

## Wildlife Management and Muirburn (Scotland) Bill — Stage 3

### Section 1

#### Christine Grahame

- 38 In section 1, page 1, line 9, leave out <, without reasonable excuse,>

#### Christine Grahame

- 39 In section 1, page 1, line 11, leave out <, without reasonable excuse,>

#### Colin Smyth

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

<( ) It is an offence for a person to knowingly cause or permit an unauthorised person to commit an offence under subsection (1) or (2).>

#### Edward Mountain

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

<( ) Subsection (1) or (2) does not apply if the glue trap is used under, and in accordance with the terms of, a glue trap licence (see section (*Glue trap licences*)).>

### Section 2

#### Edward Mountain

- 42 In section 2, page 2, line 8, after <where> insert—

<( ) the glue trap is purchased (or otherwise acquired) for use in accordance with the terms of a glue trap licence, or  
( )>

### After section 2

#### Edward Mountain

- 43 After section 2, insert—

##### <Glue trap licences

- (1) The Scottish Ministers may grant a licence under this section (a “glue trap licence”) authorising a pest controller specified or described in the licence to engage in conduct for the purpose of controlling rats and mice in educational, catering or medical premises which would otherwise amount to an offence under section 1 or 2.
- (2) The Scottish Ministers may not grant a glue trap licence for the purpose mentioned in subsection (1), unless the Scottish Ministers are satisfied that, as regards that purpose, there is no other satisfactory solution.
- (3) The Scottish Ministers may not grant a glue trap licence under subsection (1) unless the pest controller or controllers to be specified in the licence have completed an approved

training course in respect of glue traps (see section (*Glue trap licences: approved training courses*)).

- (4) A glue trap licence—
  - (a) may be general or specific,
  - (b) may be subject to any conditions specified in the licence,
  - (c) may be modified or revoked at any time by the Scottish Ministers (whether or not on an application from the pest controller or controllers authorised by the licence),
  - (d) may be for a specified period of time.
- (5) The Scottish Ministers may require an application for the grant or modification of a glue trap licence, or of a glue trap licence of a particular description, to be made in such form, and to be accompanied by such documentation or information, as the Scottish Ministers consider appropriate.
- (6) The Scottish Ministers may by regulations—
  - (a) make provision about the meaning of education, catering or medical premises for the purposes of subsection (1),
  - (b) make provision about the evidence to be provided by a licence holder when purchasing (or otherwise acquiring) a glue trap, including evidence that the applicant has completed a training course approved under section (*Glue trap licences: approved training courses*),
  - (c) make provision about the display of the glue trap licence number on the glue trap,
  - (d) make provision about the trap being used and monitored appropriately in accordance with the approved training course for the glue trap,
  - (e) make provision for the charging of fees or other charges in relation to an application for the grant or modification of a glue trap licence (and such fees or other charges may be set by reference to any costs incurred, or expected to be incurred, by the Scottish Ministers in connection with this section),
  - (f) make provision for, or in connection with, appeals in respect of—
    - (i) a decision to refuse an application for the grant or modification of a glue trap licence,
    - (ii) a decision to modify or revoke a glue trap licence,
  - (g) make provision for offences in connection with an application for a glue trap licence.
- (7) Regulations under subsection (6) may, in particular, make provision about—
  - (a) the grounds upon which an appeal may be made,
  - (b) when an appeal may be made,
  - (c) the court, tribunal or other person who is to determine the appeal,
  - (d) the procedure for making, or determining, an appeal.
- (9) In this section, “pest controller” means a person who—
  - (a) in the course of a business, provides a service which consists of, or involves, pest control, or
  - (b) is employed by a public authority to carry out pest control.

- (10) The Scottish Ministers may by regulations make further provision about the evidence and qualifications that a pest controller may need to provide or have (as the case may be) for the purposes of this section.
- (11) Regulations under subsection (6) and (10) are subject to the affirmative procedure.
- (12) For the purposes of this section, a public authority is a person who carries out functions of a public nature.>

### **Edward Mountain**

44 After section 2, insert—

#### **<Glue trap licences: approved training courses**

- (1) The Scottish Ministers are to approve training courses that are required to be undertaken by a pest controller who is applying for a glue trap licence under section (*Glue trap licences*).
- (2) For the purposes of subsection (1), the Scottish Ministers may—
  - (a) determine training requirements, such as—
    - (i) the form and content of courses,
    - (ii) requiring a person providing training to meet certain criteria (such as having relevant experience or holding a particular qualification),
  - (b) accredit courses and the persons providing courses,
  - (c) determine the minimum criteria for successful completion of courses, and
  - (d) determine how successful completion of such courses is to be recorded.>

### **Section 3A**

### **Edward Mountain**

45 Leave out section 3A

### **Section 4**

### **Edward Mountain**

46 In section 4, page 4, line 29, leave out <killing or>

### **Edward Mountain**

47 In section 4, page 4, line 29, after second <or> insert <killing or taking a>

### **Edward Mountain**

48 In section 4, page 6, leave out lines 18 to 22 and insert—

- <(1) The relevant authority must, on receipt of an application under section 12B, grant or renew a wildlife trap licence if the requirements in subsection (1A)(a) or (b) are met.
- (1A) The requirements are that—
  - (a) the applicant has completed an approved training course (see section 12E), or

(b) the applicant—

(i) was born on or before 31st December 1973, and

(ii) has used the type of trap in question in a professional capacity for a period of at least 10 years consecutively.>

**Rachael Hamilton**

49 In section 4, page 6, line 18, leave out <may> and insert <must>

**Edward Mountain**

50 In section 4, page 6, line 35, at end insert—

<(3A) The Scottish Ministers may by regulations make further provision about the evidence that may be required for the purposes of subsection (1A)(b)(ii).

(3B) Regulations under subsection (3A) are subject to the negative procedure.>

**Edward Mountain**

51 In section 4, page 7, line 11, after <satisfied> insert <beyond reasonable doubt>

**Rachael Hamilton**

52 In section 4, page 7, line 15, at end insert—

<( ) specify in the notice the reason for the modification, suspension or revocation, and>

**Colin Smyth**

53 In section 4, page 8, line 5, after <trap> insert <(to include, in particular, independently validated guidance on the animal welfare impact of each type of trap)>

**Edward Mountain**

54 In section 4, page 8, line 11, at end insert—

<(2A) Before determining training requirements under subsection (2)(a), the relevant authority must consult such persons as they consider likely to be interested in or affected by wildlife trap licensing, including land managers.>

**Section 6**

**Rachael Hamilton**

55 In section 6, page 10, line 22, leave out <a bird included in Part 1B of Schedule 2> and insert <red grouse (*lagopus lagopus scoticus*)>

**Rachael Hamilton**

56 In section 6, page 10, line 31, leave out from <bird> to <2> in line 32 and insert <red grouse (*lagopus lagopus scoticus*)>

**Edward Mountain**

57 In section 6, page 11, line 15, at end insert—

<( ) In section 22 (power to vary schedules)—

(a) after subsection (2) insert—

“(2ZZA) If a bird is a game bird within the meaning of section 27, an order under subsection (1)(a) may only add that bird to Part 1B of Schedule 2 if the bird to be added is on the current United Kingdom Birds of Conservation Concern Red or Amber List.”,

(b) after subsection (2A) insert—

“(2B) Before making an order under subsection (1)(a) to add a bird to Part 1B of Schedule 2, the Scottish Ministers must consult such persons as they consider likely to be interested in or affected by the proposed order, including land managers.”.>

**Rachael Hamilton**

58 In section 6, page 11, leave out subsection (3)

**Rachael Hamilton**

59 In section 6, page 11, leave out subsection (5)

**Section 7**

**Rachael Hamilton**

60 In section 7, page 12, line 1, leave out <certain birds> and insert <red grouse>

**Rachael Hamilton**

61 In section 7, page 12, line 2, leave out <may> and insert <must>

**Rachael Hamilton**

62 In section 7, page 12, line 4, leave out <any type of bird included in Part 1B of Schedule 2> and insert <red grouse (*lagopus lagopus scoticus*)>

**Rachael Hamilton**

63 In section 7, page 12, line 8, at end insert—

<(2A) Where the relevant authority refuses to grant a licence to an applicant, the relevant authority must give written notice to the applicant of the reasons for doing so.>

**Rachael Hamilton**

64 In section 7, page 13, line 8, after <revocation> insert <and specify in the notice the reason for the modification, suspension or revocation>

**Rachael Hamilton**

65 In section 7, page 13, line 14, at end insert—

<(9ZA) The written notice given under subsection (9)(a) must include—

- (a) a statement setting out the reasons for the modification, suspension or revocation, and
- (b) information about the process for appealing the decision under section 16AB.>

**Colin Smyth**

66 In section 7, page 13, line 14, at end insert—

<(9ZA) Where the relevant authority has modified, suspended or revoked a person's section 16AA licence, the Scottish Ministers may by regulations disapply section 14(2A) in relation to the land to which the modified, suspended or revoked licence applied.>

**Rachael Hamilton**

67 In section 7, page 13, line 26, after second <offence> insert <, committed after a section 16AA licence has been granted, >

**Rachael Hamilton**

68 In section 7, page 13, leave out line 28

**Rachael Hamilton**

69 In section 7, page 13, leave out line 33

**Edward Mountain**

70 In section 7, page 14, line 13, at end insert—

<(5A) Where—

- (a) a person appeals to the appropriate sheriff against a decision of a relevant authority to refuse to grant to the person a section 16AA licence, and
- (b) on determining the appeal, the sheriff directs the relevant authority to grant a section 16AA licence to the person,

the sheriff must consider making an award of expenses against the relevant authority.>

**Colin Smyth**

71 In section 7, page 14, leave out line 39 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**

72 In section 7, page 14, leave out line 40 and insert—

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

**Alasdair Allan**

73 In section 7, page 15, leave out line 8 and insert—

- <(b) such other persons as they consider likely to be interested in or affected by the management of land to which a section 16AA licence relates.>

**Edward Mountain**

74 In section 7, page 15, line 8, leave out <appropriate> and insert <likely to be interested in or affected by the code of practice, including land managers>

**Edward Mountain**

75 In section 7, page 15, line 22, at end insert—

- <(2A) A direction under this section must include a requirement that, before preparing, reviewing or revising the code of practice, Scottish Natural Heritage must consult such persons as it considers likely to be interested in or affected by the code of practice, including land managers.>

**Emma Harper**

76 In section 7, page 15, line 23, at end insert—

**<16AE Report on operation and effect of section 16AA licences**

- (1) The Scottish Ministers must, for each reporting period, prepare a report on the operation and effect of section 16AA licences.
- (2) The report must include an assessment of the conservation status, including population size and range, of the following species—
  - (a) golden eagle (*aquila chrysaetos*),
  - (b) hen harrier (*circus cyaneus*),
  - (c) peregrine falcon (*falco peregrinus*),
  - (d) merlin (*falco columbarius*).
- (3) The report may include—
  - (a) the number of licences issued under section 16AA and the area of land affected,
  - (b) the number of licences that have been, or are, subject to suspension or revocation, the duration of those suspensions or revocations, and the reasons for those suspensions or revocations,
  - (c) the number and outcomes of any appeals undertaken under section 16AB, and
  - (d) such other matters as the Scottish Ministers consider appropriate.
- (4) As soon as practicable after each reporting period, the Scottish Ministers must lay the report before the Scottish Parliament.
- (5) The Scottish Ministers may by regulations amend subsection (2) to add or remove species of birds.

- (6) In this section, “reporting period” means—
- (a) in relation to the first report, the period of 5 years beginning on the day on which section 16AA comes into force, and
  - (b) in relation to each subsequent report, the period of 5 years beginning on the day after the expiry of the previous reporting period.

**16AF Report on operation and effect of section 16AA licences: delegation**

- (1) The Scottish Ministers may delegate the preparation and publication of the report under section 16AE to Scottish Natural Heritage.
- (2) Any delegation must be made by written direction.
- (3) The Scottish Ministers may modify or revoke a direction.>

**Colin Smyth**

77 In section 7, page 16, line 4, leave out <16AA(12)> and insert <16AA(9ZA) and (12)>

**Emma Harper**

78 In section 7, page 16, line 4, after <16AA(12)> insert <or 16AE(5)>

**Colin Smyth**

79 In section 7, page 16, line 7, leave out <16AA(12)> in insert <16AA(9ZA) and (12)>

**Emma Harper**

80 In section 7, page 16, line 7, after <16AA(12)> insert <or 16AE(5)>

**Section 8A**

**Edward Mountain**

81 In section 8A, page 16, line 14, at end insert—

- <(2B) The Scottish Ministers may appoint or authorise a person (as the case may be) as an inspector under subsection (2)(b) for the purposes of paragraph 5A of schedule 1 only if the person has completed an approved training course.
- (2C) The Scottish Ministers must by regulations make further provision about approved training courses for the purposes of subsection (2B), including—
  - (a) the form and content of courses,
  - (b) the experience and qualifications of the person providing the course,
  - (c) the accreditation of courses.”.>

**Rachael Hamilton**

82 Leave out section 8A



## Section 9

### Edward Mountain

- 83 In section 9, page 17, line 27, at end insert—
- <(5) In this Part, “land” means land that—
- (a) is moorland, and
  - (b) is not heath.>

## Section 10

### Edward Mountain

- 84 In section 10 page 18, line 4, at end insert—
- <( ) managing the habitats of moorland game or wildlife,>

### Rachael Hamilton

- 85 In section 10, page 18, line 5, leave out <restoring> and insert <conserving, restoring, or enhancing>

## Section 11

### Emma Harper

- 86 In section 11, page 19, line 2, at beginning insert <Subject to subsection (2A),>

### Rachael Hamilton

- 87 In section 11, page 19, line 2, leave out <may> and insert <must>

### Emma Harper

- 88 In section 11, page 19, line 4, leave out <only>

### Emma Harper

- 89 In section 11, page 19, leave out lines 12 and 13 and insert—
- <(2A) The Scottish Ministers—
- (a) must not grant a licence permitting muirburn to be made outwith the muirburn season for the purpose mentioned in section 10(2)(a)(i) or (ii),
  - (b) may grant a licence permitting muirburn to be made outwith the muirburn season for any of the purposes mentioned in section 10(2)(a)(iii) to (v) only if they are satisfied that it is necessary to do so.>

### Edward Mountain

- 90 In section 11, page 19, line 12, leave out from <for> to end of line 13 and insert <during the muirburn season only for the purposes mentioned in section 10(2)(a)(i) and (ii).>

### **Edward Mountain**

**91** In section 11, page 19, line 13, at end insert—

- <( ) A licence granted under subsection (1) may permit muirburn to be made outwith the muirburn season only for the purposes mentioned in section 10(2)(a)(iii), (iv), (v), or 10(2)(b).>

### **Section 12**

### **Edward Mountain**

**92** In section 12, page 19, line 28, after <effect> insert <, being—

- ( ) a period of 8 years, or  
( ) a period of less than 8 years if the Scottish Ministers consider it necessary for environmental reasons>

### **After section 13**

### **Edward Mountain**

**93** After section 13, insert—

#### **<13ZA Register of muirburn licences**

- (1) The Scottish Ministers must establish and maintain a register containing information relating to muirburn licenses and notices of muirburn activity.
- (2) The Scottish Ministers may by regulations make provision as to—
- (a) information which the register is to contain, which must include the name of the name or description of the land to which the licence applies, and
- (b) the form and manner in which the register is to be kept, which must include a version accessible online.
- (3) The Scottish Ministers must make the register available for public inspection at all reasonable times.
- (4) Regulations under subsection (2) are subject to the affirmative procedure.>

### **Section 14**

### **Alasdair Allan**

**94** In section 14, page 21, line 19, leave out <or reviewing> and insert <, reviewing or revising>

### **Edward Mountain**

**95** In section 14, page 21, line 22, after <muirburn> insert <including persons involved in the management of land on which muirburn may be made>

## Section 15

### Edward Mountain

- 96 In section 15, page 22, line 4, leave out from <at> to <site> in line 5 and insert <the register established under section 13ZA>

## Section 16

### Edward Mountain

- 97 In section 16, page 22, line 37, at end insert—
- <( ) The period in subsection (1) can be extended to 15 April with the permission of Scottish Natural Heritage.>

### Edward Mountain

- 98 In section 16, page 23, line 7, at end insert—
- <( ) taking into account annual variations in weather conditions in particular geographic areas.>

### Edward Mountain

- 99 In section 16, page 23, line 15, after <muirburn> insert <, including persons involved in the management of land on which muirburn may be made>

## Section 17

### Edward Mountain

- 100 In section 16, page 23, line 16, at end insert—
- <(7) Scottish Natural Heritage may make a recommendation to the Scottish Ministers that the muirburn season be extended for a period of not more than 20 days—
- (a) for a specified geographical area, and
  - (b) for a specified muirburn season.
- (8) Where Scottish Natural Heritage make a recommendation under subsection (7), the Scottish Ministers must—
- (a) have regard to the recommendation, and
  - (b) either—
    - (i) make regulations under subsection (2) to give effect to the recommendation, or
    - (ii) set out their reasons to Scottish Natural Heritage in writing for not doing so.>

### Edward Mountain

- 101 In section 17, page 23, line 23, at end insert—

<( ) the establishment and maintenance of the register of muirburn licences under section 13ZA,>

## Section 18

### Edward Mountain

- 102 In section 18, page 23, line 36, at end insert—  
<“land” has the meaning given in section 9(5),>

### Edward Mountain

- 103 In section 18, page 24, line 6, leave out <40> and insert <50>

### Colin Smyth

- 104 In section 18, page 24, line 6, leave out <40> and insert <30>

### Edward Mountain

- 105 In section 18, page 24, line 8, leave out <heath or>

### Colin Smyth

- 106 In section 18, page 24, line 8, at end insert—  
<(1B) The Scottish Ministers must review the definition of “peat” and “peatland” in subsection (1) by the end of each review period.  
(1C) The Scottish Ministers must in reviewing the definition of “peat” and “peatland” consult—  
(a) Scottish Natural Heritage,  
(b) individuals or organisations with relevant scientific expertise, and  
(c) such other persons as they consider likely to be interested in or affected by the making of muirburn.>

### Colin Smyth

- 107 In section 18, page 24, line 9, at beginning insert <Following a review under subsection (1B),>

### Colin Smyth

- 108 In section 18, page 24, line 11, leave out subsection (3)

### Colin Smyth

- 109 In section 18, page 24, line 15, at end insert—  
<( ) In this section, “review period” means—  
(a) the period of 5 years beginning with the day on which section 18 comes into force, and  
(b) each subsequent period of 5 years.>

## After section 24

**Elena Whitham**

**110** After section 24, insert—

*<Review of operation and effectiveness*

### **Review of operation and effectiveness**

- (1) The Scottish Ministers must carry out a review of the operation and effectiveness of—
  - (a) the prohibition of the use of glue traps under this Act,
  - (b) the prohibition of the use of snares under the Wildlife and Countryside Act 1981,
  - (c) the extension of the powers of inspectors under the Animal Health and Welfare (Scotland) Act 2006 by section 8A of this Act, and
  - (d) the licensing of the making of muirburn under this Act.
- (2) The review may also review the operation and effectiveness of any other matter included in this Act.
- (3) The review must be completed no later than 5 years after the day on which this Act receives Royal Assent.
- (4) When conducting the review, the Scottish Ministers must consult—
  - (a) Scottish Natural Heritage, and
  - (b) such persons as they consider are likely to be interested in or affected by the matters that are included in the review.
- (5) As soon as reasonably practicable after carrying out the review, the Scottish Ministers must—
  - (a) prepare a report of the review's findings and include—
    - (i) a statement of any action the Scottish Ministers intend to take as a result of the review, and
    - (ii) where the Scottish Ministers do not intend to take any action, their reasons for this,
  - (b) lay the report before the Scottish Parliament, and
  - (c) publish the report.>