

# **Wildlife Management in Scotland**

**A Consultation**

**October 2022**

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## Ministerial foreword



Each year the Scottish Government sets out its legislative plans for the forthcoming parliamentary year in the Programme for Government (PfG).

A Stronger & More Resilient Scotland: The Programme for Government 2022-23 which was published on the 8 September 2022 committed to introducing the following Bill:

*“Wildlife Management (Grouse)*

*The Bill will implement the recommendations of the “Werritty Report” and introduce licensing for grouse moor management to ensure that the management of driven grouse moors and related activities is undertaken in an environmentally sustainable manner. The Bill will also include provisions to ban glue traps.”*

In response to a report from NatureScot (formerly Scottish Natural Heritage), published in May 2017, which found that around a third of satellite-tagged golden eagles in Scotland disappeared in suspicious circumstances, on or around grouse moors, the Scottish Government commissioned an investigation by the Grouse Moor Management Group (the “Werritty report”). While undertaking their review, the group were asked to have due regard to the socio-economic impacts of grouse moor management. In November 2020, the Scottish Government published its response to the recommendations of the Werritty Report.

The Review made over 40 recommendations regarding grouse moor management. The recommendations, which were accepted by the Scottish Government, seek to address raptor persecution and ensure that the management of grouse moors is undertaken in an environmentally sustainable manner.

Over the years, we have introduced a range of measures to tackle wildlife crime, including: restricting the use of General Licences where there is evidence of wildlife crimes; arranging a pesticide disposal scheme; significantly increasing the penalties for wildlife crimes; strengthening the resources available to law enforcement by increasing the deployment of wildlife crime trained police officers; and establishing the specialist wildlife and environmental crime prosecution unit.

The fact that raptor persecution continues despite all the measures the Scottish Government has introduced make it clear that further action is required to tackle wildlife crime and address the environmental impacts of grouse moor management.

While the management of grouse moors for game shooting makes an important contribution to the rural economy and the majority of those tasked with managing land already follow best practice guidance and act in compliance with the law, I recognise that some of the practices associated with grouse moor management, such as muirburn, have the potential to cause serious harm to the environment if the correct procedures are not followed.

I also recognise that raptor persecution and associated wildlife crimes continue to be an issue of concern on grouse moors and, while only a small minority of people are engaging in these illegal activities, this situation must not be allowed to continue.

Therefore, as set out in our 2022-2023 Programme for Government, the Scottish Government is proposing that a licence should be required to shoot grouse, and that if there is compelling evidence of unlawful activity or serious breaches of codes of practice by the licence holder, then their licence could be withdrawn.

I have also committed to putting in place tighter restrictions on muirburn, including the requirement that muirburn can only be undertaken under licence, as recommended by the Werritty report. I am aware that muirburn is a useful tool in land management and there are situations where it is the best option. We are not seeking to restrict its use unnecessarily, only to ensure that it is only used where appropriate and that best practice is followed.

As part of our wider commitment to improve the welfare of wild animals we are also seeking your views on our proposals to strengthen the regulations governing the use of approved wildlife traps and the recommendations of the recent statutory snaring review. We are also seeking your views on our proposals to ban the use and sale of rodent glue traps, in line with recommendations made by the Scottish Animal Welfare Commission.

This consultation is an opportunity for you to have your say on what we are proposing and to help shape future legislation – I look forward to hearing from you.

**Mairi McAllan MSP**

**Minister for Environment and Land Reform**

## Responding to this consultation

We are inviting responses to this consultation by Wednesday 14 December 2022. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.gov.scot/environment-forestry/wildlife-management-in-scotland>

You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of Wednesday 14 December 2022.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

Wildlife Management Consultation 2022  
Wildlife Legislation Team  
The Scottish Government  
Area 3H-S Victoria Quay  
Edinburgh EH6 6QQ

## Handling your response

If you respond using [Citizen Space](#), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document in either pdf or word format, submitted responses in other formats may not be accepted. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under this Act for information relating to responses made to this consultation exercise.

## Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses may be made available to the public at [Citizen Space](#). If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to [wildlifemanagementconsultation2022@gov.scot](mailto:wildlifemanagementconsultation2022@gov.scot)

## Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online on [Citizen Space](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as [Dialogue](#).

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## Introduction

This consultation is seeking views on a range of topics related to wildlife management. It is set out in 3 parts. Parts 1 and 2 cover grouse moor licensing and muirburn. Part 3 addresses matters relating to the use of traps and snares.

You can complete all the sections in the consultation or only those sections which are of interest/relevance to you.

## Overview

The purpose of our proposals is 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 Werritty Report”) and introducing licensing for grouse moors.

As well as introducing a licensing regime for grouse moor management the Bill will also:

- Introduce licensing and further restrictions on muirburn on non-peatland
- Further restrict muirburn on peatland
- Ban the use of glue traps
- Introduce requirements for the use of wildlife traps
- Implement the recommendations of the recent statutory snaring review

## Powers of the Scottish Society for the Prevention of Cruelty to Animals

In its [2021/2022 Programme for Government](#) the Scottish Government contained the following commitment:

“Through an independent taskforce, [the Scottish Government will] consider whether the Scottish Society for the Prevention of Cruelty to Animals (Scottish SPCA) should be given extra legislative powers to investigate wildlife crime. This group will report before the end of 2022.”

[The Scottish Government/Scottish Green Party Shared Policy Programme](#) set out the following:

“The independent taskforce to consider whether the Scottish Society for the Prevention of Cruelty to Animals (Scottish SPCA) should be given extra powers to investigate wildlife crime will be asked to report back by in a timeframe that will allow any changes to the Scottish SPCA powers to be delivered by legislation implementing changes to grouse and other wildlife management in the course of this parliamentary session.”

The taskforce’s report is expected to be published later this year. Depending upon the recommendations of the review we may include provisions relating to the powers of Scottish SPCA in the Wildlife Management (Grouse) Bill, in which case a separate consultation with interested parties will be undertaken.

## **Background – The Werritty Report**

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

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

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

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

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

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

## **Raptor Persecution**

Birds of prey such as hawks, eagles, kites, buzzards, harriers, falcons and owls are protected species in the UK. It is illegal to cause them harm, whether through poisoning, shooting, trapping, habitat destruction or nest disturbance. Birds of prey are also known as raptors and criminal activity against them is called raptor persecution.

Raptor persecution is a serious problem in some parts of Scotland. The most recent annual [Wildlife Crime Report](#) recorded 25 raptor persecution offences in 2019-20, with one offence linked to an incident involving six buzzards. This is an increase from 17 in the previous year (2018-19), with buzzards being the most commonly affected bird.

In 2018, we also saw eight satellite-tagged raptors disappearing in suspicious circumstances: two golden eagles and six hen harriers. In all cases, their tags were functioning as expected, then stopped suddenly with no indications of technical malfunction. These circumstances strongly suggest that many of these incidents may be the result of illegal killing of these birds.

## **Grouse Moor Management Licensing**

The major predators of grouse (eggs, chicks or adults), namely foxes, stoats, weasels and crows, are routinely killed on grouse moors. The majority of this predator control is undertaken in accordance with the law. This leaves birds of prey as the principal remaining predators.

The fact that raptor persecution continues despite all the measures the Scottish Government has introduced suggests that, while regulation from within the grouse shooting industry can be a key factor in driving behavioural change, self-regulation alone will not be enough to end the illegal killing of raptors, and further intervention is now required. We are therefore proposing that a licence is

required to shoot grouse, and that if there is compelling evidence of unlawful activity or serious breaches of codes of practice by the licence holder, then their licence could be withdrawn.

The Werritty report stated:

“A framework Code of Practice on grouse shooting could be introduced providing advice on best management practices and on regulatory requirements”.

It is our intention that this Code of Practice will ensure that a minimum standard of management and environmental protection is adhered to by those managing grouse for sporting purposes.

When developing the details of the licensing scheme and the Code of Practice, we will work closely with key stakeholders and others representing those involved in grouse shooting, land management, animal welfare and conservation.

## **Muirburn**

Muirburn is the burning of vegetation in moorland areas, usually in a controlled manner, in order to maintain open moorland. It is a complex issue and the research to-date suggests that it can have both beneficial and adverse effects.

If it is undertaken without due consideration of all the possible consequences, it has the potential to have a serious negative impact on wildlife, soil quality, carbon sequestration, and the wider environment.

However, it can also bring positive benefits in some cases, for example by helping to reduce fuel loads and thereby reduce the risk of wildfires.

The impacts of burning on carbon release and sequestration on moorland are disputed and there is conflicting scientific evidence. However, given the importance of peatland to Scotland's net zero target, we have taken the view that a precautionary approach is required until there is more consensus on the impacts of muirburn.

## **Wildlife Traps**

The control of mammal predators is regulated by the laws on animal cruelty and controls on the sort of traps and snares that can be used, with new regulations on certain forms of traps in the course of being implemented in accordance with the Agreement on International Humane Trapping Standards (affecting traps for stoats). The protected status of some predatory species (e.g. badgers) must also be taken into account. Increased regulation on the use of snares was introduced a few years ago and provides a model for other activities. For both cage traps and spring traps, further measures are recommended in addition to the existing rules applying to each type of trap.

The lawful use of traps to catch corvids (members of the crow family) can result in the capture of, and on occasion, injury to, raptors and other traps can also cause unintended harm to wildlife. It is for this reason that we are proposing to introduce new legislation to mitigate the risk of this occurring.

## **Glue Traps**

There has been significant and ongoing concern regarding the welfare implications of the use of rodent glue traps. They can result in prolonged suffering and are indiscriminate in nature, meaning that non-target species can easily be caught. They are only one in a number of pest control methods available and glue traps are often cited as being used as a last resort.



In response to a recent report from the Scottish Animal Welfare Commission (SAWC), the Scottish Government has committed to ban the use of glue traps in this parliamentary term. We are also proposing a ban on the sale of glue traps in Scotland, provided that this can be achieved under the terms of the Internal Market Act 2020.

## **Snaring**

The Scottish Government recognises that there is the potential for snares to cause significant injury, prolonged suffering and death to wildlife. There is also a risk that non-target wildlife species and pet animals such as cats and dogs can be caught in them.

However, snares can be a useful tool needed for the control of some species, such as rabbits and foxes in order to protect livestock and agriculture.

In view of this balance, Scotland already has the most robust rules and regulations on the use of snaring.

However, in reflection of the importance of this discussion, the Scottish Government is required to undertake a review of snaring every 5 years. The [latest statutory review](#) of snaring was undertaken in 2021/2022 and its recommendations were published on the Scottish Government website on 1 April 2022. We are proposing to implement these recommendations. There is also a further review of the impacts of snaring on land management and on animal welfare under way. The remit of the review includes consideration of whether a ban on the use of snares should be introduced. Depending on the outcome, there may be further proposals to be brought forward for this Bill at a later stage.

## **Part 1: Licensing of grouse shooting**

### **Background**

The Werritty report recommended that:

“...a licensing scheme be introduced for the shooting of grouse if, within five years from the Scottish Government publishing this report, there is no marked improvement in the ecological sustainability of grouse moor management, as evidenced by the populations of breeding Golden Eagles, Hen Harriers and Peregrines on or within the vicinity of grouse moors being in favourable condition.”

It is important to note that this was a compromise. The Chair of the review, in the preface to the report stated:

“The Group was evenly split on whether or not to license grouse shooting. When, as Chair, I sought to exercise a casting vote in favour of the immediate introduction of licensing, this was contested by two members of the Group. In order to have a unanimous recommendation on this key issue with the authority that implies, the Group proposes a five-year probationary period for specified raptors on or near grouse shooting estates to recover to a ‘favourable’ conservation status. Should this target fail to be achieved, then licensing should immediately be introduced.”

On 29 November 2020, responding to the Werritty report in a statement to the Scottish Parliament, the then Minister for Rural Affairs and the Natural Environment said:

“The key recommendation put forward in the Werritty report – is that a ‘licensing scheme be introduced for the shooting of grouse’. This is a recommendation that I accept.

However, while I understand why the review group also recommended that such a scheme should be introduced if, after five years, ‘there is no marked improvement in the ecological sustainability of grouse moor management’, I believe that the Government needs to act sooner than this and begin developing a licensing scheme now.”

The Scottish Government has always been clear that wildlife crime is unacceptable, and we have brought forward a number of measures to tackle the issue over the years, escalating in response to the ongoing illegal persecution.

These measures have included a poisons amnesty, vicarious liability, restrictions on general licences and most recently, significant increases in penalties for wildlife crimes.

### **Scottish Government Proposals**

In its written response to the Werritty Report the Scottish Government stated:

“The Scottish Government agrees that a licensing scheme should be introduced. However, we believe that it should be implemented earlier than the five-year timeframe suggested by the review group.

Grouse shooting makes an important contribution to the rural economy and many grouse moor managers already follow best practice guidance and take good care of the land that they manage.

However, the Werritty report is clear that there are a number of problematical issues surrounding certain practices on grouse moors and that further regulation and increased/enhanced monitoring

is needed across a number of areas. In terms of raptor persecution in particular, although the official recommendation of the Grouse Moor Management Group (GMMG) is as stated above, Professor Werritty noted in his introduction to the report that this recommendation was a compromise and half of the group, including the Chair, were in favour of immediate introduction.”

The Scottish Government is proposing the scheme will operate as follows:

### **Purpose of the scheme**

The main purpose of the proposals to license grouse shooting is to address the on-going issue of wildlife crime and in particular persecution of raptors on grouse moors. It will do this by enabling the application of a meaningful civil sanction regime for offences against wild birds and other specified wildlife crimes.

### **Who will be licensed**

We have considered licensing grouse moors, grouse estates or commercial grouse shooting businesses. The main difficulty with this approach, however, is that any definition that we are able to create for a grouse moor/estate/shooting business may create loopholes. The process of creating an inclusive definition is made more difficult by the fact that yearly variations can mean that in different years the same land is used for driven, walked-up or sees no shooting of grouse.

We therefore believe that the best option is to licence the activity of grouse shooting itself. By taking this approach we intend to avoid issues with interpretations of or uncertainty over what constitutes a grouse moor, grouse estate, or commercial grouse shooting business.

This approach means that shooting of grouse will only be permitted if the landowner (or other relevant person) has a licence which covers the land on which the shooting takes place. A licence will be required whether that person chooses to shoot the grouse on their land for their own benefit, permits others to shoot grouse on their land for free, or permits others to shoot grouse on payment of a fee. If a landowner (or other relevant person) does not hold a licence they must not knowingly permit another person to shoot grouse on their land.

The licence holder must be a named individual responsible for the sporting right to shoot grouse, someone authorised by the landowner/occupier to apply for a licence on their behalf, or the person who is responsible for or accountable for the management decisions and actions which take place on the area where grouse shooting is to take place.

Where a person wishes to shoot grouse on land that they do not own or occupy it will be incumbent upon them to ensure that they have permission to do so from the licence holder and that such a person holds a licence which allows for the taking of grouse on that area of land.

The intention is that the person applying for a licence would need to specify the land intended to be used for shooting grouse and provide information on ownership and the management of the land in question.

### **Licence Authority**

We are proposing that the licensing scheme will be administered by NatureScot. NatureScot currently oversee a number of licensing schemes relating to wildlife management on behalf of Scottish Ministers, such as those for controlling protected species, out of season muirburn and the release of non-native or formerly native species.

## **Duration of the Licence**

We are proposing that licences can be granted for a period of one year, licence holders will then be able to apply for a renewal of their licence at the end of this period for a further year on an ongoing annual basis. We intend that this will not be a burdensome process.

Grouse shooting is a seasonal activity and grouse moor managers who sell rights to shoot grouse on their land generally decide on an annual basis whether to open for commercial shooting. We therefore think it makes sense for these licences to be granted on an annual basis.

## **Standard of proof**

Where Police Scotland have evidence which leads them to believe that a specified wildlife crime may have taken place on the land in question, the licensing authority (NatureScot) would consider the evidence and decide whether they believe that the licence holder has not been acting in accordance with licence conditions, or where the licence holder is suspected to have committed, or been convicted of, an offence. NatureScot will base their decision on the civil standard of proof, i.e. they would have to be satisfied that on 'the balance of probabilities' that the offence had taken place (as opposed to the criminal standard of proof of 'beyond reasonable doubt'). Once this determination had been made, a decision on the appropriate further action to take could be made (for instance by suspending or revoking a licence).

The process of considering police evidence of wildlife crime using the civil standard of proof is already used by NatureScot for considering whether to place restrictions on a person's ability to manage wildlife under a General Licence.

## **Code of Practice**

The new licensing scheme will be accompanied by a Code of Practice for grouse moor managers. The Code of Practice will contain material on management practices expected such as; compliance with the regulations surrounding predator control, including the undertaking of trapping and snaring; use of medicines to control parasites and diseases; and habitat and species management for protection of the natural environment and biodiversity.

The Code of Practice will set out legal requirements (i.e. those set out in statute or regulations) as well as strongly recommended practice and best practice guidance for moorland management. The Code will be developed by the Scottish Government and NatureScot in conjunction with key stakeholders and other relevant parties including but not limited to those involved in grouse shooting, land management, animal welfare, and conservation. It is our intention that the Code of Practice will be reviewed and updated at regular intervals.

The Bill will provide that NatureScot may have regard to the Code of Practice when taking licensing decisions. This means that NatureScot will be able take into account how the of Code of Practice is being complied when making decision about whether to grant a license

## **Recording requirements**

We are proposing that as part of the licensing conditions operators would need to keep records of their operations which they will be provide to the licensing authority when requested. These records should be a report of their operations including but not limited to:

- Written records of the activities carried out under the licence, for example: the number of days on which grouse shooting took place; the number of grouse shot on each day; and information on the type and extent of any predator control that is undertaken.

## **Offence**

We are proposing the following:

- It should be an offence for a landowner or the person who holds the rights to shoot game on that land to shoot or take grouse unless they hold a licence.
- It should be an offence for the landowner or the person who holds the rights to shoot game to allow someone else to shoot grouse if they (the landowner/rights holder) do not hold a licence for the land in question.
- It should be an offence for a person to shoot grouse on land if they know or have reason to suspect that the land in question is not covered by a licence.

## **Penalties**

We are proposing that, where a person holds a valid licence and there is sufficient evidence to show that on the balance of probabilities a wildlife crime has been committed on their property the licensing authority should have the power to impose the following sanctions:

- Issue a written warning
- Temporarily suspend a licence
- Permanently revoke a licence

They should also have the power to suspend or revoke a licence if they have sufficient proof that the licence holder is not acting in accordance with the licence conditions or with the Code of Practice.

If a sanction is issued the licence holder will have a right of appeal against that decision.

## **Cost of a licence**

NatureScot does not currently operate licences on a cost recovery basis. The Scottish Government/Scottish Green Party Shared Policy Programme contains the commitment to review the wider species licensing system and assess the potential to apply the principle of full cost recovery to species licensing. We are therefore proposing that future legislation will allow for the possible introduction of reasonable charges for licences issued at a later date.

## Part 2: Muirburn

### Background

Muirburn is the intentional and controlled burning of moorland vegetation to encourage new growth (either heather or grassland) for the management of moorland game and wildlife or for improving the grazing potential of the moorland for livestock or deer. Muirburn is also used to maintain moorland landscapes and habitats, and to reduce the risk of damage to habitats from wildfires.

Muirburn is a complex issue, with research suggesting that muirburn has both beneficial and adverse effects. If it is undertaken without due consideration of all the possible consequences, it undoubtedly has the potential to have a serious negative impact on wildlife and the wider environment. However, it can also have a positive impact, creating beneficial habitats for certain species or helping reduce fuel loads and lower the risk of wildfires.

Peat is a brown deposit resembling soil, formed by the partial decomposition of vegetable matter in the wet acidic conditions of bogs and fens, and often cut out and dried for use as fuel and in gardening. It stores a significant amount of carbon and water as well as supporting a variety of important ecosystems.

Peatland restoration is a key part of the Scottish Government's goal of achieving a net-zero Scotland by 2045 as [peat soils cover almost a quarter of Scotland, about 1.7 million hectares, storing some 1.6 billion tonnes of carbon – the equivalent of an estimated 140 years of Scotland's emissions](#). If we continuing to allow unregulated muirburn on peatland, the progress that has been made restoring Scotland's peatlands could be negated by damage caused by muirburn.

### Legislation

The principal legislation governing muirburn is the [Hill Farming Act 1946](#). Further regulations are also in place for specific sites, including areas designated for their natural or cultural heritage, or to protect species and their nests. Muirburn is currently only permitted during the muirburn season which runs from the 1 October to 15 April (inclusive). However, this season can be extended to 30 April with the permission of the landowner.

In a small number of exceptional circumstances, NatureScot can grant a licence to undertake Muirburn outwith the Muirburn season.

This legislation is supplemented by the [Muirburn Code](#). This is a non-statutory code which provides good practice guidance for burning and cutting of vegetation. [Supplementary guidance](#) covering some aspects of the Muirburn Code has also been published. As with the Muirburn Code this supplementary guidance is non-statutory.

The Muirburn Code advises against burning on peatland (unless as part of a habitat restoration plan) however, unless the peatland is part of a Site of Special Scientific Interest (SSSI) (in which case consent from NatureScot is required) there is currently no legal prohibition against burning on peatland in Scotland.

### Definition of peatland

The Muirburn Code defines peat as *“an organic soil, which contains more than 60 per cent of organic matter and exceeds 50 centimetres in thickness”*.

However, the Heather and Grass etc. Burning (England) Regulations 2001 which regulates muirburn in England uses a different definition:

*“a person must not burn specified vegetation on a designated site on peat that is of a depth of more than 40 centimetres, except under (and in accordance with) a licence issued by the Secretary of State under regulation 4.”*

In our response to the Werritty report we committed to:

“...undertake a review of the current definition of peatland, taking expert advice on whether it should be revised and a stricter definition imposed.”

NatureScot are currently undertaking a review of muirburn including the impact of muirburn on peat, we will take into account the outcome of that review when developing our proposals for the definition of peatland to be used in the Wildlife Management (Grouse) Bill.

To help inform this review we are seeking views on whether the current definition in the muirburn code should be amended to 40 cm in-line with definition used in England.

## **Reports**

The Werritty report recognised the benefits of muirburn: that it provides nutritious shoots for grouse, livestock, deer and mountain hares, can increase biodiversity in dry heaths, and restrict colonisation by woodland. However, it also highlighted that there was strong evidence that muirburn can have a detrimental effect on biodiversity, hydrology, and soil stability.

The report goes on to say that the impact of muirburn can differ according to the type of moorland it is practiced on:

“The strongest, but still inconclusive evidence for a greater likelihood of long-term detrimental impacts comes from blanket bog/wet heath areas, and it has been widely assumed that regular muirburn is detrimental to peat-forming plant species.”

It also considered the effects of muirburn on carbon storage:

“Muirburn can have both positive and negative effects on carbon storage, both directly, by affecting carbon contents of soil and vegetation, and indirectly, by affecting carbon storage potential through the changes in plant community composition after fire. There is often an assumed net loss of carbon under regular muirburn, but the evidence is not conclusive...”

The report concluded that muirburn should be subject to greater regulation and oversight.

Muirburn was also considered by The Deer Working Group who in their report on the Management of Wild Deer in Scotland concluded that:

“...there is no public interest justification for continuing to allow a general right of land owners and occupiers to carry out muirburn for deer. The environmental costs of these fires in upland environments is at odds with the Scottish Government’s healthy ecosystem approach and its measures to mitigate climate change.”

They went on to recommend that the *“Hill Farm Act 1946 should be amended to make it an offence to carry out muirburn for wild deer without a licence from SNH [NatureScot].”*

In their report [‘Land use: Polices for a Net Zero UK’](#) the Committee for Climate Change recommended that there should be a ban on burning on peatlands:

“Ban rotational burning in the UK in 2020. This includes burning for grouse shooting. This practice was traditionally undertaken on mineral soils but over-time it has encroached onto peat soils. Burning heather promotes young shoots, which grouse feed on, but it is highly damaging to the peat, and to the range of environmental benefits that well-functioning peat can deliver (e.g. water quality, biodiversity and carbon sequestration). A voluntary cessation of this activity by landowners has not produced the desired outcome so the practice should be banned across the UK with immediate effect. The adoption of more sustainable practices to manage the vegetation (e.g. heather cutting) would still allow grouse shooting to continue on peat soils, while the burning of heather could continue on mineral soils.”

## **Scottish Government Proposals**

The Scottish Government intends to implement the recommendations of the Werritty report which stated:

- “That muirburn should be unlawful unless carried out under a licence.
- That muirburn should be subject to increased legal regulation
- This should apply to all muirburn, not only on grouse moors.”

We are also proposing a statutory ban on muirburn on peatland (currently defined as peat of a depth of 40cm or more) unless it is part of an approved habitat restoration programme, to protect public safety (e.g. reduce the risk of wildlife) or for the purpose of research.

We propose that the approach outlined above is consistent with precautionary principle in this matter. However, recognising that the scientific evidence on the impacts of muirburn is currently contested and that the management of peatland is a highly important aspect of Scotland’s net-zero target, we propose that the Bill should contain powers to modify the regulation of muirburn in the future, as the scientific evidence base develops.



## Part 3: Trapping and snaring

### 3.1 Wildlife traps

#### Background

The use of traps is governed by several pieces of legislation in Scotland including:

- [The Agriculture \(Scotland\) Act 1948](#)
- [The Wildlife and Countryside Act 1981](#)
- [The Spring Traps Approval \(Scotland\) Order 2011 \(STAO\)](#)
- [The Small Ground Vermin Traps Order 1958](#)

The legislation specifies which traps can be used to kill or capture animals and sets out any additional conditions governing their use such as prohibiting the use of certain traps for individual species or placing requirements on trap operators. For example, under the 1981 Act operators of crow cage traps and Larsen traps are also required to register with NatureScot and must display a single tag or sign that shows the NatureScot Trap Registration Number which allows the individual operator to be identified.

The Werritty report recommended that:

- “New legislation should be introduced to make it a legal requirement that it becomes an offence to set or operate a trap without an operator having successfully completed a course run by an approved and accredited body and dealing with the relevant category of trap (cage and/or spring).”;
- “A trap operator who has successfully completed a relevant trap training course should apply to their local police station for a unique identification number which must be attached to all traps that are set.”; and
- “That any operator dealing with the relevant category of trap (cage and/or spring) should undergo refresher training at least once every ten years.”

#### Scottish Government Proposals

The Scottish Government accepted this recommendation, committing to amend legislation to strengthen the use and monitoring of traps.

To fulfil this commitment, we are proposing to make it a requirement that anyone must satisfy certain conditions if wishing to use the following types of traps:

- Live capture bird traps;
- Live capture mammal traps (except for traps that are used or intended to be used to capture mammals in indoor settings); and
- Traps regulated by the Spring Traps Approval Order (STAO)

The conditions to be met are as follows:

- complete training by an approved body (list of approved bodies to be determined by NatureScot);
- register with NatureScot for a unique ID number;
- display this unique ID number on each trap they use using a non-transferable ID tag or another other form of permanent ID marking;
- undergo refresher training every 10 years; and

- keep a record of the traps they deploy and make those records available to Police Scotland if requested.

We are proposing that a person found guilty of the offence of:

- using a trap without valid training from an approved body;
- using a trap without being registered to do so;
- using a trap without displaying an identification number correctly on the trap;
- falsifying records or identification number;
- using a trap on land without landowner permission;
- failing to comply with the duty to keep trapping records

will be 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). A level 5 fine is currently £5,000.

These penalties are in line with the penalties for snaring and other comparable wildlife offences.

## 3.2 Glue traps

### Background

Glue traps (sometimes known as sticky boards or glue boards) are devices used for a variety of purposes. The glue traps work by placing them along areas where rats and mice are likely to frequent. Once the animal steps onto the board it is then firmly stuck to it and is unable to free itself. Once an animal is captured the intention is that the glue trap can be retrieved and the animal dispatched.

### Legislation

The use of glue to trap birds is an offence under the 1981 Act. There is currently no legislation governing the use of glue trap boards to catch rodents in Scotland. However, should an animal be caught in one, then they immediately fall under the [Animal Health and Welfare \(Scotland\) Act 2006](#) since the animal is now under the control of man. This means, among other things, that it is an offence to cause the animal unnecessary suffering by an act or omission if the person knew or ought reasonably to have known that the act or omission would have caused the suffering or be likely to do so. Operators of glue traps should humanely dispatch any target species caught, or extricate and release, or if necessary, humanely destroy any non-target species accidentally caught.

### Scottish Animal Welfare Commission report

In response to concerns raised by animal welfare groups and by individuals [petitioning the Scottish Parliament](#) about the welfare implications of glue traps, the Scottish Government sought advice from the Scottish Animal Welfare Commission (SAWC).

The [use of rodent glues traps in Scotland](#) was published on 23 March 2021. The report found that:

- “There is no way that glue traps can be used without causing animal suffering.”
- “[glue traps pose] an undeniable risk of capture of non-target species. However, without knowing how frequently glue traps are used it is not possible to quantify that risk.”
- “There are public health concerns in certain high-risk situations that clearly require effective and rapid pest control in order to reduce the spread of disease. However, the Commission is not convinced that evidence exists supporting the view that glue traps are genuinely the only method of last resort.”

Given these findings the SAWC recommended that:

*“...the animal welfare issues connected with the use of glue traps would justify an immediate outright ban on their sale and use. This is our preferred recommendation.”*

However, the commission also acknowledged the views expressed by some pest control agencies that *“in some cases there is no alternative to the use of glue traps as a last resort”*.

Therefore, the SAWC report further recommends that if a full ban is not introduced, the Scottish Government should consider an immediate ban on the sale of glue traps to the general public and the introduction of an interim licensing regime governing the use of glue traps by professional pest controllers.

The purpose of the interim licensing regime, which the commission recommend should be reviewed after 3 years, would be to allow further research into the development and use of alternative methods of rodent control, before a full ban was brought in.

Following the publication of the SAWC's report, on 20 January 2022, [in response to a parliamentary question](#) Màiri McAllan, Minister for the Environment and Land Reform announced that the Scottish Government would "*introduce legislation to ban glue traps in this parliamentary term*".

### **Scottish Government Proposals**

The Government has accepted the SAWC's recommendations. We are proposing introducing a comprehensive ban on the use of glue traps by both members of the public and professional pest controllers. We are also proposing introducing a ban on the sale of rodent glue traps in Scotland, provided that this can be achieved under the terms of the Internal Market Act, which was brought in by the UK Government in 2020.

In-line with the recommendations made by the SAWC that there should be an outright ban on the use and sale of glue traps we are not proposing the introduction of a licensing regime for professional pest controllers.

We are proposing that there will be a 2 year transition period between the legislation being passed and the ban on the use (and sale) of glue traps coming into force. This is to allow a reasonable period for businesses who use and sell glue traps to develop, trial and source alternative methods of rodent control.

### 3.3 Snaring

For the purpose of this consultation a “snare” means a thin wire noose used for catching and/or restraining a wild animal, such as a fox or a rabbit, for the purpose of wildlife management.

Under section 11 of the Wildlife and Countryside Act 1981 (the “1981 Act”) the Scottish Government is required to undertake a review of the regulations governing snaring every 5 years.

The last statutory review was completed in February 2022 and the report and recommendations were published on the [Scottish Government website 1st April 2022](#).

#### Background

The use of traps and snares to manage wildlife is governed by the [Wildlife and Countryside Act 1981](#) (the “1981” Act”) (as amended by the Wildlife and Natural Environment (Scotland) Act 2011 (the “2011 Act”). Those regulations require snaring operators to be trained, for their snares to be identified by a tag containing an ID number registered with NatureScot and for them to keep records, which have to be made available to Police Scotland on request. Operators of crow cage traps and Larsen traps are also required to register with NatureScot and must display a single tag or sign that shows the NatureScot registration number.

Under section 11 of the Wildlife and Countryside Act 1981 (the “1981 Act”) the Scottish Government is required to undertake a review of the regulations governing snaring every 5 years.

#### Legislation

The key piece of legislation governing the use of snares in Scotland is set out in section 11 of the 1981 Act. This provision lists a number of methods of killing, capturing, or injuring wild animals that are prohibited generally. This includes a prohibition on setting in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact with it.

All snaring operators are required to complete a training course and obtain a unique identification number from Police Scotland. All set snares must be fitted with an identification tag containing the snaring operator's identification number, this will also identify the target species. Operators must also keep records of all the snares they have set, including the location of the snare, when it was set, and any animal caught in it.

A total of 3,207 people have successfully completed snare training and 1,877 of these have registered with Police Scotland and received a snaring identification number.

The 1981 Act requires the fitting of effective stops on snares to prevent the noose closing too far; the action of the snare must be checked every 24 hours to ensure that it is free running; the setting of snares near features that could cause unnecessary suffering are prohibited; and all snares must be securely anchored so that they cannot be dragged away by a snared animal.

[The Animals and Wildlife Penalties, Protections and Powers Act 2020](#) was passed in June 2020 and extends vicarious liability to offences involving the illegal setting of traps and snares.

Other relevant legislation includes:

- [Animal Welfare Act 2006](#) (section 4 - prohibition of unnecessary suffering);
- [The Deer Act 1991](#) (section 4(1) - use of prohibited weapons and other articles);

- [Wildlife Countryside The Conservation \(Natural Habitats, &C.\) Regulations 1994](#) (regulation 41 – prohibition of certain methods of taking or killing wild animals)

## **Welfare Concerns**

Many animal welfare groups, including the Scottish Society for the Protection of Cruelty to Animals have called for snares to be banned on animal welfare grounds. The Scottish Government recognises that there is the potential for snares to cause significant injury or death to wildlife. There is also a risk that non-target wildlife species and pet animals such as cats and dogs can be caught in them. However, land managers argue that their continued use should be allowed on the basis that they are an essential tool needed for the control of some species, such as rabbits and foxes in order to protect livestock and crops.

During [General Question Time at the Scottish Parliament on 25 November 2021](#), the Minister for Environment, Biodiversity and Land Reform, confirmed in response to a question from Colin Smyth MSP in relation to the Grouse Moor Management Review Group recommendations, that the Scottish Government would extend the scope of the snaring review to include a potential ban on snares in Scotland.

## **Statutory Review of snaring**

The main recommendations of the 2022 statutory snaring review were as follows:

- The outstanding recommendations from the Snaring Review undertaken in 2017 should be introduced as soon as a suitable legislative route can be taken. \*
- Given the continuing concerns regarding the welfare of animals caught in snares, a wider review of snaring should be undertaken as soon as is practicable.

\* The 2017 Snaring review made a number of recommendations of which the following require legislative amendments:

- “the Scottish Government to consider the merit of amending legislation to require operators to update records at least once every 48 hours unless they have a reasonable excuse not to do so, and to submit records to the Police on demand if the Police arrive at the location where the records are kept, or within 7 days to a police station.
- “Furthermore that consideration is given to the introduction of the power of disqualification for a snaring offence, in line with section 1 of the WCA regarding the use of general licences to control birds.
- “Consideration should also be given on how a strengthened Code of Practice can be better endorsed through legislation in a manner comparable with how the WANE (Scotland) Act 2011 (section 15) applies the Code of Practice for Non-Natives.”

A disqualification order can stop you from owning, keeping, selling, transporting or working with animals or running a service which involves being in charge of animals.

### *Further review of snaring*

As recommended by the Statutory Snaring Review Group, the Scottish Government is currently undertaking a wider review of snaring which will consider the wider welfare implications of snaring included whether there should be a ban on the use of snares

The Scottish Government is therefore not setting out formal proposals to amend the snaring regulations at this this stage. Instead we seeking your views on the recommendations of the statutory snaring review, namely:

- A power of disqualification will be introduced for snaring offences. This power will reflect section 1 of the Wildlife and Countryside Act regarding the use of general licences to control birds.

Depending on the outcome of the wider snaring review we may undertake further consultation on additional proposals to amend the legislation governing the use of snares, at a later date.



Respondent information form

**Wildlife Management In Scotland**

**Please Note** this form **must** be completed and returned with your consultation response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Organisation's Sector

- Animal Welfare
- Land Management, including representative bodies
- Sporting Organisation, including representative bodies
- Conservation, including representative bodies
- Pest Control, including representative bodies
- Public Body including law enforcement
- Other, please specify

Phone number

Address

Email



**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Consultation questions

Section 1 – Licensing of Grouse Shooting

1. Do you agree that the licensing of grouse shooting should be introduced to deter raptor persecution and wildlife crime linked to grouse moor management?

Yes                       No                       Unsure

2. If you answered 'No' to question 1, please state what other option/s you think we should consider (max 150 words).

3. Do you agree that the landowner/occupier/person responsible for or accountable for the management decisions and actions should be responsible for acquiring and maintaining the licence for the taking of grouse on a particular piece of land?

Yes                       No                       Unsure

4. If you answered 'No' to question 3, please state what other option/s you think we should consider (max 150 words).

5. Do you think that the person wishing to shoot grouse on land that they do not own, or occupy, should be required to check that the person who owns the land has a licence which allows for the taking of grouse on that area of land?

Yes

No

Unsure

6. If you answered 'No' to question 5, please state what other option/s you think we should consider (max 150 words).

7. If we introduce a licensing scheme, do you agree that NatureScot should be the licensing authority?

Yes                       No                       Unsure

Other body (please specify)

8. Do you think that a licence should be granted for a maximum period of one year (renewable on an annual basis thereafter)?

Yes                       No                       Unsure

**9. If you answered 'No' to question 8, please state what other option/s you think we should consider (max 150 words).**

**10. Do you think that the civil rather than the criminal burden of proof is an acceptable test for the application of sanctions in relation to grouse moor licences?**

Please note that a civil standard of proof would require NatureScot to base their decision on the 'balance of probabilities' whereas a criminal standard of proof requires satisfaction 'beyond reasonable doubt'.

Yes

No

Unsure

**11.If you answered 'No' to question 10, please state what other option/s you think we should consider (max 150 words).**

**12.Do you agree that record keeping or reporting requirements should be part of the licence conditions?**

Please note that record keeping would involve noting down the activities carried out under the licence (e.g. the number of days on which grouse shooting took place, the number of grouse shot on each day, types of predator control undertaken, etc.) and providing these if/when they are requested. Reporting requirements would involve the active reporting of activities carried out under the licence on a regular basis.

Record keeping  Reporting requirements  Neither  Unsure

**13. If you answered 'neither' to question 12, please outline why you believe this (max 150 words).**

**14. Do you agree that, where a person holds a valid licence, and there is sufficient evidence to show that, on the balance of probabilities a wildlife crime has been committed on their property, NatureScot should have the power to impose the following penalties:?**

- Issue a written warning
- Temporarily suspend a licence
- Permanently revoke a licence

Yes       No       Unsure

**15.If you answered 'no' to question 14, please outline why you believe this (max 150 words).**

**16.Please provide any further comments on the questions in this section here.**



## Section 2 – Muirburn

**17. Currently a licence is only required to undertake muirburn outwith the muirburn season. Do you agree that a licence should be required to undertake muirburn regardless of the time of year that it is undertaken?**

Yes

No

Unsure

**18. If you answered 'No' to question 17, please outline why you believe this (max 150 words):**

**19. If we introduce a licensing scheme, do you agree that NatureScot should be the licensing authority?**

Yes

No

Unsure

Other body (please specify)

**20. Do you agree that there should be a ban on muirburn on peatland unless it is done under licence as part of a habitat restoration programme approved by NatureScot?**

Yes

No

Unsure

**21. Other than for habitat restoration, public safety (e.g. fire prevention), and research, are there any other purposes for which you think muirburn on peatland should be permitted?**

Yes

No

Unsure

**22. Do you agree that the definition of peat set out in the muirburn code should be amended to 40 cm?**

Yes

No

Unsure

**23. If you answered 'No' to question 22, please outline why you believe this (max 150 words):**

**24. Please provide any further comments on the questions in this section here:**

## Section 3 – Trapping and Snaring

### 3.1 Wildlife Traps

**25. The Scottish Government proposes that a person operating a wildlife management trap must apply for a unique identification number which they must then attach to any traps that they set outdoors, do you agree that this proposal should apply to (select all that apply):**

Live capture traps for birds

Live capture traps for mammals (except rodents)

Traps listed in the Spring Trap Approval Order

Rodent kill traps

Live capture traps for rodents

None of the above

Unsure

Other traps (please specify)

**26. The Scottish Government proposes that a person operating a wildlife management trap outdoors must successfully complete an approved course dealing with the relevant category of trap, do you agree that this proposal should apply to (select all that apply):**

Live capture traps for birds

Live capture traps for mammals (except rodents)

Traps listed in the Spring Trap Approval Order

Rodent kill traps

Live capture rodent traps

None of the above

Unsure

Other traps (please specify)

**27. This question should only be answered if you agree that training should be required for at least one of the traps listed in question 26. The Scottish Government proposes that a person operating a wildlife management trap outdoors must undergo refresher training every 10 years, do you agree that this proposal should apply to: (select all that apply)**

Live capture traps for birds

Live capture traps for mammals (except rodents)

Traps listed in the Spring Trap Approval Order

Rodent kill traps

Live capture rodent traps

None of the above

Unsure

Other traps (please specify)

**28. Do you agree that record keeping and reporting requirements should be part of the registration scheme?**

Please note that record keeping would involve noting down the activities carried out under the licence (e.g. the number and kind of traps used under the licence, the number of each species caught or killed using licenced traps, and the number of days the traps were set for) and providing these if/when they are requested. Reporting requirements would involve the active reporting of activities carried out under the licence on a regular basis.

Record keeping  Reporting requirements  Neither  Unsure

**29. Do you agree that an individual found guilty of the offence of:?**

- using a trap without valid training from an approved body;
- using a trap without being registered to do so;
- using a trap without displaying an identification number correctly on the trap;
- falsifying records or identification number;
- using a trap on land without landowner permission;
- failing to comply with the duty to keep trapping records.

**should be 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). A level 5 fine is currently £5,000.**

Yes

No

Unsure

**30. If you answered no to question 29 please explain the reason for your answer (max 150 words):**

**31. Please provide any further comments on the questions in this section here:**

### 3.2 Glue Traps

**32. Do you agree that the use of glue traps designed to catch rodents should be banned in Scotland?**

Yes

No

Unsure

**33. Do you agree that the sale of glue traps designed to catch rodents should be banned in Scotland?**

Yes

No

Unsure

**34. Do you agree that there should be a two year transition period before the ban on glue traps comes into force?**

Yes

No

Unsure

**35. Please provide any further comments on the questions in this section here.**

### Section 3.3 Snares

**36. Do you agree with the recommendations from the statutory review of snaring that operators should be required to update their records at least once every 48 hours, unless they have a reasonable excuse not to and that these records should be made available to the Police on demand if the police arrive at the location where the records are kept, or within 7 days to the police station?**

Yes

No

Unsure

**37. Do you agree with the recommendations from the statutory review of snaring that a power of disqualification should be introduced for snaring offences?**

A disqualification order can stop you from owning, keeping, selling, transporting or working with animals or running a service which involves being in charge of animals.

Yes

No

Unsure

**38. Please provide any further comments on the questions in this section here.**

## Section 4 – Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published).

### 39. How satisfied were you with this consultation?

Very dissatisfied

Slightly dissatisfied

Neither satisfied nor dissatisfied

Slightly satisfied

Very satisfied

Please enter comments here

### 40. How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?

Very dissatisfied

Slightly dissatisfied

Neither satisfied nor dissatisfied

Slightly satisfied

Very satisfied

Not applicable

Please enter comments here





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