



# Wildlife Management and Muirburn (Scotland) Act 2024

2024 asp 4

## PART 3

### MISCELLANEOUS AND GENERAL PROVISIONS

PROSPECTIVE

#### *Enforcement provisions*

#### **24 Powers of entry, search and seizure with warrant**

- (1) A sheriff or justice of the peace may grant a warrant under this section if the sheriff or justice of the peace is satisfied—
- (a) by evidence on oath, that there are reasonable grounds for suspecting—
    - (i) that an offence under [section 1, 2, 3 or 12](#) has been, or is being, committed at the premises, or
    - (ii) that there is evidence at the premises of the commission of an offence under [section 1, 2, 3 or 12](#), and
  - (b) condition A or condition B has been satisfied in relation to the premises.
- (2) Condition A is—
- (a) admission to the premises has been refused or a refusal may be reasonably expected, and
  - (b) notice of the intention to seek a warrant has been given to the occupier of the premises, or the giving of such notice would frustrate the purpose for which the warrant is sought.
- (3) Condition B is—
- (a) that the premises are unoccupied, or
  - (b) that the occupier is temporarily absent.
- (4) A warrant granted under this section remains in force until—

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- (a) it is no longer required for the purpose for which it is granted, or
  - (b) otherwise, the expiry of the period of 28 days beginning with the day on which it was granted.
- (5) A warrant granted under this section may authorise a constable to—
- (a) enter the premises by force if necessary,
  - (b) search the premises and any person found in the premises,
  - (c) seize and retain any item or material found on the premises, or on any person in the premises, if the constable has reasonable grounds for suspecting that it may provide evidence of the commission of an offence under section 1, 2, 3 or 12.
- (6) A constable may take to a place entered by virtue of this section any other person, or any equipment, as may be necessary for the purposes of assisting the constable (and such a person is to act under the constable’s direction at all times).
- (7) A constable who is authorised by a warrant granted under this section to seize and detain material may, if the material is only capable of being looked at, read, watched or listened to (as the case may be) after conversion from data stored in another form, require that the material—
- (a) be converted into such a form in a way which enables it to be taken away, or
  - (b) be produced in a form which is capable of being taken away and from which it can be readily converted.
- (8) In this section, “premises” includes any—
- (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,
- (whether or not the premises are used wholly or mainly as a private dwelling).
- (9) In this section and in section 25, “constable” has the same meaning as in section 99(1) of the Police and Fire Reform (Scotland) Act 2012.

#### Commencement Information

**II** S. 24 not in force at Royal Assent, see s. 35(2)

## 25 Further restrictions on power of entry

- (1) The power of entry under section 24 may be exercised only at a reasonable time of day.
- (2) On leaving any premises which a constable is authorised to enter under a warrant, the constable must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against entry as the constable found them.

#### Commencement Information

**II** S. 25 not in force at Royal Assent, see s. 35(2)

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## 26 Powers of local weights and measures authorities

The schedule makes provision about the powers of a local weights and measures authority (and its officers) to enforce the offences under sections 2 and 3 in its area and related matters.

### Commencement Information

**I3** S. 26 not in force at Royal Assent, see [s. 35\(2\)](#)

## 27 Offence of obstructing officer of local weights and measures authority

- (1) It is an offence for a person to—
  - (a) intentionally obstruct an officer of a local weights and measures authority who is exercising powers under the schedule,
  - (b) intentionally fail to comply with any requirement made of the person by an officer of a local weights and measures authority under paragraph 9, 10 or 12 of the schedule,
  - (c) fail, without reasonable cause, to give an officer of a local weights and measures authority any other assistance or information which the officer may reasonably require for the purposes of the exercise of the officer's powers under the schedule.
- (2) It is an offence for a person, in giving any information that is required of the person by virtue of [subsection \(1\)\(c\)](#)—
  - (a) to make any statement that the person knows is false in a material particular, or
  - (b) recklessly to make a statement that is false in a material particular.
- (3) A person who commits an offence under this section is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale (or both).

### Commencement Information

**I4** S. 27 not in force at Royal Assent, see [s. 35\(2\)](#)

## 28 Offence of impersonating officer of a local weights and measures authority

- (1) It is an offence for a person who is not an officer of a local weights and measures authority to purport to act as such an officer in the exercise of powers under the schedule.
- (2) A person who commits an offence under [subsection \(1\)](#) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### Commencement Information

**I5** S. 28 not in force at Royal Assent, see [s. 35\(2\)](#)

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## 29 Individual culpability where organisation commits offence

- (1) This section applies where—
- (a) an offence under [section 1, 2 or 3](#) or [Part 2](#) is committed by a relevant organisation, and
  - (b) the commission of the offence involves consent or connivance on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
- (a) “relevant organisation” means an organisation listed in the first column of the table in subsection (4),
  - (b) “responsible individual” means, in relation to a relevant organisation—
    - (i) an individual falling within the corresponding entry in the second column of the table in subsection (4), or
    - (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry.
- (4) The table is as follows—

Relevant organisation	Responsible individual
company as mentioned in section 1 of the Companies Act 2006	director, manager, secretary or other similar officer member, where the company's affairs are managed by its members
limited liability partnership	member
other partnership	partner
any other body or association	individual who is concerned in the management or control of its affairs

### Commencement Information

**I6** S. 29 not in force at Royal Assent, see [s. 35\(2\)](#)

## 30 Crown application: criminal offences

- (1) Nothing in this Act makes the Crown criminally liable.
- (2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for [subsection \(1\)](#).
- (3) [Subsection \(1\)](#) does not affect the criminal liability of persons in the service of the Crown.

### Commencement Information

**I7** S. 30 not in force at Royal Assent, see [s. 35\(2\)](#)

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### 31 Crown application: powers of entry

- (1) A warrant granted under [section 24](#) is exercisable in relation to Crown land specified in column 1 of the following table only with the consent of the person specified in the corresponding entry in column 2 of the table (the “appropriate authority”).

Crown land	Appropriate authority
Land an interest in which belongs to His Majesty in right of the Crown and which forms part of the Crown Estate (that is, the property, rights and interests under the management of the Crown Estate Commissioners)	The Crown Estate Commissioners
Land an interest in which belongs to His Majesty in right of the Crown and which forms part of the Scottish Crown Estate	The person managing the land
Land an interest in which belongs to His Majesty in right of the Crown other than land forming part of the Crown Estate or the Scottish Crown Estate	The office-holder in the Scottish Administration or, as the case may be, the Government department managing the land
Land an interest in which belongs to His Majesty in right of His private estates	The person appointed by His Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers
Land an interest in which belongs to an office-holder in the Scottish Administration	The office-holder in the Scottish Administration
Land an interest in which belongs to a Government department	The Government department
Land an interest in which is held in trust for His Majesty by an office-holder in the Scottish Administration for the purposes of the Scottish Administration	The office-holder in the Scottish Administration
Land an interest in which is held in trust for His Majesty for the purposes of a Government department	The Government department

- (2) In [subsection \(1\)](#)—
- the reference to His Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862,
  - “Government department” means a department of the Government of the United Kingdom,
  - “Scottish Crown Estate” means the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies.
- (3) It is for the Scottish Ministers to determine any question that arises as to who in accordance with [subsection \(1\)](#) is the appropriate authority in relation to any land, and their decision is final.

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#### Commencement Information

**18** S. 31 not in force at Royal Assent, see [s. 35\(2\)](#)

PROSPECTIVE

### *Review of operation and effectiveness*

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

- (1) The Scottish Ministers must carry out a review of the operation and effectiveness of—
  - (a) the prohibition of the use of glue traps under this Act,
  - (b) the prohibition of the use of snares under the Wildlife and Countryside Act 1981,
  - (c) the extension of the powers of inspectors under the Animal Health and Welfare (Scotland) Act 2006 by section 11 of this Act, and
  - (d) the licensing of the making of muirburn under this Act.
- (2) The review may also review the operation and effectiveness of any other matter included in this Act.
- (3) The review must be completed no later than 5 years after the day on which this Act receives Royal Assent.
- (4) When conducting the review, the Scottish Ministers must consult—
  - (a) Scottish Natural Heritage, and
  - (b) such persons as they consider are likely to be interested in or affected by the matters that are included in the review.
- (5) As soon as reasonably practicable after carrying out the review, the Scottish Ministers must—
  - (a) prepare a report of the review’s findings and include—
    - (i) a statement of any action the Scottish Ministers intend to take as a result of the review, and
    - (ii) where the Scottish Ministers do not intend to take any action, their reasons for this,
  - (b) lay the report before the Scottish Parliament, and
  - (c) publish the report.

#### Commencement Information

**19** S. 32 not in force at Royal Assent, see [s. 35\(2\)](#)

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## General provisions

PROSPECTIVE

### 33 Regulations

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
  - (a) different provision for different purposes,
  - (b) incidental, supplementary, consequential, transitional, transitory or saving provision.
- (2) This section does not apply to [section 35\(2\)](#).

#### Commencement Information

**I10** S. 33 not in force at Royal Assent, see [s. 35\(2\)](#)

PROSPECTIVE

### 34 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may modify any enactment (including this Act).
- (3) Regulations under [subsection \(1\)](#)—
  - (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act (including this Act), but
  - (b) otherwise, are subject to the negative procedure.

#### Commencement Information

**I11** S. 34 not in force at Royal Assent, see [s. 35\(2\)](#)

### 35 Commencement

- (1) This section and [section 36](#) come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under [subsection \(2\)](#) may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

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**Commencement Information**

**I12** S. 35 in force at 1.5.2024, see [s. 35\(1\)](#)

**36 Short title**

The short title of this Act is the Wildlife Management and Muirburn (Scotland) Act 2024.

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**Commencement Information**

**I13** S. 36 in force at 1.5.2024, see [s. 35\(1\)](#)



**Status:**

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**Changes to legislation:**

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