

Wildlife Management and Muirburn (Scotland) Bill — Stage 3

Section 1

Jim Fairlie

1 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.>

Jim Fairlie

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

Jim Fairlie

3 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,>

Section 2

Jim Fairlie

4 Leave out section 2

After section 2

Jim Fairlie

5 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,
 - (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.>

Jim Fairlie

- 6 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).>

Section 3

Jim Fairlie

- 7 In section 3, page 2, line 18, leave out <or 2> and insert <, (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*)>

Jim Fairlie

- 8 In section 3, page 2, line 19, after <trap> insert <—
()>

Jim Fairlie

- 9 In section 3, page 2, line 19, at end insert <, or
() that is in the possession of the person.>

Jim Fairlie

- 10 In section 3, page 2, line 27, leave out <or 2> and insert <, (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*)>

After section 3

Jim Fairlie

- 11 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,
 - (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).>

Section 3A

Jim Fairlie

12 In section 3A, page 3, line 26, at end insert—

<() in subsection (1A)—

- (i) the word “and” immediately following paragraph (a) is repealed,
- (ii) after paragraph (b) insert—

- “(c) must not grant a licence for any purpose mentioned in subsection (1) that permits the use of a snare to kill a wild bird, and
- (d) must not grant a licence for any purpose mentioned in subsection (1)(cb) to (k) that permits the use of a snare to take a wild bird.”.>

Section 4

Jim Fairlie

13 In section 4, page 8, line 7, and end insert—

<(aa) require that any fee payable in connection with a course is reasonable,>

Section 6

Rhoda Grant

14 In section 6, page 11, line 23, 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 60 days, of which no fewer than 30 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

Jim Fairlie

- 15** In section 7, page 14, line 4, leave out <the decision appealed against was made> and insert <notice of the decision being appealed against was given>

Jim Fairlie

- 16** In section 7, page 14, line 9, at end insert—
- <() Where a summary sheriff is hearing an appeal, the summary sheriff is to have the same power to make an interim order under section 88(1) of the Courts Reform (Scotland) Act 2014 as a sheriff hearing the appeal would have.>

After section 8A

Rhoda Grant

- 17** After section 8A, insert—
- <Powers to inspect and investigate certain wildlife offences: review>**
- (1) Within five years of section 8A coming into force, the Scottish Ministers must review the operation of the section.
 - (2) The review must consider in particular whether, in relation to relevant offences—
 - (a) the exercise of powers under paragraph 5A of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act) has resulted in convictions,
 - (b) the exercise of powers under paragraph 5A of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act) has resulted in investigations or proceedings related to a relevant 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 under paragraph 5A of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act).
- (3) 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.
- (4) 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.
- (5) In this section—
 - “relevant offence” means an offence mentioned in paragraph 5A(2) of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act),
 - “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).>

Section 9

Jim Fairlie

18 In section 9, page 17, line 24, at end insert—

- <() It is not an offence under subsection (2) for a person to make muirburn on land to which a muirburn licence relates if muirburn is made in connection with the person’s completion of a training course approved under section 13A.>

Section 10

Jim Fairlie

19 In section 10, page 17, line 36, at end insert—

- <() preventing, or reducing the risk of, wildfires causing damage to habitats,>

After section 10

Rhoda Grant

20 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 60 days, of which no fewer than 30 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 12

Alasdair Allan

- 21** In section 12, page 19, line 31, at end insert—
- <() complete a training course approved under section 13A before making muirburn,>

Section 13A

Jim Fairlie

- 22** In section 13A, page 21, line 1, leave out <require> and insert <requiring>

Jim Fairlie

- 23** In section 13A, page 21, line 2, at end insert—
- <() require that any fee payable in connection with a course is reasonable,>

Section 14

Rhoda Grant

- 24** In section 14, page 21, line 8, leave out <The Scottish Ministers> and insert <Scottish Natural Heritage>

Rhoda Grant

- 25** In section 14, page 21, line 14, leave out <The Scottish Ministers> and insert <Scottish Natural Heritage>

Rhoda Grant

- 26** In section 14, page 21, leave out subsections (4) to (6) and insert—
- <(4A) Before preparing or revising the Muirburn Code, Scottish Natural Heritage must consult any such person as they consider likely to be interested in or affected by the making of muirburn.

- (5A) Scottish Natural Heritage must submit a proposed Muirburn Code (or a proposed revision) to the Scottish Ministers and, on receiving it, the Scottish Ministers may—
- (a) approve it, with or without modifications, or
 - (b) reject it.
- (6A) Where the Scottish Ministers reject a proposed Muirburn Code (or a proposed revision) under subsection (5A)(b) above they may either instruct Scottish Natural Heritage to submit a new Muirburn Code (or revision) or they may substitute a new Muirburn Code (or revision) of their own devising.
- (6B) Any Muirburn Code or revision must—
- (a) be laid before the Scottish Parliament, and
 - (b) specify the date on which it is to come into effect (such date to be at least 40 days after it is so laid, disregarding any period during which the Scottish Parliament is dissolved or in recess).
- (6C) The Scottish Parliament may, before the Muirburn Code or revision comes into effect, resolve that it is not to come into effect.
- (6D) The Scottish Ministers must publish the Muirburn Code (or any revision) no later than the day before the Muirburn Code (or revision) is to come into effect.>

After section 16

Rhoda Grant

27 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 60 days, of which no fewer than 30 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 17

Rhoda Grant

28 In section 17, page 23, leave out lines 25 and 26.

Section 20

Jim Fairlie

- 29 In section 20, page 25, line 8, leave out <2> insert <(Offence of supplying glue trap), (Offence of possessing glue trap)>

Jim Fairlie

- 30 In section 20, page 25, line 11, leave out <2> insert <(Offence of supplying glue trap), (Offence of possessing glue trap)>

Jim Fairlie

- 31 In section 20, page 25, line 31, leave out <2> insert <(Offence of supplying glue trap), (Offence of possessing glue trap)>

After section 21

Jim Fairlie

- 32 After section 21, insert—

<Powers of local weights and measures authorities

The schedule makes provision about the powers of a local weights and measures authority (and its officers) to enforce the offences under sections *(Offence of supplying glue trap)* and *(Offence of possessing glue trap)* in its area and related matters.>

Jim Fairlie

- 33 After section 21, insert—

<Offence of obstructing officer of local weights and measures authority

- (1) It is an offence for a person to—
 - (a) intentionally obstruct an officer of a local weights and measures authority who is exercising powers under the schedule,
 - (b) intentionally fail to comply with any requirement made of the person by an officer of a local weights and measures authority under paragraph 9, 10 or 12 of the schedule,
 - (c) fail, without reasonable cause, to give an officer of a local weights and measures authority any other assistance or information which the officer may reasonably require for the purposes of the exercise of the officer's powers under the schedule.
- (2) It is an offence for a person, in giving any information that is required of the person by virtue of subsection (1)(c)—
 - (a) to make any statement that the person knows is false in a material particular, or
 - (b) recklessly to make a statement that is false in a material particular.
- (3) A person who commits an offence under this section is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale (or both).>

Jim Fairlie

34 After section 21, insert—

<Offence of impersonating officer of a local weights and measures authority

- (1) It is an offence for a person who is not an officer of a local weights and measures authority to purport to act as such an officer in the exercise of powers under the schedule.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.>

Section 22

Jim Fairlie

35 In section 22, page 26, line 17, leave out <or 2> and insert <, (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*)>

After section 28

Jim Fairlie

36 After section 28, insert—

<SCHEDULE

(introduced by section (Powers of local weights and measures authorities))

INVESTIGATORY POWERS OF A LOCAL WEIGHTS AND MEASURES AUTHORITY

General

- 1 (1) A local weights and measures authority (and its officers) may exercise the powers under this schedule for the purpose of ascertaining whether an offence under section (*Offence of supplying glue trap*) (offence of supplying glue trap) or (*Offence of possessing glue trap*) (offence of possessing glue trap) has been, or is being, committed.
 - (2) A local weights and measures authority (and its officers) may exercise the power under paragraph 8 (power to seize and retain items) in relation to—
 - (a) an item which an officer of the authority reasonably suspects may disclose (by means of testing or otherwise) the commission of an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*),
 - (b) an item which an officer of the authority reasonably suspects is liable to forfeiture under this Act, and
 - (c) an item which an officer of the authority reasonably suspects may be required as evidence in proceedings for an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*).
 - (3) A local weights and measures authority (and its officers) may not exercise the power under paragraph 9 (powers in relation to documents) or paragraph 11 (power of entry with warrant) for the purpose mentioned in sub-paragraph (1) unless an officer of the authority reasonably suspects that an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*) has been, or is being, committed.
- 2 An officer of a local weights and measures authority (or a person acting under the direction of an officer) does not commit an offence under section (*Offence of supplying glue trap*)

or (*Offence of possessing glue trap*) if the supply or possession of the glue trap is in connection with the officer's duties under this Act.

3 In this schedule, "glue trap" has the meaning given in section 1(5).

Power to purchase glue trap

- 4 (1) An officer of a local weights and measures authority may—
- (a) make a purchase of a glue trap, or
 - (b) direct or enter into an agreement with a person to secure the acquisition or supply of such a glue trap.
- (2) For the purpose of exercising the power under sub-paragraph (1), the officer may—
- (a) at any reasonable time, enter premises to which the public has access (whether or not the public has access at that time), and
 - (b) inspect any product on the premises which the public may inspect.
- (3) The power of entry in sub-paragraph (2) may be exercised without first giving notice or obtaining a warrant.
- (4) In this paragraph, "premises" includes any—
- (a) land or building,
 - (b) vehicle, vessel, trailer, aircraft or hovercraft,
 - (c) tent or moveable structure,
- except where the premises are used wholly or mainly as a private dwelling.

Power to observe carrying on of business etc.

- 5 (1) An officer of a local weights and measures authority may enter premises to which the public has access in order to observe the carrying on of a business on those premises.
- (2) The power under sub-paragraph (1) may be exercised at any reasonable time (whether or not the public has access at that time).
- (3) The power of entry under sub-paragraph (1) may be exercised without first giving notice or obtaining a warrant.
- (4) In this paragraph, "premises" includes any—
- (a) land or building,
 - (b) vehicle, vessel, trailer, aircraft or hovercraft,
 - (c) tent or moveable structure,
- except where the premises are used wholly or mainly as a private dwelling.

Power to enter premises without warrant

- 6 (1) An officer of a local weights and measures authority may enter premises at any reasonable time.
- (2) In the case of a routine inspection, the power of entry in sub-paragraph (1) may only be exercised if a notice has been given to the occupier of the premises in accordance with the requirements in sub-paragraph (3), unless sub-paragraph (4) applies.

- (3) Those requirements are that—
- (a) the notice is in writing and is given by the officer,
 - (b) the notice sets out why the entry is necessary and indicates the nature of the offence under section (*Offence of obstructing officer of local weights and measures authority*) (offence of obstructing officer of local weights and measures authority), and
 - (c) there are at least two working days between the date of receipt of the notice and the date of entry.
- (4) A notice need not be given if the occupier has waived the requirement to give notice.
- (5) In this paragraph “routine inspection” means an exercise of the power under sub-paragraph (1) other than where—
- (a) the power is exercised by an officer who reasonably suspects that an offence has been, or is being, committed under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*), or
 - (b) the officer reasonably considers that to give notice in accordance with sub-paragraph (2) would defeat the purpose of the entry.
- (6) If an officer enters premises under sub-paragraph (1) that are occupied, otherwise than in the course of a routine inspection, the officer must provide to an occupier a document that—
- (a) sets out why the entry is necessary, and
 - (b) indicates the nature of the offence under section (*Offence of obstructing officer of local weights and measures authority*).
- (7) If an officer enters premises under sub-paragraph (1) that are occupied, the officer must produce evidence of the officer’s identity and authority to an occupier.
- (8) An officer need not comply with sub-paragraph (6) or (7) if it is not reasonably practicable to do so.
- (9) Proceedings resulting from the exercise of the power under sub-paragraph (1) are not invalid merely because of a failure to comply with sub-paragraph (6) or (7).
- (10) An officer entering premises under sub-paragraph (1) may be accompanied by such persons, and may take onto the premises such equipment, as the officer considers necessary.
- (11) In this paragraph—
- “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises,
- “premises” includes any—
- (a) land or building,
 - (b) vehicle, vessel, trailer, aircraft or hovercraft,
 - (c) tent or moveable structure,
- except where the premises are used wholly or mainly as a private dwelling,
- “working day” means any day other than—
- (a) Saturday or Sunday,
 - (b) Christmas Day or Good Friday, or

- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.

Power to inspect and test glue trap

- 7 (1) An officer of a local weights and measures authority may—
 - (a) inspect a glue trap or an item suspected to be a glue trap on the premises,
 - (b) arrange for a glue trap or an item suspected to be a glue trap to be tested (and may seize and retain the item under paragraph 8).
- (2) Inspection and testing under this paragraph may be carried out only for the purposes of determining whether or not an item is a glue trap.

Power to seize and retain items

- 8 (1) An officer of a local weights and measures authority may seize and retain an item other than a document (for which see paragraph 9).
- (2) An officer seizing an item under this paragraph from premises which are occupied must produce evidence of the officer's identity and authority to an occupier of the premises before seizing it.
- (3) The officer need not comply with sub-paragraph (2) if it is not reasonably practicable to do so.
- (4) An officer seizing an item under this paragraph must take reasonable steps to—
 - (a) inform the person from whom it is seized that it has been seized, and
 - (b) provide that person with a written record of what has been seized.
- (5) An item seized under this paragraph (except an item seized for the purpose in paragraph 1(2)(b)) may not be detained—
 - (a) for a period of more than 3 months beginning with the day on which it was seized, or
 - (b) where the item is reasonably required to be retained for a longer period by the officer for a purpose for which it was seized, for longer than it is required for that purpose.

Powers in relation to documents

- 9 (1) An officer of a local weights and measures authority may, at any reasonable time—
 - (a) require a person who is, or is suspected of, offering to supply glue traps to the public in the course of a business ("the trader"), an employee of the trader or any other person acting on behalf of the trader, to produce any document relating to the trader's business to which the trader, employee or other person has access,
 - (b) take copies of, or copies of any entry in, any such document,
 - (c) seize and retain any such document which the officer reasonably suspects may be required as evidence.
- (2) The powers in sub-paragraph (1) include power to require the trader, employee or other person to give an explanation of the document.
- (3) Where a document required to be produced under sub-paragraph (1) contains information recorded electronically, the power under that sub-paragraph includes power to require the

production of a copy of the document in a form in which it can easily be taken away and in which it is visible and legible.

- (4) This paragraph does not permit an officer to require a person to create a document other than as described in sub-paragraph (3).
- (5) An officer seizing a document under this paragraph from premises which are occupied must produce evidence of the officer's identity and authority to an occupier of the premises before seizing it.
- (6) The officer need not comply with sub-paragraph (5) if it is not reasonably practicable to do so.
- (7) An officer seizing a document under this paragraph must take reasonable steps to—
 - (a) inform the person from whom it is seized that it has been seized, and
 - (b) provide that person with a written record of what has been seized.
- (8) This paragraph does not permit an officer to require a person to produce or seize any document which the person would be entitled to refuse to produce in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (9) In sub-paragraph (8), "communications" means—
 - (a) communications between a professional legal adviser and the adviser's client, or
 - (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.
- (10) In this paragraph, "occupier", in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises.

Power to break open container etc.

- 10 (1) An officer of a local weights and measures authority may, for the purpose of exercising the powers under paragraph 7, 8 or 9, require a person with authority to do so to—
 - (a) break open any container, or
 - (b) access any electronic device in which information may be stored or from which it may be accessed.
- (2) Where a requirement under sub-paragraph (1) has not been complied with, the officer may, for the purpose of exercising any of the powers in paragraph 9—
 - (a) break open the container, or
 - (b) access the electronic device.
- (3) Sub-paragraph (1) or (2) applies if and to the extent that the exercise of the power under that sub-paragraph is reasonably necessary for the purposes for which that power may be exercised.
- (4) In this paragraph, "container" means anything in which an item or document may be stored.

Power of entry with warrant

- 11 (1) A sheriff may grant a warrant under this section authorising an officer of a local weights and measures authority to enter premises if the sheriff is satisfied, by evidence on oath, that—
- (a) there are reasonable grounds for suspecting—
 - (i) that an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*) has been, or is being, committed at the premises, or
 - (ii) that there is an item or document on the premises that the officer has the power to inspect or require to be produced, and
 - (b) one of the following conditions is met—
 - (i) access to the premises has been or is likely to be refused and notice of the officer's intention to apply for a warrant under this paragraph has been given to the occupier of the premises,
 - (ii) it is likely that items or documents on the premises would be concealed or interfered with if notice of entry on the premises were given to the occupier of the premises, or
 - (iii) the premises are unoccupied or the occupier of the premises is absent and it might defeat the purpose of the entry to wait for the occupier's return.
- (2) A warrant granted under this section remains in force for a period of 28 days beginning with the day on which it was granted.
- (3) An officer may be accompanied by such persons, and may take onto the premises such equipment, as the officer considers necessary.
- (4) A warrant granted under this section may authorise an officer to—
- (a) enter the premises by force if necessary,
 - (b) exercise the powers in paragraph 7, 8, 9 or 10.
- (5) If the premises are occupied when the officer enters them, the officer must produce the warrant for inspection to an occupier of the premises.
- (6) Sub-paragraph (7) applies if the premises are unoccupied or the occupier is temporarily absent.
- (7) On leaving the premises, the officer must—
- (a) leave a notice on the premises stating that the premises have been entered under a warrant under this paragraph, and
 - (b) leave the premises as effectively secured as the officer found them.
- (8) In this paragraph—
- “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises,
- “premises” includes any—
- (a) land or building,
 - (b) vehicle, vessel, trailer, aircraft or hovercraft,
 - (c) tent or moveable structure,
- (whether or not the premises are used wholly or mainly as a private dwelling).

Power to require assistance from person on premises

- 12 If an officer of a local weights and measures authority has entered premises under paragraph 6(1) or under a warrant under paragraph 11, the officer may require any person on the premises to provide such assistance or information as the officer reasonably considers necessary.

Access to seized items and documents

- 13 (1) This paragraph applies where a thing seized by an officer of a local weights and measures authority under this schedule is retained by the authority.
- (2) If a request for permission to be granted access to that thing is made to the local weights and measures authority by a person who had custody or control of it immediately before it was seized, the authority must allow that person access to it under the supervision of an officer of the authority.
- (3) If a request for a photograph or copy of that thing is made to the local weights and measures authority by a person who had custody or control of it immediately before it was seized, the authority must—
- (a) allow that person access to it under the supervision of an officer of the authority for the purpose of photographing or copying it, or
- (b) photograph or copy it, or cause it to be photographed or copied.
- (4) Where anything is photographed or copied under sub-paragraph (3), the photograph or copy must be supplied to the person who made the request within a reasonable time from the making of the request.
- (5) This paragraph does not require access to be granted to, or a photograph or copy to be supplied of, a thing if the local weights and measures authority has reasonable grounds for believing that to do so would prejudice the investigation for the purposes of which it was seized.
- (6) A local weights and measures authority may recover the reasonable costs of complying with a request under this paragraph from the person by whom or on whose behalf it was made.
- (7) References in this paragraph to a person who had custody or control of a thing immediately before it was seized include a representative of such a person.

Notice of testing of item

- 14 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a glue trap purchased (or acquired under direction or by agreement) by an officer of a local weights and measures authority under paragraph 4 is submitted to a test and as a result proceedings are brought for an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*), or
- (b) a glue trap or item seized by an officer of a local weights and measures authority under paragraph 8 is submitted to a test.
- (2) The local weights and measures must inform the relevant person of the results of the test.
- (3) The local weights and measures authority must allow a relevant person to have the glue trap or item tested if it is reasonably practicable to do so.

- (4) In sub-paragraph (2), “relevant person” means the person from whom the glue trap or item was purchased or seized.
- (5) In sub-paragraph (3), “relevant person” means—
 - (a) in a case within sub-paragraph (1)(a), a person who is a party to the proceedings, or
 - (b) in any other case, a person referred to in sub-paragraph (4).

Application for release of item or document

- 15 (1) This paragraph applies where an item or document is being retained as the result of the exercise of a power under this schedule.
- (2) A person with an interest in the item or document may apply to the sheriff for an order requiring it to be released to that or another person.
- (3) The sheriff may make an order requiring an item or document to be released only if satisfied that condition A or B is met.
- (4) Condition A is that—
 - (a) no proceedings have been brought for an offence as the result of the investigation in the course of which the item or document was seized, and
 - (b) the period of 12 months beginning with the day on which the item or document was seized has expired.
- (5) Condition B is that—
 - (a) proceedings of the kind mentioned in sub-paragraph (4)(a) have been brought, and
 - (b) those proceedings have been concluded without the item or document being forfeited.

Compensation

- 16 (1) This paragraph applies where an officer of a local weights and measures authority has seized and retained an item under this schedule for a purpose within paragraph 1(2)(a).
- (2) The local weights and measures authority must pay compensation to any person with an interest in the item in respect of any loss or damage caused by the seizure and retention if—
 - (a) the item has not disclosed an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*), and
 - (b) the power to seize and retain the item was not exercised as a result of any neglect or default of the person seeking the compensation.
- (3) Any dispute about the right to or amount of any compensation payable under this paragraph is to be determined by a single arbitrator appointed by the parties or, if there is no agreement between the parties as to that appointment, by the sheriff.>

Long Title

Jim Fairlie

37 In the long title, page 1, line 2, after <glue traps> insert <and snares>