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Delegated Powers and Law Reform Committee
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13 March 2024

Dear Stuart

WILDLIFE MANAGEMENT AND MUIRBURN (SCOTLAND) BILL - NEW POWER TO MAKE SUBORDINATE LEGISLATION AT STAGE 3

I am writing to inform you that I have lodged an amendment to the Wildlife Management and Muirburn (Scotland) Bill (“the Bill”) at Stage 3, which would provide Scottish Ministers with a regulation making power to establish an authorisation scheme to allow specified individuals, in specific circumstances, to use, supply or possess glue traps.

I have set out the background and policy rationale for the amendment below and the full text of the amendment is included in **Annex A** of this letter.

There has been significant and ongoing concern regarding the welfare implications of the use of rodent glue traps and the Scottish Animal Welfare Commission recommended an immediate ban on their sale and use in 2021. Provisions to ban the use and purchase of glue traps were included in the Bill, which is currently at Stage 3. The Stage 3 debate is scheduled for Tuesday 19 March 2024.

However, during the Rural Affairs and Island Committee Stage 1 evidence sessions, the Committee received mixed evidence regarding whether there are currently alternatives to glue traps that would provide as quick and effective a solution to a rodent problem in high-risk settings such as hospitals and food preparation areas.

Pest controllers state that a complete ban on rodent glue traps in Scotland will have an impact on public health, as they have no viable alternatives to glue traps when speed is crucial. They claim that longer rodent management programmes in high-risk settings will mean temporary closures of sensitive sites.

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At Stage 2, amendments were lodged by Edward Mountain MSP to introduce a licensing scheme for the continued use of glue traps by professional pest controllers that mirrored the approach taken by the UK Parliament in the Glue Traps (Offences) Act 2022). During Stage 2, the then Minister for Energy and the Environment, Gillian Martin MSP, expressed sympathy with the argument that there may be some settings where an infestation cannot be tolerated and where glue traps may need to be deployed as a last resort.

Due to the severe welfare implications arising from the use of glue traps and the wide range of alternative rodent control products available I believe that a full ban on these products, without any exceptions, is warranted.

The evidence from countries where glue traps have already been banned, such as the Republic of Ireland, and most recently Wales, demonstrates to me that full ban can be brought in without any negative impacts arising and that successful control of rodents in such setting such as hospitals is possible without the need to resort to glue traps and I see no reason to suggest that it will be any different in Scotland.

However having listened to the strong concerns expressed by some members of Parliament, about the potential impact on such a ban on public health, especially in places such as hospitals and food preparation facilities, where the use of alternative methods of rodent control such as rodenticides may not be possible, and similar arguments by the pest control industry to that effect, I believe it is prudent to include an enabling power in the Bill to create an authorisation scheme to allow the limited supply, use and possession of glue traps for the purposes of future proofing.

My intention therefore, is that the use of the enabling power would only be considered in the future, in the event that there was strong evidence to suggest a complete ban on the use of such produces was giving rise to significant public health concerns.

Subsection (2) of the amendment provides that any regulations made under subsection (1) must only allow authorisations where “*no other method of rodent control is practicable*”, and “*it is necessary or expedient to do so for the purposes of protecting public health*”.

In order to ensure that the regulations can place adequate conditions on any authorisations to reduce the risk that members of the public would be able to continue to purchase and use glue traps, subsection (3) of the amendment lists examples of the provisions that the regulations may make, including:

- the application process, and fees,
- the grant of an authorisation,
- the conditions of an authorisation, including the maximum duration, and the requirement to complete a training course,
- offences relating to false statements,
- the modification, suspension and revocation of an authorisation, and appeals to those decisions,
- determining training requirements, including the form and content, accreditation of courses and the minimum criteria for successful completion,
- delegation of functions to local authorities.

Subsection (5) specifies that the maximum penalty for any offences created by the regulations, on summary conviction, cannot exceed 12 months or a level 5 fine (or both).

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In order to give effect to the scheme, separate amendments to create exceptions to the prohibition of the use, supply and possession of glue traps have also been lodged, to exclude “authorised persons” from those offences. However, those exceptions will have no effect until the authorisation scheme has been created by regulations. The lodged amendments to insert the enabling power and exceptions to the offences relating to the use, supply and possession of glue traps have been included at Annex A).

In recognition of the fact that the power would allow the Scottish Ministers to create an authorisation scheme to provide an exemption to the offences in section 1 and 2 of the Bill, it is considered that the regulations should be subject to the affirmative procedure. It is considered that the affirmative procedure would provide an appropriate level of Parliamentary scrutiny and control.

The amendment also includes a further safeguard as before laying draft regulations before the Scottish Parliament as part of the affirmative procedure, the Scottish Ministers must consult local authorities, and anyone else they consider likely to be interested in, or affected, by the scheme.

The effect of these regulations taken together with the other amendments discussed above, if voted into the Bill, would allow an exemption to the prohibition of the use, possession and sale of glue traps in limited circumstances for people who have been authorised.

Should you require any further information in relation to this, please do not hesitate to ask.

Yours sincerely

JIM FAIRLIE

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Stage 3 lodged amendments relating to the glue trap enabling power

1 Jim Fairlie

In section 1, page 1, line 13, at end insert—

<() A person does not commit an offence under subsection (1) or (2) if the person is an authorised person.>

2 Jim Fairlie

In section 1, page 1, line 14, leave out <subsection (1) or (2)> and insert <this section>

3 Jim Fairlie

In section 1, page 2, line 1, after <section> insert <— “authorised person” means a person—

- (a) authorised by the scheme made under section (*Authorisation for use, supply or possession of glue trap*), and
- (b) acting in accordance with the person’s authorisation,
and references to the authorisation of a person are to be construed accordingly,>

4 Jim Fairlie

Leave out section 2

5 Jim Fairlie

After section 2, insert—

<Offence of supplying glue trap

- (1) It is an offence for a person, without reasonable excuse, to supply, or offer to supply, a glue trap.
- (2) It is an offence for a person to knowingly cause or permit an unauthorised person to commit an offence under subsection (1).
- (3) A person does not commit an offence under subsection (1) if the person is an authorised person
- (4) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £40,000 (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (5) In this section—
 - “authorised person” has the meaning given in section 1(5),
 - “glue trap” has the meaning given in section 1(5),
 - “supply” of a glue trap includes—
 - (a) selling it,

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- (b) exchanging it for a consideration other than money,
- (c) giving it as a prize or otherwise making a gift of it,
- (d) otherwise making the glue trap available.>

6 Jim Fairlie

After section 2, insert—

<Offence of possessing glue trap

- (1) It is an offence for a person, without reasonable excuse, to possess a glue trap.
- (2) A person does not commit an offence under subsection (1) if the person is an authorised person.
- (3) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £40,000 (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (4) In this section—
 - “authorised person” has the meaning given in section 1(5),
 - “glue trap” has the meaning given in section 1(5).>

11 Jim Fairlie

After section 3, insert—

<Authorisation for use, supply or possession of glue trap

- (1) The Scottish Ministers may, by regulations, make a scheme for the authorisation of the use, supply or possession of glue traps (“the scheme”)—
 - (a) by specified persons,
 - (b) in specified circumstances.
- (2) Regulations under subsection (1) must provide that a person may only be authorised under the scheme to use, supply or possess a glue trap if—
 - (a) it is necessary or expedient to do so for the purpose of protecting public health, and
 - (b) no other method of rodent control is practicable.
- (3) Regulations under subsection (1) may in particular—
 - (a) make provision about the application for authorisation under the scheme, including the payment of such reasonable fee as the Scottish Ministers may require in connection with an application,
 - (b) make provision for the form and content of an application, including the information that must be provided,
 - (c) make provision relating to the grant of an authorisation, including the criteria for granting an authorisation,

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- (d) specify the maximum period for which an authorisation may be granted,
 - (e) enable conditions to be attached to authorisations,
 - (f) create an offence in connection with the provision of false statements for the purposes of obtaining an authorisation,
 - (g) make provision relating to the modification, suspension and revocation of an authorisation,
 - (h) provide for an appeal to be made against a decision to refuse to grant authorisation, or to modify, suspend or revoke an authorisation,
 - (i) require an applicant to complete a training course,
 - (j) make provision relating to training courses, including—
 - (i) determining training requirements, such as— (A) the form and content of the training course,
 - (B) requiring a person providing training to meet specified criteria (such as having relevant experience or holding a particular qualification),
 - (ii) accrediting courses and the persons providing courses,
 - (iii) determining the minimum criteria for successful completion and how successful completion is to be recorded,
 - (k) enable the Scottish Ministers to delegate their functions under the scheme to local authorities.
- (4) The maximum penalty that may be provided for in regulations under subsection (1) creating an offence is, on summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) local authorities, and
 - (b) such other persons as they consider likely to be interested in, or affected, by the authorisation of the use, supply or possession of glue traps.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.
- (7) In this section—
- “glue trap” has the meaning given in section 1(5),
 - “specified” means specified in regulations made under subsection (1),
 - “supply” has the meaning given in section (*Offence of supplying glue trap*)(5).>