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The Wildlife Management and Muirburn (Scotland) Bill: Consideration ahead of Stage 3

Anna Brand, Alexa Morrison

This briefing summarises scrutiny of the Wildlife Management and Muirburn (Scotland) Bill to date in advance of the Parliament's consideration at Stage 3. It sets out details of how the Bill was amended at Stage 2 and other significant developments or areas of debate.



14 March 2024
SB 24-14

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Summary and background

This briefing looks at [the Wildlife Management and Muirburn \(Scotland\) Bill](#) ahead of Stage 3 proceedings in the Scottish Parliament on 19 March 2024.

Background to the Bill

The Wildlife Management and Muirburn (Scotland) Bill ('the Bill') was introduced on 21 March 2023. [A SPICe briefing on the Bill as introduced is available.](#)

The [Policy Memorandum](#) states that 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 independent review of grouse moor management.”

The Bill is in two main parts. **Part 1** deals with wildlife management. The Bill:

- Makes it an offence to use or buy a glue trap that could be used to catch an animal other than an invertebrate
- Introduces a licensing scheme for the use of specific traps to catch wild birds and animals, which will require practitioners to complete an approved training course
- Introduces a licensing scheme for killing red grouse ('section 16AA licences'), which will require the landowner to have a licence to allow the killing and taking of red grouse on their land, and introduces a code of practice for managing that land
- Makes it possible to have Regulations that would give new powers to inspectors, for example from the Scottish SPCA, to gather evidence around certain wildlife crime offences.

Part 2 changes the regulation of 'muirburn' - the burning of heather or other plants to manage the natural environment. Muirburn is often carried out to encourage new growth for grazing animals, maintain certain types of landscapes and habitats, and reduce the risk of wildfires. If the Bill passes, people will need a licence to undertake muirburn at any point in the year. There would be different requirements depending on the time of year and whether the muirburn is taking place on peatland or not.

Consideration at Stage 1

The Rural Affairs and Islands (RAI) Committee was the lead Committee scrutinising the Bill at Stage 1 and it [published its Stage 1 report on 20 November 2023](#). The report made a number of detailed recommendations.

Detailed information about the RAI Committee's scrutiny, including its Call for Views and minutes of Committee meetings where evidence was taken from stakeholders and the Scottish Government [is set out on the Scottish Parliament website](#).

The Scottish Government [responded to the RAI Committee report on 29 November 2024](#).

Members of the Scottish Parliament [debated the general principles of the Bill on 30 November 2024 and voted to agree the general principles of the Bill.](#)

Consideration at Stage 2

The Bill as amended at Stage 2 [was posted on the Scottish Parliament website on 21 February 2024.](#) Minutes of Stage 2 proceedings, which were held in the RAI Committee over two meetings on 7 and 21 February 2024, set out which amendments were agreed to, amendments disagreed, amendments withdrawn, and provisions of the Bill agreed without amendment:

- [Minutes of proceedings on 7 February 2024 - the Minister leading on the Bill at this meeting was the \(then\) Minister for Energy and the Environment, Gillian Martin MSP.](#)
- [Minutes of proceedings on 21 February 2024 - the Minister leading on the Bill at this meeting was the Minister for Agriculture and Connectivity, Jim Fairlie MSP](#)

The following sections describe how the Bill was amended during Stage 2 proceedings. It also summarises other key areas of the debate at Stage 2, for example where proposed amendments were withdrawn on the basis of the Scottish Government committing to give further consideration to a proposal or issue. The briefing does not detail all amendments that were put forward where these were not agreed or where there was no commitment to consideration in advance of Stage 3.

Amendments agreed 'without division' indicates where Members unanimously agreed an amendment. Amendments agreed 'by division' indicates where a majority, but not all Members supported an amendment.

Part 1: Wildlife Management

Part 1 of the Bill deals with wildlife management. The Bill as introduced would, if passed:

- Make it an offence to use or buy a glue trap that could be used to catch an animal other than an invertebrate
- Introduce a licensing scheme for the use of specific traps to catch wild birds and animals, which will require practitioners to complete an approved training course
- Introduce a licensing scheme for killing red grouse, which will require the landowner to have a licence to allow the killing and taking of red grouse on their land, and introduces a code of practice for managing that land
- Make it possible to have Regulations that would give new powers to inspectors, for example from the Scottish SPCA, to gather evidence around certain wildlife crime offences.

Glue traps

The Bill as introduced (section 1-3) bans the purchase and use of glue traps and includes provisions allowing for the forfeiture and disposal of seized glue traps.

These sections of the Bill were **agreed at Stage 2 without amendment**.

However, the Scottish Government indicated it would work with Members in areas set out below, and also that the Scottish Government still intends to amend the Bill at Stage 3 to ban the sale of glue traps. This is subject to agreement with the UK Government in relation to the UK Internal Market Act 2020 (more information below).

- **Further consideration of ‘last resort’ licensing for pest controllers**

Amendment 176, moved by Edward Mountain MSP, would have continued to allow the use of glue traps for the “control of rats and mice in educational, catering or medical premises”. Amendments 5, 6 and 7 were not moved by Edward Mountain MSP and would have created a licensing scheme for the continued use of glue traps by trained pest controllers, for the purpose of preserving public health or public safety, where Scottish Ministers are satisfied there is no other satisfactory solution.

The Minister said that the Scottish Government could not support Amendment 176 as it would still allow members of the public to use glue traps in certain circumstances, and there is consensus that the public use should no longer be allowed to use glue traps on animal welfare grounds.

However, the Minister **agreed at Stage 2 to give further consideration to the proposal of some form of ‘last resort’ licensing**, recognising concerns of the pest control industry about a complete ban:

“ I am sympathetic to what the pest controllers had to say to me in that meeting, because public health is an absolute priority. However, if we were to allow pest controllers to continue to use glue traps in any capacity, that would need to be very tightly regulated in order to ensure that no one got hold of such a trap if they were not supposed to, and that, when the traps were used, there were safeguards in place to reduce animal suffering. I am prepared to give that aspect further consideration.”

Amendment 176 was withdrawn and amendments 5, 6 and 7 not moved on that basis.

- **Further consideration of offence of knowingly causing or permitting the use of a glue trap**

An amendment by Colin Smyth MSP would have made it an offence to knowingly cause or permit another person to use a glue trap (amendment 107, not moved) .

On the section 1 offence of using a glue trap, [the explanatory notes accompanying the Bill state](#) that “The offences do not apply if the person has a reasonable excuse for using or setting a glue trap. For example, it is not the intention to criminalise circumstances where a person is compelled to use a glue trap by a workplace superior.”

Colin Smyth MSP said that this “creates a potential loophole” in that someone could get around the ban by compelling someone else to use the trap.

The Minister said in response that having listened to the Member’s reasoning, she was “minded to include that in the bill” but would like to reflect on the matter further and ensure the provision “is appropriately drafted”, and therefore asked the Member not to move the amendment.

Amendment 107 was not moved by Colin Smyth MSP on that basis.

- **UK Internal Market Act exclusion regarding banning the sale of glue traps**

The Bill currently provides for a ban on the purchase and use of glue traps but does not ban the sale of glue traps.

The [Policy Memorandum](#) set out that it was the Scottish Government’s intention to also ban the sale of glue traps but this necessitates an exemption from [the UK Internal Market Act \(UKIMA\) 2020](#). It states that the Scottish Government is exploring this with the UK Government 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”.

The Minister said on 7 February during Stage 2 proceedings that it was still the intention to amend the Bill in this way at Stage 3 but that a UKIMA exclusion had not yet been agreed:

“ I have still not had any agreement from the United Kingdom Government on the exemption under the United Kingdom Internal Market Act 2020. Several letters have gone back and forth, and a meeting to discuss the matter with UK Government ministers was cancelled at the very last minute, so I have not had satisfaction there. There are a lot of balls up in the air in relation to this matter, which is why I have not lodged my proposed amendments here.”

Snaring ban (new section of Bill as amended)

A Scottish Government amendment was agreed at Stage 2 to prohibit the use of snares in Scotland. The amendment was agreed by division. Amendment 54, now section 3A of the Bill as amended, introduces the following offences of:

- setting in position or otherwise using a snare for the purpose of killing any animal other than a wild bird
- setting in position or otherwise using a snare, other than a snare that is operated by hand, for the purpose of taking any animal other than a wild bird, and
- using a snare which is of a nature or is placed (or both) so as to be likely to cause bodily injury to any animal (other than a wild bird) coming into contact with it.

The Minister explained at Stage 2 proceedings that:

- Wild birds are excluded from the above offences in order to avoid conflict with the existing law, as section 5 of [the Wildlife and Countryside Act 1981 \(as amended\) \(the '1981 Act'\)](#) already prohibits the use of snares to take or kill wild birds
- The reason for excluding “a snare that is operated by hand” for the purposes of taking an animal from the provisions is to avoid “unintended consequences”, having considered that handheld devices such as those used by dog wardens, which have a loop at the end, might have been unintentionally caught by the ban
- She had considered proposals put forward by some stakeholders for a licensing scheme for ‘humane cable restraints’ but “was not convinced that they were markedly different from traditional snares”.

[The Policy Memorandum for the Bill had](#) stated that the Scottish Government was committed to reforming snaring legislation and that this would include "consideration of whether a ban on the use of snares should be introduced". It stated that, in order to allow sufficient time for analysis of the findings of the snaring review, the Scottish Government intended to introduce provisions on snaring at Stage 2.

[A Scottish Government consultation on banning the use of snares was subsequently published on 22 August 2023.](#) The consultation closed on 3 October 2023. The RAI Committee took additional Stage 1 evidence on the Bill following the publication of these proposals, first [from the Scottish Government on 1 November 2024](#) and [from stakeholders on the 8 November 2024.](#)

The current law on snaring and background to snaring reviews [is set out in the SPICe Bill briefing.](#) The use of snares i.e. a trap using a noose to capture certain animals such as foxes and rabbits is currently permitted in Scotland, where carried out in accordance with [requirements in section 11 of the 1981 Act.](#)

The [Scottish Animal Welfare Commission published a position paper on snaring in 2022](#) at the request of the Scottish Government, recommending that snaring should be banned in Scotland on animal welfare grounds.

Regulation of wildlife traps

- **Addition of animal welfare offences to list of ‘relevant offences’ – amendment agreed**

An amendment proposed by Karen Adam MSP (amendment 79) was agreed so that offences under section 19 of the Animal Health and Welfare (Scotland) Act 2006 are included as ‘relevant offences’ - offences that can be the basis for suspension or revocation of licences for wildlife trapping. The amendment was agreed by division.

The offence in section 19 of the 2006 Act is of causing “unnecessary suffering” to a protected animal.

Those “relevant offences” are set out in section 4 of the Bill as amended, which introduces a new section 12D(5) into the 1981 Act. The other relevant offences (in the Bill as introduced) are:

- Section 11 to 11C, 11E, 12A, 12F or 17 of the Wildlife and Countryside Act 1981 - which relate to the prohibition of certain methods of killing or taking wild animals, offences relating to snares, the offences introduced in this Bill regarding wildlife trap licences, and making false statements to obtain a licence
- Section 50 or 50A of the Agriculture (Scotland) Act 1948 -which relate to night shooting of rabbits and hares, and illegal use, sale or possession of spring traps
- Regulation 41 of The Conservation (Natural Habitats, &c.) Regulations 1994 - which prohibits certain methods of taking or killing wild animals
- The Wild Mammals Protection Act 1996 - which prohibits a number of specified cruel acts against wild mammals
- Section 1 and 2 of the Wildlife Management and Muirburn (Scotland) Act 2023 - provisions in the Bill regarding glue traps.

The Policy Memorandum states that these offences "are considered to be offences closely linked to the misuse of traps or causing the suffering of a wild mammal".

The Scottish Government supported this amendment. The Minister noted during Stage 2 proceedings that [the RAI Committee’s Stage 1 report](#) recommended that the Scottish Government consider the inclusion of animal welfare offences as relevant offences. She said this offence “could apply to the mistreatment of a trapped animal, for example, or the treatment of a call bird used in a crow cage or Larsen trap”ⁱ – in setting out its relevance to enforcing the wildlife trap and section 16AA (grouse moor) licensing schemes in the Bill.

An equivalent amendment (amendment 82) was agreed in relation to “relevant offences” for the suspension or revocation of 'section 16AA licences' issued for grouse moors – this is described [in the part of this briefing covering section 16AA licences](#).

- **Removal of powers to suspend wildlife trap licences on the basis of an official investigation – amendment agreed**

ⁱ A Larsen trap is a wildlife trap used for predator control. It is a portable cage-trap with a trap door used to catch corvid species of bird such as crows and magpies.

The Bill as introduced gave the licensing authority (expected to be NatureScot) the power to suspend a wildlife trap licence if, despite not being satisfied that a 'relevant offence' had been committed, there was an "official investigation or proceedings in relation to a suspected relevant offence". This would have applied even where the licensing authority was not, at that point, satisfied that a relevant offence had taken place.

A Scottish Government amendment was agreed to remove these provisions of the Bill (amendment 48, agreed without division).

The ability of the licensing authority to suspend a licence on the basis of an "official investigation" was an area of extensive discussion during Stage 1 scrutiny in the RAI Committee, which included questions being raised about exactly what constituted an official investigation by Police Scotland. Some stakeholders raised concerns that wildlife trap licences might be suspended using these provisions based on vexatious complaints made against gamekeepers. These discussions are [summarised in the RAI Committee Stage 1 report](#).

The Minister said at Stage 2 that she had listened to "very strongly held concerns about the potential misuse of those provisions" which were raised at Stage 1. Although she said she would have expected NatureScot to have "operated those provisions carefully and responsibly", allowing for suspension of licences while a police investigation ran its course, she had been "reassured that, in many cases, the police would be able to provide sufficient evidence at an early stage of the investigation in serious cases" that a relevant offence had been committed. The Bill already provides for wildlife trap licences to be suspended or revoked where the relevant authority is satisfied that a relevant offence has been committed.

Related amendments were agreed as a consequence of this amendment, for example removing the later definition of 'official investigation' from the Bill.

Equivalent amendments were also made in respect of section 16AA licences and muirburn licences with the same rationale - these are discussed in later sections of the briefing.

- **Introduction of an offence of tampering with a wildlife trap – amendment agreed**

A Scottish Government amendment was agreed to which would make it an offence to tamper with a wildlife trap (amendment 55, agreed without division).

The provisions (now in section 4 of the Bill as amended, introducing a new sub-section 12A(5A) to the 1981 Act) would make it an offence to tamper with a trap to which the wildlife trap licensing scheme in the Bill applies, so that it no longer complies with legal requirements, or to disarm or destroy it without reasonable excuse. It also adds the offence of knowingly causing or permitting another person to tamper with, disarm or destroy such a trap.

The Minister explained that this followed on from listening to scrutiny at Stage 1, meeting with the Scottish Gamekeepers Association, and noting the "extent to which trap tampering happens and the impact that it has on land managers' ability to do their job", as well as possible animal welfare implications of trap tampering.

- **Requiring evidence of training courses to be submitted in application for wildlife trap licence – amendment agreed**

A Scottish Government amendment was agreed to require any application for a wildlife

trap licence to include evidence that the applicant has completed an approved training course (amendment 56 agreed without division).

The Bill as introduced already includes a requirement for an approved training course to be completed. The new provision, now in section 4 of the Bill as amended, introducing a new sub-section 12B(e) to the 1981 Act, clarifies that evidence of this will be required to be provided to the licensing authority as part of the application.

The Bill as introduced left the licensing authority to determine what information was to be supplied. The Minister said she considered this to be “more transparent”.

- **Further consideration to be given to cost of training courses on wildlife trapping**

An amendment proposed by Edward Mountain MSP would have included a provision in the Bill so that the relevant authority may, in relation to approved training courses associated with obtaining a wildlife trap licence, “determine fees that may be charged to a person attending a course, which must be reasonable and an amount no higher than £200” (amendment 14, not moved).

The Member raised concerns about courses in this area becoming increasingly expensive, and a need to ensure that everyone has the opportunity to take them.

The Minister said that the proposed amendment was not workable, because it would exclude existing training that trap users already undertake as part of wider qualifications, referring to the higher national certificate or higher national diploma in gamekeeping as examples. The Minister committed that “In developing the framework for training courses, the Scottish Government and NatureScot will work with stakeholders to ensure that, if a fee is to be charged for training courses, the cost will be accessible and consideration will be given to providing for exemptions in certain circumstances”. The Minister also agreed to discuss the amendment further with the Member.

Amendment 14 was not moved on this basis.

Licensing of land for killing and taking of certain birds (grouse moor licensing)

- **Licence period extended from 1 to 5 years – amendment agreed**

The Bill as introduced limited the length of a section 16AA licence to a period of one year, effectively providing for a system of annual licensing for shooting red grouse on grouse moors.

This was a subject of debate at Stage 1, with some land management stakeholders arguing this creates unnecessary uncertainty for grouse moor businesses. NatureScot and members of the Independent Review of Grouse Moor Management (Werritty review) also considered that a longer period may be reasonable. The [RAI Committee highlighted in its Stage 1 report](#) that there was an apparent consensus around a longer licensing period of 3 to 5 years and recommended the Bill is amended to reflect this.

An amendment lodged by Jim Fairlie MSP was agreed, extending the maximum length of

a section 16AA licence to 5 years (now found in section 7 of the Bill as amended, which inserts a new section 16AA(5)(b) into the 1981 Act). Amendment 81 was agreed without division.

This amendment was moved at Stage 2 by Emma Harper MSP, reflecting that by this point, Jim Fairlie MSP had left the Committee (and was now the Minister speaking to the Bill).

- **Exclusion of falconry from requirements for a section 16AA licence - amendment agreed**

A Scottish Government amendment was agreed to exclude the need for a section 16AA licence where red grouse are killed or taken using another bird of prey – provided that person had the legal permissions to do so, and where red grouse are killed, are killed in a way to ensure minimum suffering. This exemption is now set out in section 6(2)(1C) and (1D) of the Bill as amended. Amendment 61 was agreed without division.

This amendment was made as concerns were raised with the Scottish Government following Stage 1 that falconers would fall within requirements for a section 16AA licence. The Minister said that “Given that falconers take only a small number of red grouse across Scotland each year”, requiring them to obtain a section 16AA would be “unnecessarily burdensome”.

- **Inclusion of medicated grit in areas specified for Code of Practice – amendment agreed**

An amendment by Jim Fairlie MSP was agreed, adding how medicated grit is used as part of land management to a non-exhaustive list of areas that may be included in the code of practice for grouse moor management, to be developed by NatureScot. Amendment 83 was agreed without division.

The Bill as amended now reads - in section 7, inserting section 16AC(2) into the 1981 Act -that a code of practice may, in particular, provide guidance on

- how land should be managed to reduce disturbance of and harm to any wild animal, wild bird and wild plant (including the use of medicated grit for such purposes)
- how the taking or killing of any wild birds should be carried out, and
- how predators should be controlled.

The amendment was moved by Emma Harper MSP at Stage 2, as Jim Fairlie MSP had left the Committee by this point and was now the Minister speaking to the Bill. She said that “At tage 1, a number of parties were concerned that there were no specific references that allowed medicated grit to be provided”. The amendment aimed to provide clarity that the code would cover the use of medicated grit.

The Minister said in response that “The code of practice is about ensuring good-quality grouse moor management and medicated grit will be part of that code of practice”. The Scottish Government supported the amendment.

Background on the use of medicated grit on grouse moors [is included in the SPICe Bill briefing](#).

- **Requiring conditions attached to a section 16AA licence to be ‘reasonable’ – amendment agreed**

The Bill as introduced allowed the relevant authority (expected to be delegated to NatureScot by Scottish Ministers) to “specify any conditions the relevant authority considers appropriate to attach” to a section 16AA licence.

An amendment by Rachael Hamilton MSP was agreed inserting ‘reasonable’ into the above clause, so that only reasonable licence conditions may be legally imposed (see section 6 of the Bill as amended, which inserts section 16AA (5)(a)(iii) into the 1981 Act). Amendment 62 was agreed without division.

The Scottish Government supported this amendment.

- **Removal of powers to suspend a section 16AA licence on the basis of an official investigation – amendment agreed**

The Bill as introduced gave the licensing authority (expected to be NatureScot) the power to suspend a section 16AA licence if, despite not being satisfied that a ‘relevant offence’ had been committed, there was an “official investigation or proceedings in relation to a suspected relevant offence”.

A Scottish Government amendment was agreed to to remove these provisions from the Bill. Amendment 49 was agreed without division.

The ability of the licensing authority to suspend a licence on the basis of an official investigation, despite not being satisfied at that point that a relevant offence had been committed, was an area of debate during Stage 1 scrutiny in the RAI Committee. Questions were raised about what exactly constituted an ‘official investigation’ by Police Scotland, and some stakeholders raised concerns that section 16AA licences might be suspended using these provisions based on vexatious complaints against gamekeepers. These discussions are [summarised in the RAI Committee Stage 1 report](#).

The Minister said that she had listed to “very strongly held concerns about the potential misuse of those provisions” raised at Stage 1 - which were raised both in relation to suspension of 16AA licences and wildlife trap licences, as outlined above.

Although she said she would have expected NatureScot to have “operated those provisions carefully and responsibly”, allowing for the suspension of licences while a police investigation ran its course, she had been “reassured that, in many cases, the police would be able to provide sufficient evidence at an early stage of the investigation in serious cases” that a relevant offence had been committed. The Bill already provides for section 16AA licences to be suspended or revoked where the relevant authority is satisfied that a relevant offence has been committed.

Related amendments were agreed as a consequence of this amendment, for example removing the definition of ‘official investigation’ from the Bill.

Equivalent amendments were also made in respect of wildlife trap licences and muirburn licences with the same rationale. This is discussed further in those parts of this briefing.

- **Animal welfare offences added to list of ‘relevant offences’ – amendment agreed**

An amendment by Karen Adam MSP was agreed so that offences under [section 19 of the Animal Health and Welfare \(Scotland\) Act 2006](#) are included as ‘relevant offences’ i.e. offences that are relevant to the consideration of the suspension or revocation of a section 16AA licence. The offence in section 19 of the 2006 Act is of causing “unnecessary suffering” to a protected animal. Amendment 82 was agreed by division.

Those “relevant offences” are set out in section 7 of the Bill as amended. The other relevant offences are those included in:

- Part 1 of the 1981 Act
- The Protection of Badgers Act 1992
- Part 3 of the Conservation (Natural Habitats, &c.) Regulations 1994
- Section 1 of the Wild Mammals (Protection) Act 1996
- Section 19 of the Animal Health and Welfare (Scotland) Act 2006, and
- The Hunting with Dogs (Scotland) Act 2023.

The [Policy Memorandum](#) states that the above list of relevant offences relate to “raptor persecution or another relevant wildlife crime related to grouse moor management such as the unlicensed killing of a wild mammal, or the unlawful use of a trap”.

The Scottish Government supported this amendment. The Minister noted during Stage 2 proceedings that [the RAI Committee’s Stage 1 report](#) had recommended that the Scottish Government consider the inclusion of animal welfare offences as relevant offences. She said this offence “could apply to the mistreatment of a trapped animal, for example, or the treatment of a call bird used in a crow cage or Larsen trap” – in setting out their relevance to enforcing the wildlife trap and section 16AA licensing schemes in the Bill.

The equivalent amendment (amendment 79) was agreed in relation to “relevant offences” for the suspension or revocation of wildlife trap licences – this is described in [the part of the briefing covering wildlife trap licences](#).

- **Further consideration to be given to requiring Scottish Ministers to monitor the impact of licensing - including on the conservation status of key birds of prey**

A proposed amendment by Jim Fairlie MSP would have required Scottish Ministers to lay a report in the Scottish Parliament within 5 years of the licensing scheme coming into effect, setting out information on key aspects and impacts of the scheme (amendment 85, not moved).

The proposed amendment would have required the review to include information on:

- The number of licences issued under section 16AA and the area of land affected
- The number of licences subject to suspension or revocation and associated reasons and duration
- The number and type of suspected or proven relevant offences associated with the land
- The number and outcome of any appeals made under section 16AA

- An assessment of the conservation status, including population size and range, of specified birds of prey - golden eagle, hen harrier, peregrine falcon and merlin.

The amendment was talked to by Emma Harper MSP in Committee, reflecting that by this time Jim Fairlie MSP had left the RAI Committee and was the now Minister talking to the Bill. In talking to the amendment she said:

“ Part of the reason for the bill is to address raptor persecution on land managed for grouse shooting, and the Scottish Government wants to do so through the section 16AA licensing provisions. The Werritty review identified three raptor species populations as being significantly impacted by criminal activities on some grouse moors: the golden eagle—indeed, there have been criminal investigations into the persecution of those birds in my South Scotland region—the hen harrier and the peregrine falcon. To assess the bill’s effectiveness in reducing raptor persecution on those raptor species, regular monitoring and surveillance of their populations will be essential, and I acknowledge the Scottish Government’s commitment to doing so.”

The Minister (Jim Fairlie MSP) acknowledged that this was an "unusual situation" in that he was now addressing amendments that he had lodged previously before being appointed as Minister, with the benefit of having received a "great deal of advice on the amendments to the bill".

He said that including a requirement to undertake an assessment of raptor populations was “a reasonable suggestion”, but that the resource implications of that must also be considered. The Scottish Government committed to discuss these requirements further with NatureScot and relevant stakeholders “to understand their ability to undertake the additional monitoring and reporting” and to ensure consistency with the rest of the Bill.

Emma Harper MSP did not move the amendment on that basis.

- **Further consideration to be given to requiring NatureScot to give reasons for suspending or revoking a licence**

A proposed amendment by Rachael Hamilton MSP would have legally required the licensing authority (expected to be NatureScot) to include reasons when giving written notice to a person that their section 16AA licence is to be modified, suspended or revoked (amendment 65, not moved).

The Minister agreed to the principle of this amendment stating it was “reasonable and sensible”, but asked the Member not to move the amendment in order to have more time to consider the exact framing of the provision.

Amendment 65 was not moved on that basis.

Investigation of wildlife offences - additional powers for Scottish SPCA inspectors

Background

The Scottish Government [set out in the Policy Memorandum for the Bill](#) that it may wish to amend the Bill at Stage 2 in relation to the powers of [Scottish Society for the Protection of](#)

[Cruelty to Animals \(“Scottish SPCA”\) inspectors](#) to investigate wildlife crime. The Policy Memorandum stated that the Scottish Government was still considering [the report of the independent taskforce established to consider this issue](#).

[A Scottish Government consultation on the powers of Scottish SPCA inspectors, setting out the Government’s specific proposals in response to the taskforce review, was published on 22 August 2023](#). The consultation closed on 3 October 2023. Detailed background on proposals for Scottish SPCA inspectors to have more powers to investigate wildlife crime are [set out in the SPICe Bill briefing](#).

The RAI Committee took further Stage 1 evidence [from the Scottish Government on 1 November 2023 to take into account the detailed proposals in the consultation](#). The Committee [subsequently discussed the proposals with stakeholders on 8 November 2024](#). Arguments made for and against the Scottish SPCA receiving additional powers in this area [are summarised in the Committee’s Stage 1 report](#).

What does the amendment do (new section 8A of the Bill as amended)

A Scottish Government amendment was agreed to confer additional powers on Scottish SPCA inspectors to investigate wildlife offences in certain circumstances. These powers are set out in section 8A of the Bill as amended, which amends the Animal Health and Welfare (Scotland) Act 2006 (the ‘2006 Act’). Amendment 71 was agreed by division.

Scottish SPCA inspectors, under these powers, will be able to gather evidence of “relevant offences” **where they have entered non-domestic premises under their existing powers** under the 2006 Act.

Authorised Scottish SPCA inspectors already have powers via the 2006 Act to investigate animal welfare offences. [Scottish SPCA inspectors authorised by Scottish Ministers may, on completion of the relevant training:](#)

Without a warrant:

- enter non-domestic premises, for the purpose of taking possession of a suffering animal, if the inspector believes immediate entry is appropriate in the interests of the animal;
- enter non-domestic premises, to search for and seize any evidence (including animals) as evidence in relation to a “relevant offence,” if they believe that any delay caused by seeking a warrant would frustrate the purpose of that search;
- enter and inspect any non-domestic premises, for the purpose of ascertaining whether or not an offence under Part 2 of the 2006 Act has been committed.

With a warrant:

- enter any premises, for the purpose of taking possession of a suffering animal or destroying an animal (where appropriate);
- enter any premises, to search for and seize any animal or other thing as evidence in relation to a “relevant offence” under Part 2 of the 2006 Act.

“Relevant offences” for the purposes of this new section of the Bill are set out as:

- Multiple wildlife offences in the 1981 Act, including offences relating to prohibition of

certain methods of killing or taking wild birds, the sale of certain wild birds, prohibition of certain methods of killing wild animals and possession of pesticides

- Those in section 1 or 2 of the Wildlife Management and Muirburn (Scotland) Act 2024 i.e. relating to glue traps.

The Minister set out the following further detail and rationale for this amendment at Stage 2:

- It was described as a “small extension of powers to deal with a gap in the arrangements for securing evidence of potential criminality”, which seeks to strike a balance between those who have raised concerns about giving the Scottish SPCA additional powers, and those who would have liked the powers to go even further.
- “I will give an example of the powers in use. As the law currently stands, a Scottish SPCA inspector responding to the case of a live animal caught in an illegally set trap is not able to seize any other illegal traps in the immediate vicinity that do not contain live animals. They would also not have the power to search the area for evidence of other illegally set traps. If the amendment was agreed to, it would mean that, in those circumstances, an inspector would have the power to seize the illegally set traps and search for evidence of other illegally set traps in the vicinity. They would then turn over their evidence to Police Scotland, which would retain primacy over the investigation of wildlife crime cases including offences under the Wildlife and Countryside Act 1981 and this bill”.
- The additional powers come with a number of “safeguards and limitations”, in particular that they can be exercised only when an inspector is already responding to a case under their existing powers.
- As is currently the case, each inspector will be appointed separately and individually by the Scottish Government.
- All inspectors will be required to undertake training prior to being given authorisation to exercise the new powers.
- Authorisation can be withdrawn at any time at the discretion of the Scottish Government.
- Protocols will be established between the SSPCA and Police Scotland to ensure effective partnership working and to set out clearly the role of the SSPCA within the limit of those powers. The protocols for partnership working that the SSPCA will follow when using the new powers will clearly set out how the new functions should work. That will include what reporting mechanisms will be in place, how the SSPCA, the National Wildlife Crime Unit, Police Scotland and the Crown Office will work together effectively, and what the individual roles and responsibilities of each party are.
- Scottish SPCA inspectors will not be given powers to stop and search people, and will not have powers to arrest people who are suspected of committing a wildlife crime.

The Minister committed that the new provisions “will not be commenced until the protocols have been agreed by all relevant parties, including Scottish Ministers”.

- **Further consideration to be given to a requirement to review the operation of the new powers for Scottish SPCA inspectors**

An amendment proposed by Rhoda Grant MSP was debated which would have required Scottish Ministers to review the operation of new powers held by Scottish SPCA inspectors (amendment 141, not moved).

Under the proposed amendment, the review would have been required to include consideration of whether:

- The exercise of the new powers has resulted in convictions
- Any investigations or proceedings relating to an offence had been compromised as a result of the involvement of a third sector body i.e. as a result of the involvement of the Scottish SPCA
- There is a need for additional policing resource as an alternative to the use of the powers.

The Minister supported an amendment to require a review in principle, stating it was “a helpful addition” and he hoped such a requirement “would help to allay some of the concerns that were raised at Stage 1 about how the new powers will be used”.

However, he stated that requiring a review after only one year was not an “appropriate timescale” given the time that criminal investigations can take to proceed through the system, stating “a longer review period of three to five years would probably be more appropriate”. More generally he said there were other “minor issues” with the amendments, and asked the Member not to move the amendment to enable the Scottish Government to consider this further with a view to bringing a revised version at Stage 3.

Amendment 141 was not moved on that basis.

Part 2: Muirburn

Part 2 of the Bill would, if passed, introduce licences for burning moorland (known as 'muirburn') at any time of the year. This is often carried out to encourage new growth for grazing animals, maintain certain types of landscapes and habitats, and reduce the risk of wildfires. Further regulation of muirburn was also an area considered by the Werritty Review. Recommendations of the review in relation to muirburn are [summarised in the SPICe bill briefing](#).

Amendments were agreed to in the following areas.

- **Change to the definition of 'muirburn' - amendment agreed**

The Bill as introduced specified that “making muirburn” includes the setting of fire to or burning of heather or other vegetation. At Stage 2, both Scottish Government and opposition amendments were lodged to amend this definition. Scottish Government amendments 76 and 77, amending the definition of muirburn to mirror [the definition in the Hill Farming Act 1946](#) (“references to the making of muirburn include references to the setting of fire to, or the burning of, any heath or muir”) were agreed to (by division). 'Muir' is another name for moorland (used in Scotland).

The Minister for Agriculture and Connectivity explained:

“ Amendments 76 and 77 will change the definition of muirburn in the bill. During the stage 1 evidence sessions, we heard from stakeholders who were concerned that the definition of muirburn might be broad enough to cover situations that would not normally be considered to be muirburn. The current wording in the bill refers to the “burning of heather or other vegetation”, which might capture piled-up dead vegetation and so include things such as bonfires and campfires. We also heard concern that the definition would include the activity of flame weeding, which is a method that is used to control weeds in garden settings or agricultural fields, or gorse in fields, golf courses and urban areas. It was not the intention to include activities of that type under the bill. The muirburn provisions are intended to cover only the burning of vegetation on a heath or a muir.”

- **Change to the muirburn season - amendment agreed**

The Bill as introduced specified that the muirburn season is the period from 1 October in any year to 15 April in the following year. There was discussion during Stage 2 about whether the season should finish earlier - both 15 March and 31 March were proposed - to ensure that the muirburn season does not overlap with the the nesting season for ground-nesting birds (recognising that these may be becoming earlier due to climate change). Amendment 102 in the name of Kate Forbes MSP proposed that the end of the season be brought forward to 31 March. This amendment was agreed to by division. It was also proposed - and agreed by division- that the season should begin earlier, on 15 September (amendment 101). Amendments which conversely proposed to extend the end of the muirburn season to 30 April under certain circumstances were not agreed to.

- **Addition of training requirement - amendment agreed**

Amendments 91 and 92, in the name of Kate Forbes MSP, were agreed to without division. These amendments provide that an application for a muirburn licence "must include

evidence that the person who will make muirburn has completed a training course approved under section 13A". In turn, section 13A was inserted by amendment 99, also in the name of Kate Forbes MSP, and places a duty on Scottish Ministers to approve training courses on muirburn and the Muirburn Code, as well as conferring a power on Scottish Ministers to determine training requirements, accredit courses, determine the minimum criteria for successfully completing a course, and determine how to record successful completion of a course. As a consequence, amendments 96 and 98 were also agreed to; these provide that Scottish Ministers must be satisfied that an approved training course has been completed before deciding to grant a muirburn licence. Amendment 104 was also agreed to, which allows Scottish Ministers to delegate the ability to approve training courses to Scottish Natural Heritage (NatureScot).

Requirements for training to undertake muirburn were discussed during Stage 1 consideration of the Bill. [These discussions are summarised in the Committee's Stage 1 report.](#)

The Minister stated during Stage 2 that:

“ When the bill was introduced, the intention was for training to be a requirement of the muirburn code. However, having heard from a number of key stakeholders on the issue of training, including the Scottish Fire and Rescue Service, it is clear to me that the importance of training demands that it be included in the bill. I therefore support those amendments.”

- **Change to "no other method of vegetation control is available" - amendment agreed**

Section 11 in the Bill as introduced provides that Scottish Ministers may grant a muirburn licence on peatland if, among other things "no other method of vegetation control is available". Responding to issues raised by stakeholder, and a recommendation in the Rural Affairs and Islands Committee's Stage 1 report which asked the Scottish Government to "reflect on the wording in Section 11(b)(ii) to ensure that it permits the licensing authority to respond flexibly to licensing applications", an amendment was agreed without division to provide that licences can be granted on peatland if "no other method of vegetation control is *practicable*" (amendment 97 in the name of Alasdair Allan MSP). The Minister said during Stage 2:

“ Demonstrating other potentially less damaging land management techniques is a key part of ensuring that our valuable peatlands are protected. However, I have heard concerns from stakeholders that, even though other methods may be available, they may not be suitable. Requiring methods to be practicable feels like a more appropriate test. I am clear that it will still be a high bar to meet and that it will require all parties to respect the intent of the legislation. A more expensive approach or a scheme that would take longer to complete could still be practicable. However, there may be times when, due to Scotland's topography, the cost of an alternative would be prohibitive, particularly for the small land managers and owners who live and work in constituencies such as Alasdair Allan's. I hope that NatureScot and applicants will work together to arrive at mutually discussed and agreed decisions. I therefore support Alasdair Allan's amendment 97...”

Discussions around this provision during Stage 1 consideration is [summarised in the RAI Committee's Stage 1 report.](#)

- **Removal of powers to suspend a muirburn licence on the basis of an official investigation - amendment agreed**

As in other parts of the bill, section 13 (1)(c) in the Bill as introduced gave the licensing authority the power to suspend a muirburn licence if, despite not being satisfied that a 'relevant offence' had been committed, there was an "official investigation or proceedings in relation to a suspected relevant offence". [Background to the amendment is discussed in previous sections of this briefing](#), and Stage 1 discussions are [summarised in the RAI Committee's Stage 1 report](#).

Equivalent provisions were removed in other parts of the Bill, and likewise, a Scottish Government amendment was agreed to in order to remove these provisions from the Bill in relation to muirburn. Amendment 51 was agreed without division. A consequential amendment (amendment 52) was also agreed without division to remove the definition of "official investigation".

- **Cost of giving notice - amendment agreed**

Section 15 sets out requirements for giving notice of upcoming muirburn activities. Where there are 10 or more occupiers within 1 km of the proposed muirburn site, the person intending to make muirburn may, instead of giving notice directly to each occupier, place a notice in a local newspaper, or give notice "by such other method as the Scottish Ministers may specify". Amendment 37 in the name of Edward Mountain MSP requires Ministers to have regard to the cost of using those other methods. This amendment was agreed to without division, and section 15(3)(b) now reads "by such other method as the Scottish Ministers may specify (whether in the Muirburn Code or otherwise) having regard to the need for the cost of giving notice to be reasonable to a person who intends to make muirburn."

Edward Mountain MSP proposed further related amendments (amendments 31, 36 and 43) to establish a register of muirburn licences, in order to remove the requirement that notice of making muirburn must be published in a local newspaper. These amendments were not agreed to. The reasons behind the proposed amendments were that some stakeholders have raised that placing notice in a newspaper can be expensive and is no longer as effective, and a register would bring together all notices in one place and reduce costs for muirburn practitioners. The Minister responded that he is sympathetic to the reasons behind the amendments, but felt that "it would be better to allow for the [wider review of species licences committed to under the Bute House agreement] that has just been announced to be undertaken and for options to be presented for creating a register that would potentially cover a range of licences."

In relation to certain other issues where amendments were not agreed, there was agreement between members and the Minister to have further discussions in advance of Stage 3.

- **Further consideration of the purposes for making muirburn on land that is peatland/not peatland**

Several amendments were lodged which intended to make changes to the purposes for which a muirburn licence can be obtained on land that is peatland and on land that is not peatland (sections 10(2)(a) and (b)). These amendments sought variously to remove the ability to make muirburn for the purpose of managing for moorland game on land that is not peatland; to add the ability to make muirburn for managing moorland game or wildlife

on land that is peatland; to create greater consistency between the purposes on peatland/ not peatland (though maintaining the substantive distinctions between the two); emphasising the role of muirburn in preventing wildfires; setting out further procedure for consultation and parliamentary scrutiny of any regulations brought forward under section 10(5); and providing for particular purposes on crofting land.

None of these were agreed to at Stage 2, but the Minister agreed to discuss amendments 88 and 89 in the name of Kate Forbes MSP further ahead of Stage 3. These amendments proposed to insert a purpose for "preventing, or reducing the risk of, wildfires causing damage to habitats" on land that is not peatland, and a purpose for "conserving, restoring, enhancing or managing" the natural environment on land that is peatland, where it currently provides a purpose only for "restoring the natural environment".

The Minister explained that he does not think the former is necessary because it is covered by other purposes. On the latter, the Minister explained that:

“...the provisions for muirburn on peatland are about reaching a balanced position. The increased purposes for undertaking muirburn that are proposed by amendment 89 are broader in terms than just “restoring” and would therefore open up the scope for when muirburn could take place on peatland. For example, “managing” the environment is so wide that it would allow muirburn on peatland for any purpose whatsoever, without any restriction. I think that we can agree that that would not be appropriate, would put peatlands at unnecessary risk and would not align with our commitments to address climate change.”

However, while not committing to consider any specific amendments, the Minister undertook to "consider the matter further ahead of stage 3 and to determine whether we can make the Bill's purposes clearer". The Minister also undertook to discuss both the implications for crofters and ensuring that any changes to the purposes by regulation under Section 10(5) will be widely consulted on with stakeholders with the MSPs proposing these amendments ahead of Stage 3.

- **Further consideration of the powers to amend the muirburn season by regulations**

There was discussion on the dates of the muirburn season during Stage 2. As set out above, the standard muirburn season was amended to bring forward both the start and end date by approximately two weeks. However, there was also discussion around the geographical differences across Scotland. Amendment 40 in the name of Edward Mountain MSP proposed to add to Scottish Ministers' powers to amend the muirburn season by regulations for the purpose of preventing or reducing the risk of wildfire "taking into account conditions in particular geographic areas". The Minister felt that the Bill already allows Scottish Ministers to take conditions in particular areas into account, but (though not committing to further amendments) undertook to give it further thought ahead of Stage 3 "to ensure that the purpose of the regulation is sufficiently clear".

- **Further consideration of the provisions on granting muirburn licences**

Amendment 95 in the name of Kate Forbes MSP proposed to amend section 11 to provide that Scottish Ministers "must" grant a muirburn licence where "they are satisfied that the person is a fit and proper person, having regard in particular to the applicant's compliance with the Muirburn Code" and the existing tests in relation to peatland in section 11(b) have been met.

The Minister did not support the amendment because "removing those conditions from the bill would remove a series of tests that are needed to be considered before a licence is granted. Replacing those conditions with a fit-and-proper-person test feels too limiting". However, he said that, though not committing to further amendments, that he will "undertake to look at the issue again, focusing on the "may" and "must" part of the provisions."

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