

Wildlife Management and Muirburn (Scotland) Bill — Stage 2

Section 1

Colin Smyth

- 106** In section 1, page 1, line 10, after <killing> insert <, restraining>

Colin Smyth

- 107** In section 1, page 1, line 13, at end insert—

<(2A) It is an offence for a person to knowingly cause or permit another person to use a glue trap—

- (a) for the purpose of killing, restraining or taking any animal other than an invertebrate, or
- (b) in a manner that is likely to cause bodily injury to any animal other than an invertebrate that comes into contact with it.>

Colin Smyth

- 108** In section 1, page 1, line 14, leave out <or (2)> and insert <, (2) or (2A)>

Section 3

Colin Smyth

Supported by: Christine Grahame

- 54A** As an amendment to amendment 54, line 7, after <snare> insert <, or other cable restraint,>

Colin Smyth

Supported by: Christine Grahame

- 54B** As an amendment to amendment 54, line 8, leave out <other than a wild bird>

Colin Smyth

Supported by: Christine Grahame

- 54C** As an amendment to amendment 54, line 9, after first <snare> insert <, or other cable restraint>

Colin Smyth

Supported by: Christine Grahame

- 54D** As an amendment to amendment 54, line 9, leave out <, other than a snare that is operated by hand,>

Colin Smyth

Supported by: Christine Grahame

- 54E** As an amendment to amendment 54, line 10, leave out <other than a wild bird>

Colin Smyth
Supported by: Christine Grahame

54F As an amendment to amendment 54, line 11, after <snare> insert <, or other cable restraint,>

Colin Smyth
Supported by: Christine Grahame

54G As an amendment to amendment 54, line 12, leave out <(other than a wild bird)>

Colin Smyth
Supported by: Christine Grahame

54H As an amendment to amendment 54, line 18, after <snare> insert <, or other cable restraint,>

Colin Smyth
Supported by: Christine Grahame

54I As an amendment to amendment 54, line 20, after first <snare> insert <, or other cable restraint>

Colin Smyth
Supported by: Christine Grahame

54J As an amendment to amendment 54, line 20, leave out <, other than a snare that is operated by hand,>

Section 4

Colin Smyth

109 In section 4, page 3, line 11, at end insert—

<(c) a trap for the purpose of taking wild mammals alive for the purpose of destruction.>

Colin Smyth

110 In section 4, page 3, line 32, leave out <reasonable> and insert <practicable>

Rachael Hamilton

111 In section 4, page 4, leave out lines 11 and 12

Rachael Hamilton

112 In section 4, page 4, line 14, leave out <, (c) or (d)> and insert <or (c)>

Colin Smyth

113 In section 4, page 4, line 23, at end insert—

<(aa) it is satisfied that the primary purpose for which the licence would be used is not to maintain or increase the number of wild birds available to be shot for sport,>

Colin Smyth

114 In section 4, page 4, line 23, at end insert—

<(ab) it is satisfied that the proposed use of traps is justified by evidence of harm caused by the species intended to be killed or taken, and that no method that is non-lethal or has a lower animal welfare impact would be effective to reduce that harm,>

Colin Smyth

115 In section 4, page 4, line 34, at end insert—

<(iiia) specify the maximum number of traps for which the licence holder may be responsible at any one time,

(iiib) specify the location (or locations) where the traps may be used and the procedure for amending the permitted location (or locations) if required,>

Colin Smyth

116 In section 4, page 4, line 37, leave out <10> and insert <5>

Colin Smyth

117 In section 4, page 4, line 37, at end insert—

<(3A) Every wildlife trap licence is subject to the condition that the licence holder must maintain records of the numbers and species of all wild birds and animals killed or taken in traps for which the holder is responsible and report these to the relevant authority on an annual basis.>

Colin Smyth

118 In section 4, page 4, line 37, at end insert—

<(3B) Every wildlife trap licence is subject to the condition that the use of traps under the licence must be undertaken in accordance with the highest possible standards of animal welfare.>

Beatrice Wishart

119 In section 4, page 5, line 27, at end insert—

<(c) where a licence is being suspended, specify in the notice the estimated duration of the suspension which, having regard to all of the circumstance of the case, must be reasonable.>

Colin Smyth

120 In section 4, page 6, line 13, after <trap> insert <(to include, in particular, independently validated guidance on the animal welfare impact of each type of trap)>

Colin Smyth

121 In section 4, page 6, line 13, at end insert—

<(ia) standards for—

- (A) assessing whether and when the use of traps is justified by evidence of harm caused by the species intended to be killed or taken, and
- (B) determining that no method that is non-lethal or has a lower animal welfare impact would be effective to reduce that harm.>

Section 6

Rachael Hamilton

122 In section 6, page 9, line 7, at end insert—

<() In section 22 (power to vary Schedules), in subsection (1)(a), after “Schedules A1 to 4” insert “, with the exception of Part 1B of Schedule 2”.>

Rachael Hamilton

123 In section 6, page 9, leave out subsection (3)

Rhoda Grant

124 In section 6, page 9, line 15, at end insert—

<() after subsection (4B) insert—

“(4C) Before making an order under section 22(1)(a) which adds any bird to, or removes any bird from, Part 1B of Schedule 2, the Scottish Ministers must—

- (a) lay a draft of the order before the Scottish Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess, and
- (b) before finalising the order, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to wildlife management for the time being appointed by virtue of the standing orders.

(4D) The Scottish Ministers must, when making the order to add any bird to, or remove any bird from, Part 1B of Schedule 2, lay a statement setting out—

- (a) details of the views mentioned in subsection (1)(b), and
- (b) the changes (if any) they have made to the order in response to such views and the reasons for those changes.”>

Section 7

Stephen Kerr

125 In section 7, page 9, leave out lines 29 to 35 and insert—

<(1) The relevant authority must grant a licence to the owner or occupier of an area of land for the purposes of the killing or taking of any type of bird included in Part 1B

Schedule 2 on the land (a “section 16AA licence”) if it is satisfied that the person is a fit and proper person, having regard in particular to the applicant’s compliance with the code of practice made in accordance with section 16AC.>

Rachael Hamilton

- 126 In section 7, page 10, leave out lines 5 and 6

Rachael Hamilton

- 127 In section 7, page 10, line 8, leave out <(e)> and insert <(d)>

Stephen Kerr

- 128 In section 7, page 10, line 8, at end insert—
- <(4A) The relevant authority must determine each application for a section 16AA licence within the period of 3 months beginning with the date on which the application was made.
 - (4B) Where the relevant authority fails to reach a final decision on the application before the expiry of the 3 month period referred to in subsection (4A), the licence is deemed to have been granted or renewed on the date of such expiry.
 - (4C) The deemed grant or renewal of a section 16AA licence under subsection (4B) has the same effect as a decision of the relevant authority to grant or renew a section 16AA licence.>

Stephen Kerr

- 129 In section 7, page 10, leave out line 17 and insert—
- <(b) takes effect on the earlier of—
 - (i) the date the application is granted by the relevant authority under subsection (1), or
 - (ii) the date the application is deemed to be granted by the relevant authority under subsection (4B).>

Colin Smyth

- 130 In section 7, page 10, line 19, leave out from <have> to end of line and insert <comply with all aspects of a code of practice, made in accordance with section 16AC, that are relevant to management of the area of land in question.>

Colin Smyth

- 131 In section 7, page 10, line 19, at end insert—
- <(6A) Every section 16AA licence is subject to the condition that the licence holder must maintain records of the numbers and species of all wild birds and animals killed or taken on the land to which the licence relates and report these to the relevant authority on an annual basis.>

Rachael Hamilton

- 132 In section 7, page 10, line 32, after <relates> insert <for the purposes of permitting the killing or taking of any type of bird included in Part 1B of Schedule 2 on the land>

Rhoda Grant

- 133 In section 7, page 10, line 32, after <relates> insert <who is under the direction of the licence holder>

Stephen Kerr

- 134 In section 7, page 11, line 2, at end insert—

<(8A) Before deciding to—

- (a) refuse to grant a licence,
- (b) refuse to renew an existing licence, or
- (c) modify, suspend or revoke an existing licence,

the relevant authority must comply with subsection (8B).

(8B) Before taking a decision under subsection (8A), the relevant authority must—

- (a) give to the applicant or licence holder, as the case may be, at least 14 days prior notice of its proposed decision and the reasons therefor, and
- (b) allow such person the opportunity to submit representations with respect to the proposed decision.>

Beatrice Wishart

- 135 In section 7, page 11, line 12, at end insert—

<(9A) Where the relevant authority has suspended a person's section 16AA licence, the notice given under subsection (9)(a) must specify the estimated duration of the suspension which, having regard to all of the circumstance of the case, must be reasonable.>

Rachael Hamilton

- 136 In section 7, page 12, line 7, at end insert—

<(4A) Where an appeal is taken under this section the sheriff may—

- (a) on the application of the appellant, and
- (b) if satisfied on the balance of convenience that it is appropriate to do so,

recall the decision of the relevant authority pending determination of the appeal.>

Rachael Hamilton

- 137 In section 7, page 12, line 28, at end insert—

<16ABA Section 16AA licence: compensation in respect of suspension

The Scottish Ministers must by regulations make a scheme for the making of payments by the Scottish Ministers to persons in respect of one or more of the following—

- (a) income losses incurred by persons as a result of their section 16AA licence being suspended under section 16AA(8),
- (b) non-income losses so incurred,
- (c) any other matters which relate either to the suspension or are provided for in the scheme.>

Colin Smyth

138 In section 7, page 12, leave out line 36 and insert—

- <(b) whether, when and how the taking or killing of any wild birds should be carried out, prioritising methods with the least negative animal welfare impact,>

Colin Smyth

139 In section 7, page 12, leave out line 37 and insert—

- <(c) whether, when and how predator control should be carried out, prioritising methods with the least negative animal welfare impact.>

Rachael Hamilton

85A As an amendment to amendment 85, line 15, leave out <suspected or>

Rachael Hamilton

140 In section 7, page 14, line 4, at end insert—

- <(f) regulations under section 16ABA.”>

After section 8

Rhoda Grant

141 After section 8, insert—

<Animal welfare inspectors’ powers: review

- (1) This section applies where the Scottish Ministers make regulations under section 8.
- (2) Within one year of the regulations coming into force, the Scottish Ministers must review the operation of the regulations.
- (3) The review must consider in particular whether, in relation to the offences mentioned in section 8(1)—
 - (a) the exercise of powers added by regulations made under section 8 has resulted in convictions,

- (b) the exercise of powers added by regulations made under section 8 has resulted in investigations or proceedings relating to an offence being compromised as a result of the involvement of a third sector body, and
 - (c) there is a need for additional policing resource as an alternative to the use of powers added by regulations made under section 8.
- (4) On completion of the review, the Scottish Ministers must—
- (a) prepare and publish a report of the review,
 - (b) lay a copy of the report before the Scottish Parliament,
 - (c) take such action as they consider appropriate.
- (5) In this section, “third sector body” means a body (whether or not formally constituted) established for purposes which consist of, or consist mainly of, providing benefits for society (but does not include a body established under an enactment).>

Rhoda Grant

142 After section 8, insert—

<Powers to inspect and investigate certain wildlife offences: review

- (1) Within one year of section (*Powers to inspect and investigate certain wildlife offences*) coming into force, the Scottish Ministers must review the operation of the section.
- (2) On completion of the review, the Scottish Ministers must—
 - (a) prepare and publish a report of the review,
 - (b) lay a copy of the report before the Scottish Parliament,
 - (c) take such action as they consider appropriate.
- (3) Where the Scottish Ministers do not intend to take any action in consequence of the review, the report must include a statement to this effect and the reasons why.>

Section 10

Colin Smyth

143 In section 10, page 14, line 34, leave out <moorland game or>

Rhoda Grant

144 In section 10, page 15, line 1, leave out <preventing, or reducing> and insert <managing fuel loads to prevent, or to reduce>

Rhoda Grant

145 In section 10, page 15, line 6, leave out <preventing, or reducing> and insert <managing fuel loads to prevent, or to reduce>

Rhoda Grant

146 In section 10, page 15, line 7, leave out <preventing, or reducing> and insert <managing fuel loads to prevent, or to reduce>

Rachael Hamilton

147 In section 10, page 15, leave out lines 21 and 22

Rachael Hamilton

148 In section 10, page 15, line 24, leave out <, (b)(iii) or (c)> and insert <or (b)(iii)>

After section 10

Rhoda Grant

149 After section 10, insert—

<Modifying purposes for muirburn: pre-laying procedure

- (1) Before laying regulations to modify the purposes for muirburn under section 10(5), the Scottish Ministers must—
 - (a) lay a draft of the regulations before the Scottish Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess, and
 - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to muirburn management for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying regulations to amend the purposes for muirburn, lay a statement setting out—
 - (a) details of the views mentioned in subsection (1)(b), and
 - (b) the changes (if any) they have made to the regulations in response to such views and the reasons for those changes.>

Section 11

Stephen Kerr

150 In section 11, page 16, leave out subsection (1) and insert—

- <(1) The Scottish Ministers must determine each application for a muirburn licence within the period of 3 months beginning with the date on which the application was made.
- (1A) Where the Scottish Ministers fail to reach a final decision on the application before the expiry of the 3 month period referred to in subsection (1), the muirburn licence is deemed to have been granted on the date of such expiry.
- (1B) The deemed grant of a muirburn licence under subsection (1A) has the same effect as a decision of the Scottish Ministers to grant a muirburn licence.>

Rhoda Grant

151 In section 11, page 16, line 9, after <available> insert <, taking into account the need to manage fuel loads to prevent, or to reduce the risk of, wildfires>

Stephen Kerr

- 152 In section 11, page 16, line 10, after <subsection (1)> insert <or (1A)>

Section 12

Stephen Kerr

- 153 In section 12, page 16, line 25, at end insert—
- <() take effect on the earlier of—
- (i) the date the application is granted by the relevant authority under subsection (1), or
 - (ii) the date the application is deemed to be granted by the relevant authority under subsection (1A).>

Ariane Burgess

- 154 In section 12, page 16, line 31, at end insert—
- <(2A) A muirburn licence granted to a person—
- (a) where the land to which the licence relates is peatland, and
 - (b) for purpose of—
 - (i) preventing, or reducing the risk of, wildfires causing damage to habitats or
 - (ii) preventing, or reducing the risk of, wildfires causing harm to people or damage to property,
- is subject to the condition in subsection (2B).
- (2B) The condition is that the muirburn must be carried out in a way that minimises damage to the peatland.>

Section 13

Stephen Kerr

- 155 In section 13, page 17, line 18, at end insert—
- <(1A) Before deciding to—
- (a) refuse to grant a licence,
 - (b) refuse to renew an existing licence, or
 - (c) modify, suspend or revoke an existing licence,
- the Scottish Ministers must comply with subsection (1B).
- (1B) Before taking a decision under subsection (1A), the relevant authority must—
- (a) give to the applicant or licence holder, as the case may be, at least 14 days prior notice of its proposed decision and the reasons therefor, and
 - (b) allow such person the opportunity to submit representations with respect to the proposed decision.>

Beatrice Wishart

- 156 In section 13, page 17, line 21, after <must> insert <—
()>

Beatrice Wishart

- 157 In section 13, page 17, line 22, at end insert—
<() where a licence is being suspended, specify the estimated duration of the suspension which, having regard to all of the circumstance of the case, must be reasonable.>

Rachael Hamilton

- 158 In section 13, page 17, line 25, leave out from <of> to <given> in line 26 and insert <within which an appeal under section (*Appeals relating to muirburn licences*) may be made has elapsed>

Rachael Hamilton

- 159 In section 13, page 17, line 25, leave out <14> and insert <21>

Rachael Hamilton

- 160 In section 13, page 17, line 40, after <relates> insert <for the purposes of making muirburn under the licence>

After section 13

Rachael Hamilton

- 161 After section 13, insert—
- <Appeals relating to muirburn licences**
- (1) A person may appeal to the appropriate sheriff against a decision of the Scottish Ministers to—
 - (a) refuse to grant to the person a muirburn licence,
 - (b) attach a condition to the person’s muirburn licence,
 - (c) modify, suspend or revoke the person’s muirburn licence.
 - (2) An appeal under this section must be made within the period of 21 days beginning with the day on which the decision appealed against was made.
 - (3) An appeal under this section is to be determined on the merits rather than by way of review.
 - (4) The sheriff hearing the appeal may consider any evidence or other matter, whether or not it was available at the time the Scottish Ministers made the decision being appealed against.
 - (5) Where an appeal is taken against a decision of the Scottish Ministers mentioned in subsection (1), the sheriff may—
 - (a) on the application of the appellant, and
 - (b) if satisfied on the balance of convenience that it is appropriate to do so,recall the decision of the Scottish Ministers pending determination of the appeal.

- (6) On determining the appeal, the sheriff may—
 - (a) dismiss the appeal, or
 - (b) give the Scottish Ministers such direction as the sheriff considers appropriate in respect of the decision that is the subject of the appeal.
- (7) The determination of the sheriff may be appealed against only on a point of law.
- (8) In this section “appropriate sheriff” means—
 - (a) in a case where the appellant resides in Scotland, a sheriff or summary sheriff of the sheriffdom in which the appellant resides, or
 - (b) in a case where the appellant resides outwith Scotland, a sheriff or summary sheriff of the sheriffdom or Lothian and Borders, sitting at Edinburgh.>

Rachael Hamilton

162 After section 13, insert—

<Compensation in respect of suspension of muirburn licences

- (1) The Scottish Ministers must by regulations make a scheme for the making of payments by the Scottish Ministers to persons in respect of one or more of the following—
 - (a) income losses incurred by persons as a result of their muirburn licence being suspended under section 13(1),
 - (b) non-income losses so incurred,
 - (c) any other matters which relate either to the suspension or are provided for in the scheme.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.>

Section 14

Rhoda Grant

163 In section 14, page 18, line 13, at end insert—

<(4A) The Scottish Ministers must lay the Muirburn Code prepared under subsection (1) and any revised code under subsection (3) before the Scottish Parliament.>

Rhoda Grant

164 In section 14, page 18, line 15, leave out from <and> to end of line 17

Rhoda Grant

165 In section 14, page 18, line 18, leave out <(5)(a)> and insert <(5)>

Rhoda Grant

166 In section 14, page 18, line 19, at end insert—

<(6A) Before complying with subsection (4A), the Scottish Ministers must publish a draft of the Muirburn Code or revised code (as the case may be) and consult such persons as they consider likely to be interested in or affected by the making of muirburn.

- (6B) The Scottish Ministers must, at the same time as complying with subsection (4A), lay before the Scottish Parliament a statement setting out—
- (a) the consultation process undertaken in order to comply with subsection (6A), and
 - (b) the ways in which views expressed during that process have been taken account of in preparing the Muirburn Code (or stating that no account has been taken of such views).>

Section 16

Ariane Burgess

- 167** In section 16, page 19, line 29, leave out <April> and insert <March>

After section 16

Rhoda Grant

- 168** After section 16, insert—

<Amendment to Muirburn season: pre-laying procedure

- (1) Before laying regulations to amend the dates of the muirburn season under section 16(2), the Scottish Ministers must—
 - (a) lay a draft of the regulations before the Scottish Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess, and
 - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to muirburn management for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying regulations to amend the dates of the muirburn season, lay a statement setting out—
 - (a) details of the views mentioned in subsection (1)(b), and
 - (b) the changes (if any) they have made to the regulations in response to such views and the reasons for those changes.>

Section 18

Ariane Burgess

- 169** In section 18, page 20, line 37, leave out from <has> to end of line 38 and insert <is composed of a layer of peat.>

Rachael Hamilton

- 170** In section 18, page 20, line 38, leave out <40 centimetres> and insert <50 centimetres—
<() in a single area of 0.5 hectares or more, or
() in two or more areas within 5 metres of each other with a combined area of 0.5 hectares or more.>

Colin Smyth

171 In section 18, page 20, line 38, leave out <40> and insert <30>

After section 18

Rhoda Grant

172 After section 18, insert—

<Amendments to the definition of “peat” and “peatland”: pre-laying procedure

- (1) Before laying regulations to amend the definition of “peat” or “peatland” under section 18(2), the Scottish Ministers must—
 - (a) lay a draft of the regulations before the Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess, and
 - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to muirburn management for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying regulations to amend the definition of “peat” or “peatland”, lay a statement setting out—
 - (a) details of the views mentioned in subsection (1)(b), and
 - (b) the changes (if any) they have made to the regulations in response to such views and the reasons for those changes.>