

Wildlife Management and Muirburn (Scotland) Bill

Business and Regulatory Impact Assessment

March 2023

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1. Title of Proposal

Wildlife Management and Muirburn (Scotland) Bill

2. Purpose and Intended Effect

Background

The Wildlife Management and Muirburn (Scotland) Bill “the Bill” will introduce measures to:

- ban the use and purchase of glue traps;
- introduce licensing and training requirements for certain types of wildlife traps;
- introduce a licensing regime for land used for the shooting of red grouse; and
- introduce licensing for all muirburn, regardless of the time of year that it is undertaken. Muirburn on peatland will only be permitted in very limited circumstances.

The Bill will make it an offence to:

- set a glue trap for the purpose of catching any animal (apart from an invertebrate);
- use a glue trap in a manner that is likely to cause bodily injury to any animal (other than an invertebrate); and
- purchase a glue trap that is designed to capture any animal (other than an invertebrate).

The Bill inserts provisions into the Wildlife and Countryside Act 1981 (“the 1981 Act”) to require that anyone who wishes to use live capture bird traps or traps listed in an order made under section 50 of the Agriculture (Scotland) Act 1948 (“the 1948 Act”) (which is currently the Spring Traps Approval (Scotland) Order 2011 (“the STAO”)) must have a licence and meet the following conditions:

- complete training by an approved body each time they apply or renew their licence;
- register with the relevant authority (Scottish Ministers or if delegated Scottish Natural Heritage (operating as NatureScot)) for a unique licence number;
- display this unique licence number on each trap they use; and
- use the trap in accordance with the training.

The Bill also inserts provisions into the 1981 Act to require that the shooting of red grouse will only be permitted if the landowner has a licence which covers the land on which the shooting takes place. If a person does so without such a licence, they will have committed an offence under section 1 of the 1981 Act and the penalties for such an offence will apply.

Lastly, the Bill repeals the muirburn provisions in the Hill Farming Act 1946 (“the 1946 Act”) and replaces it with provisions to require that any muirburn will be unlawful unless carried out under a licence, for limited purposes, with further limitation on muirburn on peatland.

Objective

A [report from NatureScot](#) in May 2017 found that around a third of satellite-tagged golden eagles in Scotland disappeared in suspicious circumstances, on or around grouse moors.

In response to this report, Roseanna Cunningham, the then Cabinet Secretary for the Environment, Climate Change and Land Reform, commissioned an independent group to look at the environmental impact of grouse moor management (the Grouse Moor Management Group - GMMG).

Alongside this review, the Scottish Government commissioned separate research into the costs and benefits of large shooting estates to [Scotland's economy and biodiversity](#).

The GMMG's remit was to examine the environmental impact of grouse moor management practices such as muirburn, the use of medicated grit and mountain hare culls, and advise on the option of licensing grouse shooting businesses. In doing so the group were asked to have due regard to the socio-economic impacts of grouse moor management so that they might continue to contribute to the rural economy, while being environmentally sustainable and compliant with the law.

The [GMMG report](#) ("the Werritty report") made over 40 recommendations relating to grouse moor management including recommendations on licensing grouse shooting muirburn and the use of traps.

On 29 November 2020 the Scottish Government set out its response to the recommendations in "[The Scottish Government Response to the Report from the Grouse Moor Management Group](#)".

The Bill is being introduced to address raptor persecution and ensure that the management of grouse moors and related activities are undertaken in an environmentally sustainable and welfare conscious manner. The Bill will do this by implementing the recommendations of the Werritty report.

Rationale for Government intervention

The Scottish Government's Programme for Government 2022-23 committed to bringing forward a Bill to implement the recommendations of the Grouse Moor Management Review Group ("the GMMG") and introduce licensing for grouse moor management to ensure that the management of driven grouse moors and related activities is undertaken in an environmentally sustainable manner, as well as including provisions to ban glue traps.

The Bute House agreement also committed to take action to tackle wildlife crime and to address the environmental impacts of intensive grouse moor management. The agreement supports delivery of the recommendations of the GMMG, including the licensing of grouse moors. It stipulated that licensing or further regulation would cover the key areas identified in the review, including muirburn, wildlife control, the use of medicated grit and wildlife crime, and that it will be supported by clear

penalties to encourage compliance, as well as additional effort to detect wildlife crime.

By addressing wildlife crime and the environmental impacts of intensive grouse moor management, we would progress the National Performance Framework

Environmental outcome of *“We value, enjoy, protect and enhance our environment.”*

In doing so we would also contribute to the ‘Life on land’ UN Sustainable development goal;

“15.5 Take urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species.”

3. Consultation

Within Government

The following government agencies and departments have been consulted in the preparation of this Business and Regulatory Impact Assessment:

- Scottish Animal Welfare Commission have provided advice on the welfare needs of sentient animals and possible legislative routes to further protect their welfare.
- Justice Directorate, Scottish Government provided advice on issues relating to offences and sentencing;
- Justice analysts, Scottish Government have provided details of the prosecution of offences under the 1981 Act;
- Crown Office & Procurator Fiscal Service (COPFS) have provided advice on the current court and prosecution arrangements;
- Police Scotland have provided advice on the investigation of wildlife offences;
- NatureScot have provided advice on issues relating to licensing arrangements for wildlife management purposes;
- Science and Advice for Scottish Agriculture (SASA) have provided advice on issues relating to trapping;
- Scottish Government, Directorate for International Trade and Investment provided advice on World Trade Organisation rules and requirements
- Scottish Government, Constitution and Cabinet Directorate provided advice on the requirements of the Internal Market Act 2020.

Public Consultation

The Scottish Government Wildlife Management in Scotland: A consultation on the Bill ran from 26 October 2022 until 14 December 2022. A high level analysis of the key findings is provided below. The full analysis report of the public consultation will be published separately in April 2023. The Consultation received 4,863 responses, mostly via Citizenspace. An overview of the responses is shown in the tables below:

Table 1: Breakdown of responses

Type of response	Total Number of responses
Organisation	129
Individual	4734
All responses	4863

Table 2: Organisational respondents by type

Organisation	Number
Animal Welfare	17
Conservation, including representative bodies	22
Land management, including representative bodies	42
Pest control, including representative bodies	8
Public body, including law enforcement	7
Sporting organisations, including representative bodies	6
Other – private section	18
Other – non-private sector	9

Table 3: responses to key selected questions

Questions	Agree	Disagree	Unsure
Do you agree that the licensing of grouse shooting should be introduced to deter raptor persecution and wildlife crime linked to grouse moor management?	67%	31%	1%
Do you agree that the landowner/occupier/person responsible for or accountable for the management decisions and actions should be responsible for acquiring and maintaining the licence for the taking of grouse on a	70%	28%	2%
Do you agree that a licence should be required to undertake muirburn regardless of the time of year that it is	69%	29%	2%
Do you agree that there should be a ban on muirburn on peatland unless it is done under licence as part of a habitat restoration programme approved by NatureScot?	69%	29%	2%
Do you agree that the use of glue traps designed to catch rodents should be banned in Scotland?	79%	12%	10%
Do you agree that there should be a two year transition period before the ban on glue traps comes into force?	16%	69%	15%

In addition to the public consultation the Scottish Government also contacted all Scottish Local Authority pest control departments to ascertain the extent to which they used glue traps. Of the fourteen Local Authorities who responded, eleven confirmed that they would never use glue traps, two stated that they do not provide a

pest control service, and one confirmed that, while they do not regularly use glue traps, they would consider using them where there is justifiable concern for public health and no alternative practical solution.

Business

A wide range of businesses that have previously notified an interest in wildlife management and rodent control were sent the public consultation directly and were encouraged to respond.

These proposals have been informed by two independent reviews that gathered evidence and liaised with stakeholders and businesses.

We therefore targeted our stakeholder consultations towards organisations which represented groups or individuals who undertake wildlife management and rodent control for a range of different purposes and those who might engage a group or individual to undertake wildlife management on their behalf.

Glue traps

On the provisions relating to glue traps, in March 2021, the Scottish Animal Welfare Commission (SAWC) published a report on the animal welfare issues surrounding the use of glue traps to control rodents in Scotland. In doing so, they sought views from experts and stakeholders including scientific advisors to government in Scotland and overseas, pest control industry representatives, and animal welfare organisations. A list of respondents is [in the report](#).

Wildlife traps, grouse moor and muirburn licences

Wildlife management using traps is not confined to business activities. It is undertaken by a variety of individuals, organisations and businesses for a range of purposes on both a commercial and non-commercial basis. Using traps for wildlife management can be undertaken by businesses operating as a wildlife control service or by individuals or groups on an informal, ad hoc basis.

On the provisions relating to the licensing of wildlife traps, grouse moor management and muirburn, the GMMG was comprised of representatives from academia, grouse moor management and conservation. In undertaking the review, the group met with a number of organisations and businesses, including grouse moor estates. They also conducted a targeted questionnaire, receiving responses from 31 organisations and individuals across a wide range of stakeholders: individual estates, organisations variously representing particular interests (conservation NGOs, conservation special interest groups, land-owners and land managers, gamekeepers, sport shooting, groups of estates, trade organisations), firms of chartered surveyors, research scientists, veterinary scientists and public bodies including National Parks.

These discussions and submissions formed the basis of the recommendations in the GMMG report, and subsequently the provisions in the Bill.

Given this engagement we do not intend to specifically interview 6-12 businesses, as a key assumption is that law abiding businesses and individuals will not be affected by the current proposals, and only those committing offences under the legislation, and those enforcing these rules will be directly affected.

4. Options

Option 1 – Do nothing

This option would mean that the Bill would not be implemented.

Under this scenario, a move towards a more humane wildlife and rodent control, and more environmentally sustainable land management would depend mainly on additional voluntary action by industry and individuals. The impacts of this option on individual areas, that are aimed to be addressed by the measures proposed under the Bill, are outlined in sections 6, 7, and 9 below.

Option 2 - Adopt the provisions of the Bill

Implementing the Bill would bring forward the following provisions;

- ban the use and purchase of glue traps;
- introduce licensing and training requirements for certain types of wildlife traps;
- introduce a licensing regime for land used for the shooting of red grouse; and
- introduce licensing for all muirburn, regardless of the time of year that it is undertaken. Muirburn on peatland will only be permitted in very limited circumstances.

5. Sectors and Groups Affected

The Bill will impact professional wildlife management businesses that utilise traps, grouse moor businesses, those undertaking muirburn, those using glue traps to control rodents, those that breach wildlife legislation, the enforcers of the legislation and the designated licensing authority including the following groups / organisations;

- Police Scotland
- Crown Office and Procurator Fiscal Service (COPFS)
- Scottish Courts and Tribunals Service (SCTS)
- Scottish Prison Service (SPS)
- NatureScot

6. Benefits

Option 1 – Do nothing

Glue traps

Glue traps are a cost effective method of controlling rodents, and there are public health concerns in certain high-risk situations that require effective and rapid action in order to reduce the spread of disease.

However, in their review on the issue, the SAWC found that this option was not supported by any of their stakeholder submissions or other sources consulted and was not consistent with the previously stated intention of the Scottish Government. All submissions supported either a prohibition on use by untrained individuals or a wider measure.

Wildlife traps, grouse moor and muirburn licences

On wildlife trap, grouse moor, and muirburn licensing, there are no additional benefits to be gained by retaining the current provisions.

Option 2 - Adopt the provisions of the Bill

Glue traps

On glue traps, the SAWC review found that this option appears to offer the most immediate positive impact on animal welfare, even while acknowledging that there are welfare problems with other techniques in current use, in particular rodenticides. The intended effect is to prevent the ongoing injury, suffering or distress to both target and non-target species caused by the use of glue traps.

Glue traps are single use and non-recyclable, and many of their alternatives are reusable, so this option would reduce the amount of waste associated with pest control going to landfill.

The cost of alternative methods vary, in some cases snap traps can be cheaper than glue traps, however even if these were more expensive these alternatives are reusable and offer a long term saving.

Suppliers would be unlikely to benefit from the ban, but potentially, may benefit from an improved welfare image of pest control due to the ban of one of the more inhumane methods of pest control.

These provisions may encourage users to shift towards pre-emptive rather than reactive pest control, which could benefit those suppliers offering precautionary rodent control products and pest controllers offering precautionary pest control services. Manufacturers and suppliers of alternative rodent control products may see increased sales.

Wildlife traps, grouse moor and muirburn licences

The licensing of grouse moors will aid in the enforcement of wildlife crime, in particular, raptor persecution. The potential for a grouse shooting businesses to lose their licence is expected to act as a deterrent to illegal activity.

Media attention has been drawn to the activities of some grouse moor managers, mainly over the suspected killing of protected birds of prey, but also over the large-scale killing of hares and other animals, and over other aspects of moor management, such as muirburn, peat destruction and use of medicated grit. Some of these activities have repercussions well beyond the boundaries of grouse moors.

The introduction of licensing schemes for grouse moor, wildlife traps and muirburn, would reassure the public that the Scottish Government is taking these concerns seriously.

Licensing schemes for wildlife traps, grouse moor and muirburn offer flexibility in prohibiting unacceptable practices. Licences are able to be revoked or suspended depending on the conduct of the licence holder or those in connection with the land which is beneficial especially where a criminal offence may be hard to prove in a way that allows the criminal justice process to operate. This flexibility is also beneficial in terms of adopting an adaptive management approach, responding to changing understanding of the position and the factors that influence it, and of incorporating a number of important public objectives (e.g., climate concerns as well as biodiversity).

Transparent licensing schemes would assist those in the industry who already observe high standards. Obtaining and keeping a licence would be a visible sign that the activity is being sustainably managed in an acceptable way and that land is being managed appropriately, directing any public criticism onto those who are not doing so. The potential for meaningful consequences if standards slip would also offer public reassurance.

Lastly, the licensing schemes will allow for information to be gathered at national level, filling gaps in information highlighted by the GMMG report. The provisions in the Bill allow NatureScot set reporting requirements as a condition of the licences. This will assist future decision-making at a local and national level and enable an adaptive wildlife management approach to be taken, responding to changing circumstances.

7. Costs

Option 1 – Do nothing

Glue traps

There would be no additional financial costs from retaining existing provisions. However, the SAWC review unanimously concluded that glue traps cause animal suffering, with the majority of their respondents indicating the likelihood that the use of glue traps causes significant and potentially prolonged animal suffering to the target species. They noted that these concerns are not isolated to a particular aspect of the use of glue traps and even with optimal use (frequent checking and effective dispatch) there remains a significant animal welfare concern. It was their view that there is no way that glue traps can be used without causing animal suffering.

Glue traps are single use and non-recyclable, and so their use results in waste going to landfill.

Wildlife traps, grouse moor management and muirburn licences

There would be no additional financial costs from retaining existing provisions. However, the GMMG found that there were legitimate grounds for suspicion that under the present arrangements, “*in at least some estates predator control included*

the illegal killing of raptors. This inference is supported by the frequent finding of poisoned baits and poisoned birds, traps and other signs of illegal activity”.

Doing nothing would ignore those findings, alongside the views expressed in response to Scottish Government consultations that clearly signal the public's growing concerns regarding wild animal welfare.

By not taking forward the provisions in the Bill to further regulate grouse moor management and the use of wildlife traps, the issue of wildlife crime will remain unaddressed, having a negative impact on the populations of raptor species, and the welfare of wild animals.

While the wider impacts of muirburn are highly contested, there is evidence to suggest that muirburn has long-term detrimental impact to blanket bog or wet heath areas, and it has been widely assumed that regular muirburn is detrimental to peat-forming plant species.

The cost associated with not taking forward wildlife trap, grouse moor and muirburn licensing relate to the GMMG conclusion that the existing controls for these practices are not proving effective in guaranteeing appropriate and sustainable management.

Option 2 - Adopt the provisions of the Bill

The estimated financial costs arising from the provisions in the Bill are outlined in detail in the Financial Memorandum accompanying the Bill. There will be general costs to the Scottish Government of introducing and drafting the Bill and drafting the associated guidance. There will also be general introductory costs for many of the organisations involved in relation to staff training and procedural changes.

Glue traps

By taking forward the provisions in the Bill to prohibit the use and purchase of glue traps, most of the market for rodent glue traps in Scotland will be shut down. However, people in Scotland could still buy glue traps to be delivered outwith Scotland and Scottish businesses could still sell glue traps outwith Scotland. This would have an impact on;

- a range of businesses and suppliers who are no longer able to sell glue traps,
- rodent control workers, who are unable to use glue traps in their work, and
- non-professional individuals and businesses, who may have chosen to use glue traps in the absence of a ban but are now unable to.

A ban on glue traps would lead to reduced options in dealing with rodent problems. Some stakeholders suggest glue traps can, though not always, catch their target in a shorter time than more traditional traps or poisoned baits can take days.

Individuals and businesses will be required to adopt other methods of rodent control, such as snap traps, spring traps and poison. Some individuals and businesses may require a combination of these methods.

Professional rodent controllers may, in certain circumstances, be required to use less efficient methods of rodent control. In this case, they would either incur additional costs because the interventions they do are more time consuming, or they pass these additional costs on to customers and risk losing business as a result of the higher prices.

There may be costs associated with the enforcement of these provisions, but they are expected to be low once suppliers reduce the availability of glue traps.

Wildlife traps, grouse moor and muirburn licences

It is anticipated that changes to the legislation made by the Bill may initially result in a small increase in court cases relating to wildlife offences because the provisions in the Bill will aid the enforcement of the existing wildlife legislation. However, the broader expectation is of a longer-term reduction in the total number of cases as a result of increased regulation through licensing, training and codes of practice.

There will also be a cost to NatureScot as the designated authority responsible for issuing licences to use specified traps, manage grouse moors and make muirburn. This cost will not be passed on to the applicant however, as NatureScot do not currently charge for any licences relating to wildlife management.

However, although NatureScot do not currently operate licences on a cost recoverable basis the Scottish Government/Scottish Green Party Shared Policy Programme contains the commitment to review the wider species licensing system and assess the potential to apply the principle of full cost recovery to species licensing. The Bill will therefore include provisions to allow for the possible introduction of charges for licences issued under these provisions at a later date. This may result in a future cost to individuals and businesses applying for a licence, but as part of the review, consideration of those impacts will be examined.

The public consultation highlighted that individuals and businesses may see costs associated with the gathering, organising and presenting information to the licensing authority, and then complying with licence conditions, although in some cases these costs may be minimal.

Costs associated with the muirburn licence requirements, for example, developing and presenting a muirburn plan, and assessing peat depth across wide areas, may be more significant. However, due to the way in which muirburn is currently undertaken, the Scottish Government does not have data to estimate these costs. The impact of these requirements on those applying for licences to make muirburn on peatland will be considered when the licensing scheme is developed.

The Scottish Government and NatureScot as the Licensing Authority will work with stakeholders to ensure that costs incurred by applicants in this regard are kept to a minimum and the licensing schemes do not place an undue or unnecessary administrative burden on businesses.

8. Regulatory and EU Alignment Impacts

Intra-UK Trade

The proposals relating to wildlife traps, grouse moor and muirburn licensing are not likely to impact on intra-UK trade.

On the provisions relating to glue traps; the UK Internal Market Act 2020 (“the IMA”) provides that any goods that are lawfully sold in one part of the UK can also be sold in the other parts of the UK, as long as the goods comply with any statutory rules or regulations in the part of the UK in which they were produced or into which they were imported (“mutual recognition principle”).

The IMA provides that provisions of an Act of the Scottish Parliament which contravene the market access principles (i.e., the mutual recognition principle or the non-discrimination principle) “do not apply” or “have no effect”. The mutual recognition principle means that Scottish legislation banning a particular product would not prevent that product being sold in Scotland if it was lawfully produced in, or imported into, another part of the UK.

The current provisions in the Bill are therefore compliant with the IMA as they do not include a prohibition on the sale of glue traps. For a ban on the sale of glue traps to be compliant with the IMA, an exemption to the IMA for this purpose would need to be in place.

The Scottish Government is exploring the possibility of gaining an exemption with the UK Government and devolved administrations and should an exemption be granted; the Scottish Government intends to bring forward an amendment at Stage 2 or Stage 3 of the Bill to ban the sale of rodent glue traps in Scotland.

International Trade

The measures in the Bill are not likely to impact on international trade and investment

EU Alignment

The measures in the Bill are not likely to impact on the Scottish Government’s policy to maintain alignment with the EU.

9. Scottish Firms Impact Test

Glue traps

Impact on manufacturers of glue traps

We have not been able to identify any UK manufacturers of glue traps, therefore, we do not believe that a ban on the purchase and use of glue traps in Scotland will have any effect on any Scottish or UK manufacturers.

Impact on distributors and retailers of glue traps

Any distributors and retailers within Scotland who sell these products will be affected by a ban on the purchase and use of glue traps. As will distributors and retailers from elsewhere in the UK who supply Scottish businesses or sell products to people in Scotland online or by mail order.

The costs of banning the purchase and use of glue traps is expected to be compensated by increased sales of other rodent control products. We are not aware of any distributors or retailers who only deal in glue traps. All of the businesses we have identified supply a range of products and glue traps only represent a small part of their overall business. As glue traps are a very low value product which retail for around £1.50 to £3.00, the profit made from such products is very small, and given the wide range of products stocked by shops who sell them they only represent a small proportion of sales.

Although the glue trap market would cease for retailers/suppliers we anticipate that this will likely be balanced by an increase in sales of alternative forms of rodent control, as it is likely that a retailer or supplier who stocks glue traps will also stock alternative forms of control.

Impact on professional rodent controllers (including Local Authorities)

Not all professional pest controllers use glue traps. For those who do use them, a ban on the use and purchase of glue traps will require businesses to use an alternative method of rodent control.

While it has not been possible to quantify the exact number of glue traps deployed by professional pest controllers who do use them, from the evidence provided to the [Scottish Government Petitions Committee](#) and the [SAWC](#) they are not the primary method of rodent control used by these businesses, who generally only deploy them on an exceptional, last resort basis.

For example, as stated above, our consultation included a survey of Local Authorities in Scotland found that the majority (93%) either do not use glue traps at all or they are used rarely.

Evidence suggests the following substitute methods are available;

- The UK's largest pest control business, Rentokil, which has a global presence, has a policy of not using glue traps in the UK, and only use them when their customer explicitly asks them to use glue traps. They instead deploy their own, more humane hi-tech solutions or the standard, but also more humane, 'break-back' traps to control rodents.
- A [New Zealand Ministry of Agriculture and Forestry discussion paper](#) cited a test where snap traps were found to be more effective than glue traps.
- Live box traps are initially more expensive but are reusable and much more humane if properly used.
- Electric traps, while more expensive than live box traps are also reusable and ensure a rapid death and easy disposal of bodies.
- Deterrence and exclusion, by means of rodent-proofing buildings.

- Poison baits are probably the cheapest alternative but are unsuitable for use in the food industry. In such cases, rodent-proofing, snap-traps, curiosity traps and electrocution devices can also be used instead of poisons where the latter poses a contamination risk.

Many businesses will have ongoing contracts with professional pest control services or will hire a professional when facing a rodent infestation. Ongoing contracts with professional pest controllers focus mainly on preventing pest problems. The largest UK pest controller (Rentokil) suggested that about 75% of their business consists preventive pest control and only 25% in reactive pest control. As discussed previously, Rentokil hardly ever use glue traps.

In addition, as a result of campaigns by animal welfare groups including the Humane Society International, the RSPCA and Scottish SPCA, a number of retailers have already agreed to [stop selling glue traps](#).

Impact on small businesses

A proportion of businesses that currently choose to undertake their own rodent control, may have chosen to use glue traps but will now have to use an alternative method. We expect the proportion of people who would have used glue traps to be low, since public attitudes towards glue traps are quite negative. As stated above, our consultation on the proposals showed that only 12% of respondents opposed a ban on the use of glue traps.

Additionally, in many instances glue traps may not be the most available and effective method, thus of that 12%, a proportion would not use glue traps even after taking them into consideration. The remainder of users who considered and then decided to use glue traps, therefore might incur increased costs if alternative pest control products are less effective or more expensive. But, as discussed above, we believe that there are good substitutes available.

The glue trap provisions in the Bill will not immediately come into force when the Bill receives royal assent, rather this will be done by regulations at a later date. The Scottish Government's proposition is that there will be a transition period before the ban comes into force. This transition period will enable distributors and retailers who are still selling glue traps to expend their existing stocks and, if so required, source alternative products. This period will also enable professional rodent controllers and small businesses to develop, trial and source alternative methods of rodent control.

Therefore, although it has not been possible to quantify at this stage the full costs to businesses, because there are already a number of alternative methods available, we estimate that the short term impacts will be minor and the medium to long-term impacts will be cost-neutral.

Wildlife traps, grouse moor and muirburn licences

The intention is not to interview individual businesses, as the proposed changes will minimally affect businesses that respect wild animal welfare and the associated legislation.

The purpose of this Bill is not to ban the use of traps to control wildlife, grouse moor management or muirburn. It does, however, seek to regulate these activities and in the case of muirburn, limit practices that carry the most risk of harm to the environment. This could in turn have some impact on how businesses that currently provide these services operate.

Wildlife traps

As discussed above, the provisions in the Bill only relate to the use of traps to capture live wild birds and traps approved by the STAO. Spring traps and live capture traps for wild birds are used widely in game management, the pest control industry, conservation management, farming and sometimes by individuals.

These traps are already regulated by several pieces of legislation, and users must already comply with conditions to allow their legal use.

Because the provisions in the Bill does not prohibit the use of these wildlife traps, we anticipate that there will be no impact on manufacturers, distributors and retailers of these traps.

All individuals and businesses using traps approved by the STAO must adhere to the conditions of use set out in that legislation, so they must already meet a minimum standard of use to allow the legal use of those traps. The same can be said for live capture bird traps, as their use is permitted only under a general licence under Section 16 of the 1981 Act. The provisions in the Bill will not change the manner in which those traps are used.

Individuals will be required to hold a licence and successfully complete training approved by NatureScot in relation to the traps that they are using. We expect the training to be based on the existing conditions of use for each trap type and therefore easily completed for anyone currently undertaking legal trapping.

The traps covered by the provisions in the Bill are more often used by professionals rather than individual or domestic use. Those who conduct wildlife management using traps often already undertake training and continued professional development that includes the use of traps. The Scottish Government expect this kind of training to be updated to cover the new requirements of the Bill following enactment.

At present, we do not have an estimate of how much this training will cost to individuals, as the details of the courses are still to be developed by NatureScot. In developing the framework to endorse training courses, the Scottish Government and NatureScot will work with stakeholders to ensure that training courses are available at a cost that is accessible. Training requirements are common in other professions, especially those relating to animal welfare, the costs of such courses vary, are often covered by employers, and sometimes available through further education courses with various funding options available.

There will be an impact on individuals and businesses who use these traps in an illegal manner, as they will risk the suspension or revocation of their licence, potentially prohibiting the use of traps indefinitely.

However, the length of any suspension or revocation of a licence will be determined by NatureScot on a case by case basis taking into account all of the facts and circumstances of each case. The illegal use of traps can cause considerable suffering to wild animals and can, in some circumstances, carry a maximum penalty of five years imprisonment and or an unlimited fine.

Grouse Moors

The provisions in the Bill will extend to anyone holding the sporting rights to shoot red grouse, including businesses who manage the land to produce a surplus of red grouse and offer red grouse shooting. The GMMG estimated that the current number of grouse shooting estates in Scotland is around 120, which included a diversity in both the size and level of investment in individual grouse shooting businesses.

Because the provisions in the Bill does not prohibit the management of moorland for grouse shooting, we anticipate that there will be no impact on associated manufacturers, distributors and retailers.

As discussed above, the Bill does not seek to prohibit the management of moorland for grouse shooting, but instead introduces provisions into the 1981 Act so that landowner rights to take red grouse can only be exercised under licence from the relevant authority (Scottish Ministers or if delegated, NatureScot). If they do not hold a licence, then they will no longer be able to take red grouse on that land or to permit another person to do so.

Where a person wishes to take red grouse on land that they do not own or occupy they will only be able to do so if they have permission from the landowner or occupier (or other person permitted by the landowner or occupier) and a licence is held in respect of the land which allows for the taking of red grouse on that area of land.

An individual or business applying for such a licence will now be required to adhere to the Code of Practice, which will provide guidance on how land used for grouse shooting should be managed to reduce disturbance of and harm to any wild animal, wild bird and wild plant, including how the taking or killing of any wild birds should be carried out and how predators should be controlled. It will also set out best practice for the use of medicated grit and other activities related to grouse moor management.

We anticipate that some organisations undertaking such activities will already comply with the Code of Practice, and others will be able to comply with only some minor adjustments to their business practices.

There will be an impact on individuals and businesses who do not comply with the conditions of the licence, or where there is robust evidence that the licence holder or

a person involved in managing the land to which the licence relates has committed a relevant wildlife crime related to grouse moor management such as raptor persecution, the unlicensed killing of a wild mammal, or the unlawful use of a trap. In such cases, NatureScot can suspend or revoke a licence, prohibiting the any taking of red grouse on that land.

However, the length of any suspension or revocation of a licence will be determined by NatureScot on a case by case basis taking into account all of the facts and circumstances of each case. The relevant wildlife crimes can cause considerable suffering to wild animals and can carry a maximum penalty of five years imprisonment and or an unlimited fine.

There will be little or no impact on those businesses that comply with the existing law. The cost to businesses who lose their licence due to illegal conduct is difficult to estimate, as the 2020 [Socio-economic and biodiversity impacts of driven grouse moors in Scotland part 1](#) report found that grouse shooting businesses operated at an average net cost.

Walked-up grouse shooting businesses, which require less intensive moorland management, generated comparatively low revenues and also have a comparatively low employment impact, but required a base level of activity, staffing and expenditure that was commonly facilitated through integration with other sporting activities (e.g., deer stalking) and through subsidisation from other estate land uses or external income.

Driven grouse shooting businesses, which require more intensive moorland management, while generating substantial annual revenues, required a sustained level of capital spending. However, income was highly cyclical, depending on the availability of shootable surpluses of grouse.

The findings confirmed that driven grouse shooting enterprises were rarely profitable as stand-alone land uses, as costs generally outweighed revenue, or at best resulted in a break-even position during good years. On-going net costs meant that driven grouse shooting was subsidised by other, on or off estate, income streams.

Muirburn

As discussed above, muirburn involves the controlled burning of old heather and grass to promote new growth. It is a tool used traditionally in Scotland by land managers, including gamekeepers, farmers, crofters and conservation managers to improve grazing, provide food and shelter for red grouse and other gamebirds and to reduce the fuel load.

The extent to which muirburn is carried out in Scotland is difficult to estimate as currently, muirburn can be undertaken without a licence during the muirburn season for any purpose if the person is the proprietor of the land or authorised in writing by, or on behalf of, the proprietor of the land. This is supported by a 2022 literature [review of muirburn by NatureScot](#) that found the evidence base surrounding the impacts of muirburn is somewhat limited and sometimes contested.

The provisions of the Bill create an all year round licence system with different purposes for which the licence can be granted depending on whether the licence is for within the muirburn season; outwith the muirburn season or on peatland. A licence can only be granted for within the muirburn season for the following purposes:

- managing habitats for moorland game or wildlife
- improving the grazing potential of moorland for livestock
- conserving, restoring, enhancing or managing the natural environment
- preventing, or reducing the risk of, wildfires causing harm to people or damage to property
- research

Outwith the muirburn season, a licence can only be granted for the purposes listed in points 3,4 and 5 above. A licence for muirburn on peatland can only be granted for the purposes of:

- restoring the natural environment
- reducing the risk of wildfires causing damage to habitats
- preventing, or reducing the risk of, wildfires causing harm to people or property.

The Scottish Government does not have any data on the purposes or extent to which muirburn on peatland is currently carried out, however, the Muirburn Code already advises that it is best practice not to undertake muirburn on peatland, except as part of a habitat restoration plan. We therefore do not expect the provisions relating to muirburn on peatland to have any significant impact.

These purposes are thought to allow the majority of muirburn that is currently undertaken during the muirburn season to continue. We therefore anticipate that there will be no impact on associated manufacturers, distributors and retailers.

The Bill, however, implements a precautionary approach, and includes a regulation making power to amend the purposes for which a licence may be granted. This will allow Scottish Ministers the ability to respond to future developments in the science of muirburn and to respond to the practical needs of land managers in an appropriate manner. Before making such regulations, the Scottish Ministers must consult with NatureScot and such persons as they consider to be interested in or affected by the licensing of muirburn.

Currently, muirburn is guided by the muirburn code, which sets out best practice relating to muirburn. The Bill places a legal requirement for individuals and businesses undertaking muirburn under licence to adhere to the code.

Because the Code is currently best practice advice, we anticipate that there will be little or no impact on individuals or businesses who comply with the existing law and already meet those standards. Those who do not meet those standards currently be able to continue to operate with some minor adjustments to their business practices.

10. Competition Assessment

There are no market effects considered to result from the proposals relating to grouse moor management, wildlife traps and muirburn. Therefore, there is considered to be no competition concern to suppliers and consumers; including those providing and using public services.

The prohibition on the purchase and use of glue traps will apply equally to the whole of Scotland so it is not considered that the measures will impact on competition. The new measures will not make it more difficult for a new retailer to enter the consumer rodent control sales market.

We are not aware of any supplier that exclusively sells glue traps, so we are confident that suppliers can pivot to alternative methods of rodent control (snap traps, humane traps, poison traps) that have better welfare outcomes.

11. Consumer Assessment

The proposals relating to wildlife traps and muirburn are not thought to have an impact on consumers as the amendments to the existing law and the creation of the new offences will only impact on those undertaking those activities, committing the offences under the Bill, those enforcing the rules and the licencing authority.

The proposals relating to grouse moors will have a minimal impact on consumers as any person who shoots grouse will be required to reasonably believe that the owner or occupier held a licence in relation to that land.

The proposals relating to glue traps will have a minimal impact on consumers as not all individuals controlling rodents use glue traps. For those who do use them a ban on the use and sale of glue traps will require the use of an alternative method of rodent control.

As stated above, there are already a number of alternative methods available at a comparable cost, we therefore estimate that the short term impacts will be minor and the medium to long-term impacts will be cost-neutral.

Our proposals will include a transition period before then ban comes into force. To allow individuals to source alternative methods of rodent control.

12. Test Run of Business Forms

A licence application form will be required to apply for a Grouse Moor Licence, a Muirburn Licence and a Wildlife Trap Licence. They will be developed by NatureScot in the same format as other wildlife management licences currently operated by them. NatureScot will consult with stakeholders as part of the development process for the new licensing regime including seeking feedback on any accompanying forms and guidance.

13. Digital Impact Test

There are no new digital impacts considered to result from these proposals, as the licence authority will process applications using existing arrangements.

14. Legal Aid Impact Test

The proposed changes to the legislation are not expected to have a significant effect on the number of people applying for legal aid in relation to prosecutions of the new offences. It is considered reasonable that the same proportion of individuals will need to apply for legal aid in any case.

Potential costs relating to the Scottish Legal Aid Board (“SLAB”) are outlined for scenarios of increased numbers of prosecutions in Table 4 below. Further details of these costs are outlined in the financial memorandum.

Based on the current level of prosecutions relating to wildlife offences, it is assumed that annually, there will be 14.2 cases submitted to the courts in relation to offences under the Bill subject to summary procedure, and 0.1 cases subject to solemn procedure. The average cases costs are estimated to be £604 for summary proceedings and £1,622 for solemn proceedings.

Table 4: Impacts of Bill on Scottish Legal Aid Board

	Procedure	number of people prosecuted	cost of scenario	resulting additional costs
current costs to SLAB	Summary	14.2	£8,577	£0
	Solemn	0.1	£162	
10% increase in prosecutions	Summary	15.62	£9,434	£874
	Solemn	0.11	£178	
50 % increase in prosecutions	Summary	21.3	£12,865	£4,370
	Solemn	0.15	£243	
100% increase in prosecutions	Summary	28.4	£17,154	£8,739
	Solemn	0.2	£324	
200% increase in prosecutions	Summary	42.6	£25,730	£17,478
	Solemn	0.3	£487	

15. Enforcement, Sanctions and Monitoring

Police Scotland will enforce the provisions in the Bill relating to wildlife offences, respond to complaints by the public and report cases to the COPFS in the same way as they do in relation to other criminal offences.

NatureScot will monitor compliance with licensing conditions in-line with the approach they take to the other licensing schemes administered by them.

The Bill contains an order making power to enable Scottish Ministers to extend the powers of inspectors authorised under the Animal Health and Welfare (Scotland) Act 2006 to investigate relevant offences relating to wild animals as set out in Part 1 of the Bill and Part 1 of the 1981 Act, should they deem it appropriate to do so.

If a decision is made to extend the powers of the Scottish SPCA to investigate wildlife crime then the Scottish Government will bring forward further provisions by amendment at Stage 2, then the associated costs to business will be examined.

If provisions are introduced to ban the sale of glue traps these will be monitored and enforce by Local Authority Trading Standards officers.

16. Implementation and Delivery Plan

A detailed implementation plan is currently being developed that will include the timeline for the creation of the licensing schemes and associated training and codes of practice. The proposed changes are intended then to come into force (subject to Parliamentary process and timing) on a date to be appointed by the Scottish Ministers in regulations, supported by Scottish Government guidance for enforcement agencies.

17. Post-implementation Review

The Scottish Government Wildlife Management Team has a close working relationship with key stakeholders across Scotland and will monitor the development of this policy change and its application in practice.

Under section 26B of the Wildlife and Countryside Act 1981 Scottish Ministers are required to report every calendar year on offences which relate to wildlife, including information on incidences and prosecutions, research and advice relevant to those offences.

In addition, the Bill requires that the codes of practice for grouse moor management and muirburn be reviewed and, where required, revised every five years, and in doing so, include consultation with NautreScot (if the code of practice is not delegated to them) and such other persons as considered appropriate.

18. Summary and Recommendation

Option 1: Do nothing

Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Glue traps	
<p>No additional benefits</p> <p>A small number of businesses can continue to operate without change, using glue traps to control rodents.</p>	<p>There would be no additional financial costs from retaining existing provisions.</p> <p>Retaining the status quo will continue to allow the considerable suffering of rodents and non-target species caught by glue traps.</p>
Wildlife traps, grouse moor and muirburn licences	
<p>No additional benefits</p>	<p>There would be no additional financial costs from retaining existing provisions.</p> <p>By not taking forward the provisions in the Bill to further regulate the use of grouse moors and wildlife traps, the issue of wildlife crime will remain unaddressed, having a negative impact on the populations of raptor species, and the welfare of wild animals.</p> <p>The cost associated with not taking forward wildlife trap, grouse moor and muirburn licensing relate to the GMMG conclusion that the existing controls for these practices are not proving effective in guaranteeing appropriate and sustainable management.</p>

Option 2: Adopt the provisions of the Bill

Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Glue traps	
<p>Banning the purchase and use of glue traps will have an immediate positive impact on the welfare of rodents and non-target species.</p>	<p>The entire market for rodent glue traps in Scotland will be shut down. However, glue traps can still be sold so long as these are purchased for use and delivered outwith Scotland.</p>

<p>Glue traps are single use and non-recyclable, and many of their alternatives are re-usable, so this option would reduce the amount of waste associated with pest control going to landfill.</p>	<p>Businesses and suppliers who are no longer able to sell glue traps, rodent control workers, who are unable to use glue traps in their work, and non-professional individuals and businesses, who may have chosen to use glue traps in the absence of a ban, are now unable to.</p> <p>Reduced options in dealing with rodent problems. Individuals and businesses will be required to adopt other methods of rodent control.</p> <p>There may be costs associated with the enforcement of these provisions, but they are expected to be low once suppliers reduce the availability of glue traps.</p>
<p>Wildlife traps, grouse moor management and muirburn licences</p>	
<p>The licensing of grouse moors will aid in the enforcement of wildlife crime, in particular, raptor persecution.</p> <p>The introduction of centralised licensing schemes for grouse moor, wildlife traps and muirburn, would reassure the public that Scottish Government is taking these concerns seriously.</p> <p>The potential for individuals and businesses to lose their grouse moor management, wildlife trap or muirburn licence is expected to act as a deterrent to illegal activity, and there is the expectation of a longer-term reduction in cases relating to these activities.</p> <p>The licensing schemes will allow for information to be gathered at national level, filling gaps in information highlighted by the GMMG report. This will assist future decision-making at a local and national level and enable an adaptive wildlife management approach to be taken, responding to changing circumstances.</p>	<p>The organisations involved in the enforcement of the Bill and the operation of the licensing scheme may see a small cost associated with staff training.</p> <p>There may be a small, initial increase in cases relating to offences under the Bill.</p> <p>A small number of individuals and businesses will be required to adopt different way of working.</p> <p>NatureScot will see an increase in the number of licences processed.</p>

19. Declaration and Publication

Sign-off for Final BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that

(a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and

(b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Mairi McAllan

Minister for Environment and Land Reform

Date:

16 March 2023

Scottish Government Contact point:

Scottish Government Wildlife Legislation Team



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