

Wildlife Management and Muirburn (Scotland) Bill — Stage 2

After section 3

Rachael Hamilton

53 After section 3, insert—

<Part 1 licensing principles

Licensing principles

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) After section 16 insert—

“16AZA Licensing principles

When exercising their functions under sections 12B, 12C, 12D, 12E, 12G, 16AA or 16AC, the Scottish Ministers (or, where the Scottish Ministers have delegated (by virtue of section 16A) their functions under any of those sections, Scottish Natural Heritage) must have regard to the following principles—

- (a) licensing should not place a disproportionate cost on applicants,
- (b) a licensing scheme should only be introduced where there is a legitimate need for one,
- (c) a licensing scheme should not put excessive pressure on Scottish Natural Heritage, or other relevant bodies,
- (d) the individual circumstances of those affected by a licensing scheme must be taken into account,
- (e) the licensing process should be constantly reviewed to ensure the application process is as efficient as possible.”.>

Gillian Martin

54 After section 3, insert—

<Snares

Prohibition of use of snares

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 11 (prohibition of certain methods of killing or taking wild animals)—
 - (a) for subsection (1)(a) and (aa) substitute—
 - “(ab) sets in position or otherwise uses a snare for the purpose of killing any animal other than a wild bird,
 - (ac) sets in position or otherwise uses a snare, other than a snare that is operated by hand, for the purpose of taking any animal other than a wild bird,
 - (ad) uses a snare which is of a nature or is placed (or both) so as to be likely to cause bodily injury to any animal (other than a wild bird) coming into contact with it,”
 - (b) subsection (1A) is repealed,

- (c) in subsection (2)—
 - (i) in paragraph (a), the words “or snare” are repealed,
 - (ii) after paragraph (a), insert—
 - “(aa) uses a snare for the purpose of killing any wild animal included in Schedule 6 or 6ZA,
 - (ab) uses a snare, other than a snare that is operated by hand, for the purpose of taking or restraining any wild animal included in Schedule 6 or 6ZA,”
 - (d) in subsection (3C), in the closing words, for “an order under subsection (1)(a)” substitute “regulations under subsection (3CA)”,
 - (e) after subsection (3C), insert—
 - “(3CA) The Scottish Ministers may by regulations specify types of snare for the purpose of subsection (3C).”.
- (3) Sections 11A to 11F are repealed.
- (4) In section 16 (power to grant licences)—
- (a) in subsection (3), in the opening words, the word “, 11C” is repealed,
 - (b) after subsection (3) insert—
 - “(3ZZA) The appropriate authority must not grant a licence for any purpose mentioned in subsection (3) that permits the use of a snare.”.
 - (c) in subsection (3ZA), in the opening words, in both places they occur, the words “or snare” are repealed,
 - (d) in subsection (3ZB)—
 - (i) in paragraph (a), the words “or snare” are repealed,
 - (ii) in paragraph (b), the words “or snare” are repealed,
 - (iii) in paragraph (c), the words “or snare” are repealed,
 - (e) in subsection (3ZC), in both places they occur, the words “or snare” are repealed,
 - (f) in subsection (3ZD), in both places they occur, the words “or snare” are repealed,
 - (g) in subsection (3ZE), in paragraph (a), the words “and snares” are repealed,
 - (h) in subsection (3ZG), in the opening words, the words “or snare” are repealed,
 - (i) in subsection (3ZH), in paragraph (a), the words “or snare” are repealed,
 - (j) in subsection (3ZI)—
 - (i) in paragraph (a), the words “or snares” are repealed,
 - (ii) in paragraph (b), the words “or snares” are repealed,
 - (iii) in paragraph (c), the words “or snares” are repealed.
- (5) In section 17—
- (a) in the opening words, the words “, an identification number under section 11A(4)” are repealed,
 - (b) the title of the section becomes “**False statements made for obtaining registration or licence etc.**”.

- (6) In section 21 (penalties)—
- (a) in subsection (1A), paragraphs (e) to (g) are repealed,
 - (b) in subsection (1C), paragraph (e) is repealed.
- (7) In section 26 (regulations, orders, notices etc.)—
- (a) in subsection (2), at the end of paragraph (e) (as inserted by section 7(5)(a) of this Act) insert “; and
 - (f) regulations under section 11(3CA),”;
 - (b) in subsection (3), at the end of paragraph (e) (as inserted by section 7(5)(b) of this Act) insert “; or
 - (f) regulations under section 11(3CA),”.>

Section 4

Gillian Martin

55 In section 4, page 3, line 25, at end insert—

<(5A) A person who, without reasonable excuse—

(a) tampers with a trap so that it no longer complies with the requirements of this section, or

(b) disarms or destroys a trap to which this section applies,

is guilty of an offence.

(5B) A person who knowingly causes or permits another person to commit an offence under subsection (5A) is guilty of an offence.>

Gillian Martin

56 In section 4, page 4, line 12, at end insert—

<(e) include evidence that the applicant has completed a training course approved under section 12E in respect of the type of trap in question.>

Rachael Hamilton

57 In section 4, page 6, line 33, at end insert—

<12FA Offence of damage to or removal of wildlife trap

A person who removes, intentionally damages or otherwise interferes with a wildlife trap used in accordance with the requirements of section 12A without the authorisation of the licence holder is guilty of an offence.>

Rachael Hamilton

58 In section 4, page 7, line 31, at end insert—

<(gc) section 12FA,”.>

Gillian Martin

59 In section 4, page 7, line 35, leave out <; and>

Gillian Martin

60 In section 4, page 7, line 39, leave out <; and>

Section 6

Gillian Martin

61 In section 6, page 8, line 35, at end insert—

<(1C) Where subsection (1D) applies, a person does not commit an offence under section 1 by reason of killing or taking a bird included in Part 1B of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.

(1D) This subsection applies where—

- (a) the bird was killed or taken through the use of a bird of prey, or injured in an attempt to do so,
- (b) either—
 - (i) the person who killed or injured it had a legal right, or permission, to kill such a bird, or
 - (ii) the person who took it had a legal right, or permission, to take such a bird, and
- (c) in the case where the person subsequently killed the injured bird, the person took all reasonable steps to kill it in a way that caused it the minimum possible suffering.”,>

Section 7

Rachael Hamilton

62 In section 7, page 10, line 15, after <any> insert <reasonable>

Rachael Hamilton

63 In section 7, page 10, line 17, leave out <1 year> and insert <10 years>

Rachael Hamilton

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

<(8A) A section 16AA licence may be suspended for a period up to a maximum of 18 weeks.>

Rachael Hamilton

65 In section 7, page 11, line 6, after <revocation,> insert <along with the reasons therefor>

Rachael Hamilton

- 66 In section 7, page 11, leave out lines 9 to 12 and insert <the period within which an appeal under section 16AB(2)(c) may be made.>

Gillian Martin

- 67 In section 7, page 11, line 12, at end insert—
<(9A) A licence holder whose section 16AA licence is suspended is to be treated as not having a section 16AA licence for the duration of the suspension.>

Rachael Hamilton

- 68 In section 7 page 11, leave out lines 28 to 32

Gillian Martin

- 69 In section 7, page 13, line 39, leave out <; and>

Gillian Martin

- 70 In section 7, page 14, line 3, leave out <; or>

Section 8

Gillian Martin

- 71 Leave out section 8 and insert—
- <Powers to inspect and investigate certain wildlife offences**
- (1) The Animal Health and Welfare (Scotland) Act 2006 is amended as follows.
- (2) In section 49 (vets, inspectors and constables)—
- (a) after subsection (2) insert—
- “(2A) A local authority may not appoint a person as an inspector under subsection (2)(b) for the purposes of paragraph 5A of schedule 1.”,
- (b) in subsection (3), for “subsection (2)(b)” substitute “subsections (2)(b) and (2A)”.
- (3) In section 51 (regulations), after subsection (3) insert—
- “(4) For the avoidance of doubt, in this section “this Part” includes schedule 1.”.
- (4) In schedule 1 (powers of inspectors and constables for Part 2), after paragraph 5 insert—
- “Supplementary powers of inspectors: evidence gathering in connection with wildlife offences*
- 5A(1) An inspector, having entered non-domestic premises in exercise of a relevant power, may search for, examine and seize any thing tending to provide evidence of the commission of, or participation in, a relevant offence.

(2) In this paragraph—

“relevant offence” is an offence under—

(a) the following provisions of the Wildlife and Countryside Act 1981—

- (i) section 1 (protection of wild birds etc.),
- (ii) section 5 (prohibition of certain methods of killing or taking wild birds),
- (iii) section 6 (sale etc. of wild birds),
- (iv) section 7 (registration of certain captive birds),
- (v) section 8 (protection of captive birds),
- (vi) section 9 (protection of certain wild animals),
- (vii) section 10A (protection of wild hares),
- (viii) section 11 (prohibition of certain methods of killing or taking wild animals),
- (ix) section 11G (prevention of poaching: wild hares, rabbits etc.),
- (x) section 11I (sale, possession, etc. of wild hares, rabbits etc.),
- (xi) section 12A (requirements for use of traps),
- (xii) section 12F (authorisation from landowners etc. to use traps),
- (xiii) section 15A (possession of pesticides),

(b) section 1 or 2 of the Wildlife Management and Muirburn (Scotland) Act 2024,

“thing” includes any animal (including the carcase of an animal), equipment or document.

(3) The Scottish Ministers may by regulations modify the definition of “relevant offence” in sub-paragraph (2).”.>

Section 13

Rachael Hamilton

72 In section 13, page 17, line 12, at beginning insert <subject to subsection (1A),>

Rachael Hamilton

73 In section 13, page 17, line 18, at end insert—

<(1A) Subsection (1)(c) does not apply where the offence relates to whether or not land is peatland.>

Rachael Hamilton

74 In section 13, page 17, line 22, at end insert—

<() A muriburn licence may be suspended for a period up to a maximum of 8 weeks.>

After section 13

Rachael Hamilton

75 After section 13, insert—

<Principles to be applied

When exercising their functions under sections 10, 11, 12, and 13, the Scottish Ministers (or, where the Scottish Ministers have delegated (by virtue of section 17) their functions under any of those sections, Scottish Natural Heritage) must have regard to the following principles—

- (a) licensing should not place a disproportionate cost on applicants,
- (b) a licensing scheme should only be introduced where there is a legitimate need for one,
- (c) a licensing scheme should not put excessive pressure on Scottish Natural Heritage, or other relevant bodies,
- (d) the individual circumstances of those affected by a licensing scheme must be taken into account,
- (e) the licensing process should be constantly reviewed to ensure the application process is as efficient as possible.>

Section 18

Gillian Martin

76 In section 18, page 20, leave out lines 29 and 30

Gillian Martin

77 In section 18, page 20, line 38, at end insert—

- <() In this Part, references to the making of muirburn include references to the setting of fire to, or the burning of, any heath or muir.>