



Wildlife Management and Muirburn (Scotland) Act 2024

2024 asp 4

PART 2

MUIRBURN LICENSING

Making muirburn

18 Muirburn Code

- (1) The Scottish Ministers must prepare a code (the “Muirburn Code”) in relation to how to make muirburn safely and appropriately.
- (2) The Muirburn Code may, in particular, include provision as to—
 - (a) how the thickness of a layer of peat is to be determined,
 - (b) the times of day muirburn may be made,
 - (c) safety requirements when making muirburn.
- (3) The Scottish Ministers must review and, if they consider it appropriate, revise the Muirburn Code by the end of each review period.
- (4) The Scottish Ministers must publish the Muirburn Code prepared under [subsection \(1\)](#) and any revised code under [subsection \(3\)](#) as soon as practicable after it is prepared or, as the case may be, revised.
- (5) The Scottish Ministers must, in preparing, reviewing or revising the Muirburn Code, consult—
 - (a) Scottish Natural Heritage, and
 - (b) such other persons as they consider likely to be interested in or affected by the making of muirburn including persons involved in the management of land on which muirburn may be made.
- (6) [Subsection \(5\)\(a\)](#) does not apply during any period for which the functions under [this section](#) are delegated to Scottish Natural Heritage under [section 21](#).
- (7) In [this section](#), “review period” means—

- (a) the period of 5 years beginning with the day on which [section 12](#) comes into force, and
- (b) each subsequent period of 5 years.

19 Notice of muirburn activity

- (1) A person who intends to make muirburn must give notice in writing under [this section](#) to—
 - (a) the owner of the proposed muirburn site (if different from the person making the muirburn), and
 - (b) any occupier of land situated within 1 kilometre of the proposed muirburn site.
- (2) Notice need not be given to a person (“A”) under [this section](#) if A has given notice in writing to the person intending to make muirburn that A wishes not to be notified of any intention to make muirburn.
- (3) Where there are 10 or more occupiers of land situated within 1 kilometre of the proposed muirburn site, the person intending to make muirburn may, instead of giving notice under [subsection \(1\)\(b\)](#) to each occupier separately, notify those occupiers collectively—
 - (a) by placing a notice in at least one newspaper circulating in the area which includes the proposed muirburn site, or
 - (b) 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.
- (4) The Scottish Ministers must publicise any method for the time being specified (otherwise than in the Muirburn Code) for the purposes of [subsection \(3\)\(b\)](#).
- (5) Notice under [subsection \(1\)](#) must—
 - (a) be given not less than 7 days before the muirburn is made,
 - (b) identify the proposed muirburn site (or sites),
 - (c) inform the person to whom notice is given (“A”) that A may require the person intending to make muirburn to provide further information in relation to—
 - (i) the dates on or between which the muirburn is intended to be made,
 - (ii) the proposed muirburn site (or sites), and
 - (iii) the approximate extent of the proposed muirburn.
- (6) Where the owner of the proposed muirburn site or an occupier of land situated within 1 kilometre of the proposed muirburn site requests any of the further information mentioned in [subsection \(5\)\(c\)](#), the person intending to make the muirburn must make reasonable efforts to comply with the request no later than the end of the day before the muirburn is made.
- (7) Any notice required to be given to an owner of land under [this section](#) may be given to any person purporting to be authorised by the owner to receive the notice.
- (8) Any notice required to be given under [this section](#) may, as an alternative to being given by a method specified in section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010, be given—
 - (a) by leaving it at an address to which it may be sent by virtue of [subsection \(2\)](#)
 - (b) of that section, or

Status: This is the original version (as it was originally enacted).

- (b) where the identity of an occupier cannot, after reasonable inquiry, be ascertained by—
 - (i) addressing the notice to “Any occupiers of the land” (describing it), and
 - (ii) affixing it to some conspicuous object on the land.

20 Muirburn season

- (1) For the purposes of [this Part](#), the muirburn season is the period of time from 15 September in any year to 31 March in the following year.
- (2) The Scottish Ministers may, by regulations, amend the dates in [subsection \(1\)](#) to extend or reduce the muirburn season.
- (3) The Scottish Ministers may make regulations under [subsection \(2\)](#) only if they consider it necessary or expedient to do so—
 - (a) in relation to climate change, or
 - (b) for the purpose of—
 - (i) conserving, restoring, enhancing or managing the natural environment,
 - (ii) preventing, or reducing the risk of, wildfires causing harm to people or damage to property.
- (4) The power under [subsection \(2\)](#) (by virtue of [section 33](#)) to make different provision for different purposes includes in particular power to make different provision for—
 - (a) different land (for example, land at different altitudes),
 - (b) different years.
- (5) Before making regulations under [subsection \(2\)](#), the Scottish Ministers must consult—
 - (a) Scottish Natural Heritage, and
 - (b) such other persons as they consider likely to be interested in or affected by the making of muirburn, including persons involved in the management of land on which muirburn may be made.
- (6) Regulations under [subsection \(2\)](#) are subject to the affirmative procedure.