



Delegated Powers and Law Reform Committee

Helen Webster
Head of Cabinet, Parliament and
Governance Division
Scottish Government

T1.01
Chamber Office
EDINBURGH
EH99 1SP

Email only

DPLR.Committee@parliament.scot

4 May 2023

Dear Helen,

Wildlife Management and Muirburn (Scotland) Bill

The Delegated Powers and Law Reform Committee considered this Bill at its meeting on Tuesday, 2 May 2023 and agreed to write to you in relation to the following delegated powers:

- Section 10(5): power to amend the purposes for which a muirburn licence may be granted
- Section 18(2): power to amend the definitions of “peat” and “peatland”.

The Bill introduces a new requirement to obtain a licence to undertake muirburn on peatland. Such a licence can only be granted for limited “permitted purposes” which are listed in section 10(2)(b). Furthermore, a licence will only be granted if the licensing authority is satisfied that the making of muirburn is both necessary for the specified purpose and no other method of vegetation control is available. It follows that peatland is subject to stricter muirburn controls than other land.

Section 10(5)

Section 10(5) gives Scottish Ministers the power to amend the purposes for which a licence may be granted to undertake muirburn on peatland. As acknowledged in paragraph 42 of the DPM, “this power could be used to either relax or restrict further the purposes for which muirburn may lawfully be made on peatland”.

Section 18(2)

Section 18 defines peatland as “land where the soil has a layer of peat with a thickness of more than 40 centimetres” and section 18(2) gives Scottish Ministers

Error! Unknown document property name.



the power to amend this definition. It would be open to Scottish Ministers to make the definition more or less restrictive, thereby changing the amount of land subject to the stricter controls.

Given that (i) the definition of peatland is central to the system of muirburn licensing being introduced by the Bill, (ii) the restrictions on muirburn on peatland take a “precautionary approach”, (iii) the science on muirburn on peatland is contested, and (iv) exercise of these powers has the potential to significantly alter the effect of the legislation, the Committee: -

- **requests further explanation from the Scottish Government as to why it considers it appropriate for Ministers to be able to change these aspects of the Bill by regulation, either to further restrict or relax muirburn on peatland, after the Bill is passed by Parliament.**

It would be appreciated if you could email your response to the Delegated Powers and Law Reform Committee e-mail address above by **Monday 15 May**.

I look forward to hearing from you.

Yours sincerely

Greg Black

Clerk to the Delegated Powers and Law Reform Committee