

# DEVELOPING THE GROUSE CODE OF PRACTICE AND MUIRBURN CODE

UPDATE APRIL 2024

## 1 INTRODUCTION

This paper provides a summary of progress with the development of the Grouse Code of Practice and the Muirburn Code. Both Codes will play integral roles in the licensing processes for muirburn and the taking and killing of red grouse.

This paper also provides a brief update on progress with developing licensing approaches and the related training courses as per the Wildlife Management & Muirburn (Scotland) Bill 2023.

## 2 LEGISLATIVE CONTEXT

The Wildlife Management and Muirburn (Scotland) Bill (WM&M Bill) was passed by the Scottish Parliament on 21<sup>st</sup> March 2024. It sets out the need for three new licences (muirburn, taking or killing of grouse and use of certain wildlife traps). It also requires two Codes – a Code of Practice on Grouse Moor Management and a Muirburn Code. Training is a mandatory requirement of the wildlife trap and muirburn licences. Whilst the WM&M Bill has been passed by the Scottish Parliament, it has not yet received Royal Assent and the dates for enactment of the various provisions have not yet been confirmed. These dates, which will need to consider other factors as well as licensing and code development, will be set by Scottish Government through the relevant parliamentary process.

## 3 UPDATE ON PROGRESS

Below provides a summary on progress with both Codes, the approaches to licensing and related training courses:

### ***CODES OF PRACTICE***

#### **3.1 Grouse Code of Practice**

The Grouse Code of Practice is being drafted with input from a Grouse Code Working Group representing the key interests in grouse moor management. Membership includes eNGOs, land management and sporting interests. The Group is chaired by a NatureScot Board member. Its role is to provide input on the practical details to ensure that the Code is accessible to all who it will apply to. The Group is deliberately small and focused to ensure productive and practical discussions.

The Grouse Code will set out the regulatory requirements associated with managing grouse moors (the musts) and provide links to relevant Moorland Management Best Practice and other guidance (the shoulds). The regulatory requirements section will include details on the role of licensing and will summarise the key licences associated with grouse moor management. It will also set out the list of relevant offences as set out in the WM&M Bill. Non-adherence to any of the musts could result in licensing sanctions. The links to the Best Practice guidance will help provide the user with additional, practical and technical information. See Annex 1 for a summary of the key headings and details.

We are working to have the Grouse Code and licensing process set out and agreed in mid-summer.

### **3.2 Muirburn Code**

The revision of the Muirburn Code is at an outline stage. As with the Grouse Code there is a Muirburn Code Working Group representing the key interests in muirburn. Membership includes eNGOs, farming and crofting interests, land management and sporting interests and research. As with the Grouse Code Working Group the Muirburn Code Working Group is chaired by a NatureScot Board Member.

The proposal is to structure the Muirburn Code around the regulatory requirements and include links to relevant best practice guidance. Recent work has focused on developing a methodology to help applicants identify areas of peatland and non-peatland, as this will be central to the licensing process. Once completed this methodology will be referenced in the Code. Annex 2 provides a summary of the outline structure for the revised Muirburn Code.

We are working to have the Muirburn Code and licensing process set out and agreed in early 2025.

## **LICENCES**

### **3.3 Developing licensing approaches**

A NatureScot team with assistance from contractors is working on a prototype for a licence to take or kill red grouse. The licence will be an on-line application and will be built around the key details and requirements as set out in the WM&M Bill. The prototype will be refined and developed over the next couple of months. Licensing guidance will be developed alongside this. We will build in an opportunity for stakeholders to provide feedback on the draft licensing guidance. The overall aim is to keep the licence application simple and focused.

The muirburn licence will also be an on-line process. It should be noted that there will be the ability to apply via email/paper application for all new licences for those not able to access an on-line system. The muirburn licence will require maps and evidence relating to the specific licensable purpose being applied for as set out in the WM&M Bill. The wildlife trap licence will be a licence for those who operate certain wildlife management traps. As with the development of other new licences there will be opportunities to provide feedback.

## **TRAINING**

### **3.4 Training as a requirement of licences**

There is a requirement for training as part of a muirburn licence and for the use of certain wildlife traps. There is an existing Lantra approved muirburn training course which is likely to provide the basis for the required training needs, but some work is being undertaken to ensure this fully meets the new legislative provisions. Additionally, there is current training provision on traps and trapping provided by colleges and other organisations. Work has started on assuring the standards, delivery and verification across that training provision in line with the provision of the WM&M Bill.

## **4 STAKEHOLDER ENGAGEMENT**

We recognise that there is considerable interest in these new licences, the associated Codes of Practice and the assured training provision. We will continue to use the Code and Training Working Groups to develop the practical detail of the Codes and training provision. We will provide further updates on progress at key stages and will provide an opportunity to provide feedback on the development of licensing guidance and approaches. We will aim to do this over the coming months.

## **5 NEXT STEPS**

The first priorities are to complete the development of the licence for land on which red grouse may be taken or killed and the associated Code of Practice. The focus will then move onto the Muirburn Licence and Code and the licence for the use of certain wildlife traps.

## Annex 1

# WORKING DRAFT OUTLINE STRUCTURE

## Code of Practice for Grouse Moor Management

### APRIL 2024 - For Information

### Contents

1. Introduction
2. Legal & licensing requirements
3. Good Practice
4. Glossary
5. Further references, resources and contacts

## 1. INTRODUCTION

### 1.1 Context – Grouse Moors & Moorlands

- Nature/climate crisis. All land management activities including conservation, sporting, agricultural or crofting have a role to play in helping to address this crisis.
- Grouse Code aims to help ensure that moorlands managed for grouse are done so in a way which supports biodiversity and net zero targets.

### 1.2 What is the status of the Code of Practice for Grouse Moor Management?

- Code of Practice for Grouse Moor Management (Grouse Code) has been introduced by the Wildlife Management & Muirburn (Scotland) Bill.
- It will play a key role in the licensing of grouse shooting as set out in the Bill and in the management of our moorlands.

### 1.3 What is the purpose of the Code of Practice for Grouse Moor Management?

- The Grouse Code sets out the legal requirements associated with managing land for shooting and/or taking red grouse.
- It also signposts to Moorland Management Best Practice.
- It categorises actions according to whether they **must** be undertaken to avoid risk of prosecution and to comply with a grouse shooting licence and those that **should** be undertaken because they demonstrate good practice in moorland management.

### 1.4 Who and where does the Code apply to?

- Everyone with a licence to take or kill red grouse and to those who are involved in managing the land to which the licence relates.

### 1.5 How will compliance with the Code be monitored?

- Summary of how the compliance with the Code will be set out.

### 1.6 Reviewing the Code

- This Code will be subject to regular review to ensure it reflects the most up to date legislative requirements and to ensure that links to other guidance and best practice are current.

## 2. LEGAL AND LICENSING REQUIREMENTS

### 2.1 Introduction

- This section will provide a summary of the **legal and licensing requirements** associated with managing land for shooting and/or taking red grouse. It will focus on the law as it relates to the key activities associated with grouse moor management.

### 2.2 What is the role of licensing?

- This section will provide an explanation of the role of licensing in allowing activities to be carried out which would otherwise be illegal.

### 2.3 What are the legal requirements associated with managing grouse moors?

- This section will set out the key legal requirements under the headings set out in the WM&M Bill:
  - *'How land should be managed to reduce disturbance of and harm to any wild animal, wild bird and wild plant (including the use of medicated grit for such purposes)'*
  - *'How the taking or killing of any wild birds should be carried out'*
  - *'How predators should be controlled'*

### 2.4 Relevant Offences (as set out in the bill)

- The section will summarise the legislation which are referenced in 7 (11) of the Bill as being relevant offences i.e. an offence which if committed by 'the licence holder or a person involved in managing the land to which the licence relate' can lead to modification, suspension or revocation of a grouse shooting licence:
  - *The Protection of Badgers Act 1992*
  - *The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716)*
  - *Section 1 of the Wild Mammals (Protection) Act 1996*
  - *Section 19 of the Animal Health and Welfare (Scotland) Act 2006*
  - *The Hunting with Dogs (Scotland) Act 2023*

### 2.5 Relevant Licences

- This section will cover the main licences as they relate to grouse moor management activities. It will provide a summary of the purpose of each licence and links to further information including application forms and licensing guidance.
  - *Licence to shoot red grouse*
  - *Licence to carry out muirburn*
  - *Licence to control mountain hare*
  - *Licence to hunt with dogs*
  - *Licence to use certain wildlife traps*

- *Individual licences for birds*
  - *Surveys, research and ringing*
  - *Control of predatory species*
  - *Public health and safety and air safety*
  - *Preventing serious damage*
- *General Licences*

### 3. GOOD PRACTICE

This section will signpost to good/best practice guidance on moorland management by acting as an introduction to relevant Moorland Management Best Practice (MMBP) Guides. Direct links to specific guides could be added to each section.

- ***Carbon & Peatlands***

Moorland management can play an important role in carbon storage, soil condition and peatland restoration and management.

- ***Biodiversity***

All moorland management, including muirburn, can play an important role in supporting biodiversity objectives.

- ***Wildlife management***

Wildlife management is a key feature of moorland management. Guidance in relation to the management of wild deer and other mammals is available.

- ***Parasites & diseases***

There are a number of parasites and diseases which can affect key moorland species, including red grouse & mountain hare and people.

- ***Land Management***

This section could link to any guidance around the use of ATVs, creation of hill tracks and responsible access etc.

### 4. BIBLIOGRAPHY AND GLOSSARY

- A description of key terms and links to relevant material and guidance.

### 5. FURTHER REFERENCES, RESOURCES AND CONTACTS

- A list of details on and links to further relevant information and contact details.

## Annex 2

# WORKING DRAFT OUTLINE STRUCTURE

## Muirburn Code

### APRIL 2024 - For Information

### Contents

1. Introduction
2. Legal & licensing requirements
3. Training
4. Identifying peatlands
5. Planning for muirburn
6. Best Practice
7. Glossary
8. Further references, resources and contacts

## 1. Muirburn Code Introduction

### 1.1 Context

- Nature/climate crisis. All land management activities including conservation, sporting, agricultural or crofting have a role to play in helping to address this crisis.
- Muirburn Code aims to help ensure that moorlands managed for grouse are done so in a way which supports biodiversity and net zero targets.

### 1.2 What is the status of the Muirburn Code?

- This version of the Muirburn Code was introduced by section 14 of the Wildlife Management & Muirburn (Scotland) Bill 2024 (WM&M Bill).
- The Muirburn Code will play a key role in the licensing of muirburn as set out in the WM&M Bill.

### 1.3 Purpose of the Code

- This Code categorises actions according to whether they **must** be undertaken to avoid risk of prosecution and to comply with a muirburn licence and those that **should** be undertaken because they demonstrate good practice in moorland management.

### 1.4 Where and who does the Code apply to

- The Muirburn Code applies to all land managers and individuals who carry out muirburn on land they own or manage or who are involved in helping to carry out muirburn over an area of land.
- It applies to all land which over which muirburn is used as a management tool including grouse moors, upland farms and crofting areas. It may also be of interest to those who wish to understand more about muirburn.

## 1.5 What is Muirburn?

- The definition of muirburn as set out in Section 18 of the WM&M Bill is described as ‘references to the making of muirburn include references to the setting of fire to, or the burning of, any heath or muir.

## 1.6 Alternatives to muirburn

- Muirburn is used as a tool to help manage vegetation, including heather, for a range of purposes, in a range of circumstances and by a range of people. Other techniques can also be used. Other techniques include grazing, cutting and re-wetting.
- There are a range of factors which need to be considered in order to identify which is the most appropriate in any given situation.

## 2. Legal and licensing requirements

### 2.1 Legal requirements

- This section will provide a summary of the actions which **must/must not** be carried out as doing so would be an offence and risk prosecution or breach a licence.
- The overriding requirement is that You must ensure there is a valid muirburn licence for the area you intend to burn.

### 2.2 List and explanation of the licensable purposes set out in the Bill.

- **All muirburn must be carried out under licence.** Failure to have a valid licence in place will constitute an offence.
- Licences can only be granted on the basis that muirburn meets one or more of the licensable purposes as set out in the WM&M Bill.
- All licences which are granted will identify which purpose/s the muirburn can be carried out over the land to which the licence relates
- The WM&M Bill lists 10 licensable purposes. Six are on non-peatland and four on peatland:

#### Non-peatland:

- Managing the habitats of moorland game or wildlife
- Improving the grazing potential of moorland for livestock
- Conserving, restoring, enhancing or managing the natural environment
- Preventing, or reducing the risk of, wildfires causing damage to habitats
- Preventing, or reducing the risk of, wildfires causing harm to people or damage to property
- Research

#### Peatland:

- Restoring the natural environment
- Preventing, or reducing the risk of, wildfires causing damage to habitats
- Preventing, or reducing the risk of, wildfires causing harm to people or damage to property
- Research

### 3. Training

- Section 12 of the WM&M Bill states that a ‘person intending to make muirburn on land to which the licence relates **must**— complete a training course approved under section 13A before making muirburn’.
- There is a Lantra approved training course on muirburn specifically in the Scottish context, comprised of an on-line element and a practical element. It is aimed at everyone who is involved or who will be involved in carrying out muirburn in whatever circumstance.
- The training course includes references to this Muirburn Code and so the two are intrinsically linked.

### 4. Identifying peatlands

- Identifying areas of peatland and non-peatland is fundamental to applying for a muirburn licence. This is because the licensable purposes are determined by whether or not an area is peatland.
- Peatland is defined in Section 18 of the WM&M Bill as “land where the soil has a layer of peat with a thickness of more than 40 centimetres”.
- This section will link to guidance on how to identify and record peatland habitats by measuring the thickness of peat.

### 5. Planning for muirburn

- This section will focus on what needs to be considered ahead of carrying out any muirburn.
- It will cover identifying outcomes/objectives which fit with the licensable purpose. from carrying out muirburn and the role muirburn will play in achieving these objectives.
- It will include a summary of what factors should be taken into account.

### 6. Good Practice

This section will signpost to relevant good/best practice guidance on moorland management primarily Moorland Management Best Practice Guidance and the supplementary guides which sit alongside the existing Muirburn Code.

#### 6.1 Moorland Management Best Practice

##### ○ **Carbon & Peatlands**

Moorland management can play an important role in carbon storage, soil condition and peatland restoration and management.

##### ○ **Biodiversity**

All moorland management, including muirburn, can play an important role in supporting biodiversity objectives. This can include taking into account habitat management and species management and protection for wider biodiversity.

## **6.2 Muirburn Code Supplementary Information**

The following is a list of the supplementary information which sits alongside the current Muirburn Code:

- Offences & legislation
- Safe Working distances
- Fire behaviour
- Planning for burning
- Planning for cutting
- Muirburn & peatland
- Muirburn for grazing management
- Grouse moor management

## **7. Glossary**

- This section will include an explanation of key terms.

## **8. Further references, resources and contacts**

- This section will include links to further information and helpful contacts.