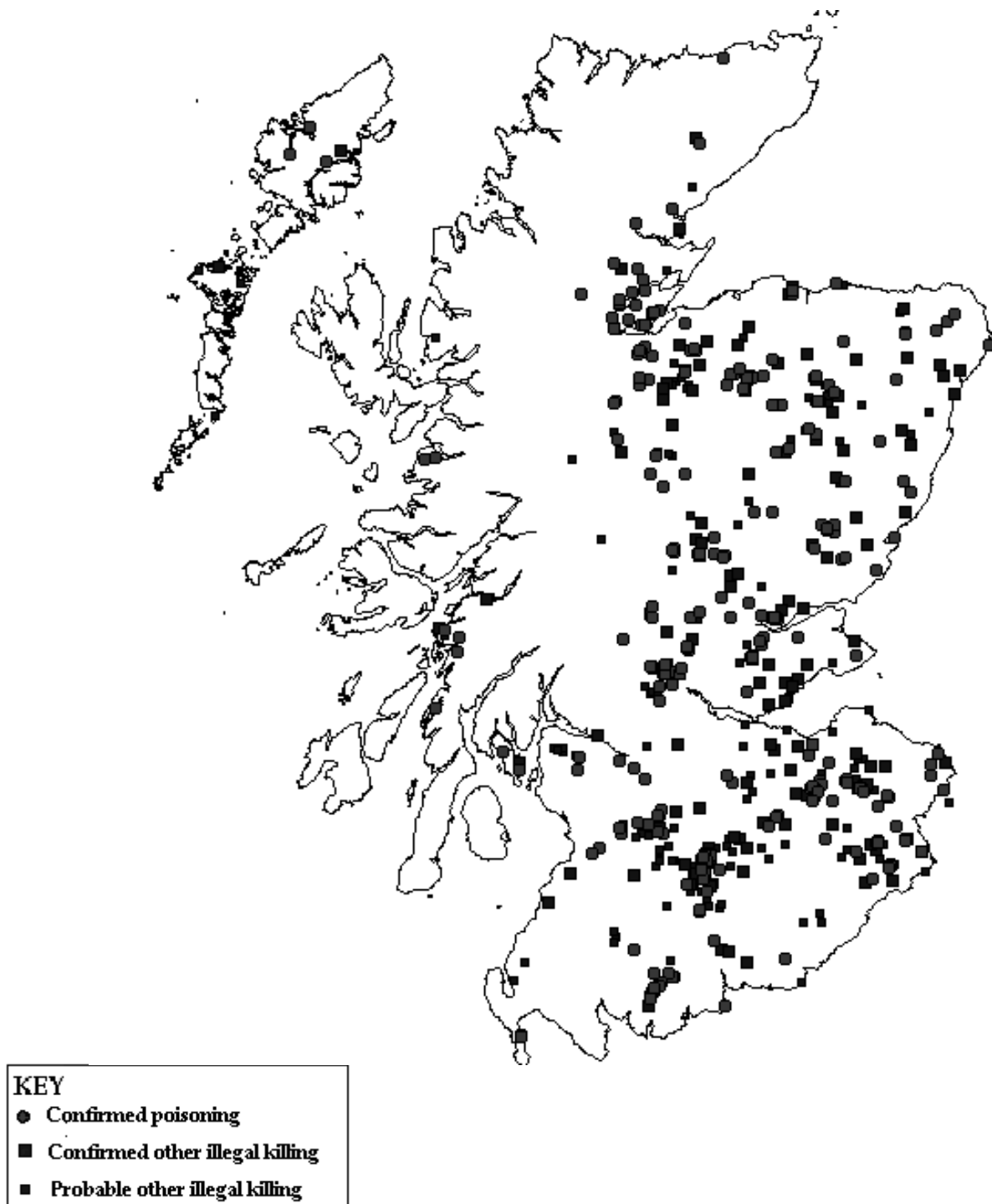
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Map 1: confirmed poisoning and confirmed and probable incidents of illegal killing of birds of prey in Scotland in 2008.



Map 3: confirmed poisoning and confirmed and probable incidents of illegal killing of birds of prey in Scotland in 1999 to 2008.



RSPB Scotland annually records incidents relating to bird crime. All wild bird crime incidents should be reported as soon as possible to your local police Wildlife Crime Officer (WCO) or the RSPB. Please call one of our offices below. If the matter is less urgent, you can report it online at www.rspb.org.uk/reportacrime

For more information on birds and the law, contact:

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RSPB Scotland is part of the RSPB, which speaks out for birds and wildlife, tackling the problems that threaten our environment. Nature is amazing – help us keep it that way.

We belong to BirdLife International, the global partnership of bird conservation organisations.



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www.rspb.org.uk/scotland

Hen harrier by Peter Cairns (rspb-images.com)

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