



Wildlife Management and Muirburn (Scotland) Act 2024

2024 asp 4

PART 2

MUIRBURN LICENSING

Requirement for muirburn licence

12 Requirement for muirburn licence

- (1) A person must not, without reasonable excuse, make muirburn on any land except under and in accordance with a muirburn licence which has effect in relation to the land.
- (2) It is an offence for a person to—
 - (a) make muirburn in contravention of [subsection \(1\)](#), or
 - (b) cause or permit another person to make muirburn in contravention of [subsection \(1\)](#).
- (3) It is not an offence under subsection (2) for a person to make muirburn on peatland if the muirburn licence relating to that land specifies that the land is not peatland.
- (4) It is not an offence under subsection (2) for a person to make muirburn on land to which a muirburn licence relates if muirburn is made in connection with the person's completion of a training course approved under section 17.
- (5) A person who commits an offence under [subsection \(2\)](#) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

Muirburn licences

13 Application for muirburn licence

- (1) An owner or occupier of land may apply for a licence permitting muirburn to be made, for a purpose mentioned in [subsection \(2\)](#), on the land to which the application relates.
- (2) The purposes are—
 - (a) where the land to which the application relates is not peatland—
 - (i) managing the habitats of moorland game or wildlife,
 - (ii) improving the grazing potential of moorland for livestock,
 - (iii) conserving, restoring, enhancing or managing the natural environment,
 - (iv) preventing, or reducing the risk of, wildfires causing damage to habitats,
 - (v) preventing, or reducing the risk of, wildfires causing harm to people or damage to property,
 - (vi) research,
 - (b) where the land to which the application relates is peatland—
 - (i) restoring the natural environment,
 - (ii) preventing, or reducing the risk of, wildfires causing damage to habitats,
 - (iii) preventing, or reducing the risk of, wildfires causing harm to people or damage to property,
 - (iv) research.
- (3) An application under [subsection \(1\)](#)—
 - (a) must be made—
 - (i) to the Scottish Ministers, and
 - (ii) in such manner and form as the Scottish Ministers may require,
 - (b) must—
 - (i) identify the land to which the application relates, specifying whether the land is or is not peatland,
 - (ii) specify for which of the purposes mentioned in [subsection \(2\)\(a\)](#) or, as the case may be, [\(b\)](#) muirburn is proposed to be made, and
 - (iii) include or be accompanied by such other information as the Scottish Ministers may require,
 - (c) must be accompanied by payment of such reasonable fee as the Scottish Ministers may require, and
 - (d) must include evidence that the person who will make muirburn has completed a training course approved under [section 17](#).
- (4) The Scottish Ministers must publicise any requirements which are for the time being set under [subsection \(3\)\(a\)\(ii\), \(b\)\(iii\) or \(c\)](#).
- (5) The Scottish Ministers may, by regulations, modify the lists of purposes in paragraphs [\(a\)](#) and [\(b\)](#) of [subsection \(2\)](#) so as to amend, remove or add to the purposes for the time being mentioned in those lists.
- (6) Before making regulations under [subsection \(5\)](#), 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 licensing of muirburn.
- (7) Regulations under [subsection \(5\)](#) are subject to the affirmative procedure.
- (8) It is an offence for a person to knowingly or recklessly make any statement which is false in any material particular for the purpose of obtaining a muirburn licence.
- (9) A person who commits an offence under [subsection \(8\)](#) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

14 Grant of muirburn licence

- (1) Subject to subsection (2), the Scottish Ministers must grant a licence permitting muirburn to be made on land to which an application under [section 13](#) relates for a purpose specified in the application if—
 - (a) they consider it appropriate to do so, having regard in particular to the applicant’s compliance with the Muirburn Code,
 - (b) where the land to which the application relates is peatland, they are satisfied that—
 - (i) the making of muirburn is necessary for the specified purpose, and
 - (ii) no other method of vegetation control is practicable, and
 - (c) they are satisfied that the person who will make muirburn has completed a training course approved under [section 17](#).
- (2) The Scottish Ministers—
 - (a) must not grant a licence permitting muirburn to be made outwith the muirburn season for the purpose mentioned in [section 13\(2\)\(a\)\(i\)](#) or (ii),
 - (b) may grant a licence permitting muirburn to be made outwith the muirburn season for any of the purposes mentioned in [section 13\(2\)\(a\)\(iii\)](#) to (vi) only if they are satisfied that it is necessary to do so.
- (3) The Scottish Ministers may, if they consider it appropriate to do so, grant a licence under [subsection \(1\)](#) in relation to only some of the—
 - (a) land to which the application relates,
 - (b) purposes specified in the application.
- (4) In [this Part](#), “muirburn licence” means a licence granted under [subsection \(1\)](#).

15 Muirburn licences: content and conditions

- (1) A muirburn licence must—
 - (a) specify the person to whom it is granted,
 - (b) identify, by reference to a map, the land to which the licence relates,
 - (c) specify—
 - (i) whether the land to which the licence relates is not peatland or is peatland, and
 - (ii) for which of the purposes mentioned in [section 13\(2\)\(a\)](#) or, as the case may be, (b) the licence permits muirburn to be made, and
 - (d) specify the period for which the licence is to have effect.

- (2) Every muirburn licence is subject to the following conditions—
 - (a) the person to whom the licence is issued must have regard to the Muirburn Code,
 - (b) a person intending to make muirburn on land to which the licence relates must—
 - (i) complete a training course approved under section 17 before making muirburn,
 - (ii) have regard to the Muirburn Code, and
 - (iii) comply with the requirements of [section 19](#).
- (3) The Scottish Ministers may, if they consider it appropriate to do so, specify in a muirburn licence additional conditions to which the licence is subject.
- (4) Conditions which may be specified under [subsection \(3\)](#) include, in particular—
 - (a) provisions of the Muirburn Code,
 - (b) conditions as to the persons, or types of person, who may make muirburn on the land to which the licence relates,
 - (c) conditions as to the reporting of activities carried out under the licence,
 - (d) further conditions as to the giving of notice prior to the making of muirburn on the land to which the licence relates.
- (5) Different conditions may be specified under [subsection \(3\)](#) for different purposes, including in particular—
 - (a) different conditions for different times of the year, and
 - (b) different conditions for different land.

16 Modification, suspension and revocation of muirburn licence

- (1) The Scottish Ministers may—
 - (a) modify a muirburn licence at any time,
 - (b) suspend or revoke a muirburn licence if they are satisfied that a relevant person has committed an offence under this Part.
- (2) The Scottish Ministers must give the person to whom the muirburn licence was issued written notice of the modification, suspension or revocation of the licence.
- (3) Notice under [subsection \(2\)](#) must give reasons for the modification, suspension or revocation of the muirburn licence.
- (4) The modification, suspension or revocation of the licence may not take effect until the end of—
 - (a) the period of 14 days beginning with the day on which notice under [subsection \(2\)](#) is given, or
 - (b) such other period as the Scottish Ministers consider appropriate and specify in the notice.
- (5) A muirburn licence is of no effect while suspended.
- (6) A court which convicts a person of an offence under this Part must notify the Scottish Ministers (or Scottish Natural Heritage if the functions under this section have been delegated to that body under [section 21](#)) of the conviction.

- (7) In this section, “relevant person” means—
- (a) the person to whom the muirburn licence was issued,
 - (b) any other person involved in managing the land to which the muirburn licence relates.

17 Approved training courses

- (1) The Scottish Ministers are to approve training courses on muirburn and the Muirburn Code.
- (2) The Scottish Ministers may—
 - (a) determine training requirements, such as—
 - (i) the form and content of the training course,
 - (ii) requiring a person providing training to meet specified criteria (such as having relevant experience or holding a particular qualification),
 - (b) require that any fee payable in connection with a course is reasonable,
 - (c) accredit courses and the persons providing courses,
 - (d) determine the minimum criteria for successful completion of courses, and
 - (e) determine how successful completion of such courses is to be recorded.

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.

Miscellaneous

21 Delegation

- (1) The Scottish Ministers may delegate the following functions to Scottish Natural Heritage—
 - (a) the application and granting of muirburn licences under [sections 13, 14 and 15](#),
 - (b) the modification, suspension and revocation of muirburn licences under [section 16](#),
 - (c) the approval of training courses under [section 17](#),
 - (d) the preparation, publication, review and revision of the Muirburn Code under [section 18](#),
 - (e) the functions in relation to the methods by which notice of the making of muirburn may be given conferred by [section 19\(3\)\(b\)](#) and [\(4\)](#).

- (2) Any delegation must be made by written direction.
- (3) Unless it specifies otherwise, a delegation under this section includes power to modify, suspend or revoke licences granted before the direction is made.
- (4) The Scottish Ministers may modify or revoke a direction.
- (5) Any licence which is in effect at the time a direction is revoked continues in effect following the revocation of the direction (unless the revocation specifies otherwise).

22 Interpretation of Part

- (1) In this Part—
 - “Muirburn Code” is to be construed in accordance with [section 18\(1\)](#) and includes any supplementary material,
 - “muirburn licence” has the meaning given in [section 14\(4\)](#),
 - “muirburn season” is to be construed in accordance with [section 20\(1\)](#),
 - “peat” means soil which has an organic content (that is, content consisting of living and dead plant and animal material) of more than 60%,
 - “peatland” means land where the soil has a layer of peat with a thickness of more than 40 centimetres.
- (2) In this Part, references to the making of muirburn include references to the setting of fire to, or the burning of, any heath or muir.
- (3) The Scottish Ministers may, by regulations, amend the definition of “peat” and “peatland” in [subsection \(1\)](#).
- (4) Before making regulations under [subsection \(3\)](#), 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.
- (5) Regulations under [subsection \(3\)](#) are subject to the affirmative procedure.

23 Repeals and consequential amendments

- (1) The Hill Farming Act 1946 is amended as follows.
- (2) Sections 23 to 23C are repealed.
- (3) In section 24 (right of tenant to make muirburn notwithstanding terms of lease)—
 - (a) in subsection (1), after “Act” insert “and [Part 2](#) of the Wildlife Management and Muirburn (Scotland) Act 2024”,
 - (b) in subsection (4), after “Act” insert “and [Part 2](#) of the Wildlife Management and Muirburn (Scotland) Act 2024”.
- (4) Sections 25 and 26 are repealed.
- (5) In section 26A—
 - (a) in subsection (1), the words “or 26” are repealed,
 - (b) subsection (2) is repealed,

- (c) the title to the section becomes “**Giving of muirburn notices under section 24(2)**”.
- (6) Section 27 is repealed.
- (7) In section 27A—
 - (a) in subsection (1), for “23 to 27 (including orders made under section 23B)” substitute “24 and 26A”,
 - (b) in subsection (2), for “23 to 27” substitute “24 and 26A”,
 - (c) in subsection (3), for “23 to 27 (including orders made under section 23B)” substitute “24 and 26A”,
 - (d) the title to the section becomes “**Crown application: sections 24 and 26A**”.