

WILDLIFE MANAGEMENT AND MUIRBURN (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

REVISED FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.7.8B of the Parliament’s Standing Orders, this revised Financial Memorandum is published to accompany the Wildlife Management and Muirburn (Scotland) Bill (which was introduced in the Scottish Parliament on 21 March 2023) as amended at Stage 2. Text has been added or amended as necessary to reflect the amendments made to the Bill at Stage 2 and these changes are indicated by sidelining in the margin.
2. This revised Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill, as amended. It does not form part of the Bill and has not been endorsed by the Parliament.
3. The Policy Memorandum explains in detail the background and the policy intention behind the Bill. The purpose of this revised Financial Memorandum is to explain any costs associated with the measures introduced by the Bill, and as such it should be read in conjunction with the Bill and the other accompanying documents.

THE BILL

4. The Wildlife Management and Muirburn (Scotland) Bill “the Bill” is being introduced 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 Bill will introduce measures to:
 - Ban the use and purchase of glue traps;
 - Introduce licensing and training requirements for certain types of wildlife traps;
 - Introduce a licensing regime for land used for the shooting of red grouse; and
 - Introduce licensing for all muirburn, regardless of the time of year that it is undertaken. Muirburn on peatland will only be permitted in very limited circumstances.
5. The Bill will make it an offence to:
 - Set a glue trap for the purpose of catching any animal (apart from an invertebrate);
 - Use a glue trap in a manner that is likely to cause bodily injury to any animal (other than an invertebrate).

6. The Bill amends the Wildlife and Countryside Act 1981 (“the 1981 Act”) to prohibit the use of snares, except for snares operated by hand, for the purpose of killing or taking any animal and also prohibits using a snare to cause bodily injury to any animal that comes into contact with it.

7. The Bill inserts provisions into the 1981 Act to require that anyone who wishes to use live capture bird traps or traps listed in an order made under section 50 of the Agriculture (Scotland) Act 1948 (“the 1948 Act”) (which is currently the Spring Traps Approval (Scotland) Order 2011 (“the STAO”)) must have a licence and meet the following conditions:

- complete training by an approved body each time they apply or renew their licence;
- register with the relevant authority (Scottish Ministers or if delegated NatureScot) for a unique licence number;
- display this unique licence number on each trap they use; and
- use the trap in accordance with the training.

8. The Bill inserts provisions into the 1981 Act to require that the shooting of red grouse will only be permitted if the landowner has a licence which covers the land on which the shooting takes place. If a person does so without such a licence, they will have committed an offence under section 1 of the 1981 Act and the penalties for such an offence will apply.

9. The Bill amends the powers for inspectors appointed under section 49(2)(a) of the Animal Health and Welfare (Scotland) Act 2006 (“the 2006 Act”), relating to the investigation of animal welfare offences (with which that Act is principally concerned). The provisions enable such appointed inspectors to search for, examine and seize evidence of a relevant offence, but only when they are already exercising their other powers under the 2006 Act.

10. Scottish Ministers will only extend this power to inspectors of the Scottish SPCA, who routinely enforce animal welfare rules in Scotland. The Scottish SPCA do not receive any funding from the Scottish Government and will not receive funding in association with this limited extension of their powers.

11. Lastly, the Bill repeals much of the muirburn provisions in the Hill Farming Act 1946 (“the 1946 Act”) and replaces it with provisions to require that any muirburn should be unlawful unless carried out under a licence, for limited purposes, with further limitation on muirburn on peatland.

12. The provisions of the Bill will impact those who currently undertake any of the activities above, those who have committed an offence under the Bill, the authority responsible for licensing limited activities (Scottish Natural Heritage who now operate under the name NatureScot), and those who have a role in enforcing the legislation.

13. The revision of the existing legislation, including the creation of new offences, may have the effect of increasing the number of incidents that go on to be prosecuted and subsequently convicted. Figures relating to existing offences from previous years have been used as the basis to estimate future costs and provide example maximum costs.

14. The organisations involved in the enforcement of the Bill and the operation of the licensing scheme may need to make arrangements for staff training in order to familiarise all with the Bill provisions. However, given the Bill is introducing and developing enforcement and licensing tools similar to those currently in use, it is expected that these introductory costs will be minimal.

15. The principal costs flowing from the Bill will be those associated with the licensing of grouse shooting, wildlife traps and muirburn. Certain other costs and savings may also arise.

COSTS ON THE SCOTTISH ADMINISTRATION

Introductory one-off costs

16. The introductory costs for the Scottish Administration for the provisions in the Bill will primarily fall on NatureScot, as the licensing authority. The other provisions in the Bill are not thought to be associated with any meaningful costs given that the proposals relate to the existing legislation and any staff training will be a relatively simple update of the guidance and procedures surrounding the enforcement of those offences and the operation of the licensing scheme.

17. Police Scotland will continue to report cases and respond to complaints by the public in the same way as they do currently.

Cost of court procedures

18. The Bill is expected to have a minimal impact on costs to the criminal justice system. The measures in the Bill have been introduced to address raptor persecution, wildlife crime and animal welfare issues. So it is expected that in the long term, these provisions will reduce incidents of wildlife crime overall, resulting in savings to the Scottish Courts and Scottish Prison Service.

19. The Bill provides that various offences relating to grouse licensing, wildlife trap licensing, the prohibition of glue traps, snares and muirburn licensing can be tried either summarily or on indictment under solemn procedure. The Crown Office and Procurator Fiscal Service (“COPFS”) will decide the appropriate forum in each case taking into account, among other things, the seriousness of the offending.

20. The number of offences relating to glue traps is expected to be low as the Scottish Government intends to commence offences relating to the use or purchase of glue traps after a transition period to enable users of glue traps to develop, trial and source alternative legal methods of pest control.

21. It is possible, to identify comparable individual offences from Part 1 of the 1981 Act to provide a baseline for potential cost scenarios for grouse licensing, wildlife trap licensing, the prohibition of glue traps and snares. However, the annual number of prosecutions and convictions for those offences is very low, in some cases zero.

22. The Bill also includes provisions to create new offences relating to the use, setting, and purchase of glue traps. There is currently no legislation governing the use of glue traps in Scotland, and as it is not currently regulated or restricted there is no prosecution data to use. There are,

however, comparable offences relating to illegal trapping and snaring, in Part 1 of the 1981 Act, notably Sections 5 (Prohibition of certain methods of killing or taking wild birds), 11 (Prohibition of certain methods of killing or taking wild animals), and 11A (Snares: training, identification numbers, tags etc.).

23. The provisions relating to the prohibition of the use of snares amend the existing offences relating to snares in Section 11 of the 1981 Act (Prohibition of certain methods of killing or taking wild animals), and as a consequence, remove the offences in Sections 11A to 11F.

24. While the prohibition of the use of snares is a new offence, it is already an offence to use snares that are non-compliant with the requirements currently set out in the 1981 Act. In this regard, there is an already comparable level of offending relating to the misuse of snares. The Scottish Government expects however, that there may be an increase in the level of offending the prohibition of the use of snares. Over the long term, it is expected that the increased regulation and oversight will eventually reduce the number of snaring offences that occur.

25. The provisions relating to wildlife trap licences amend the 1981 Act to have the effect that if a person uses a spring trap listed under the STAO or a live capture trap for wild birds and does not have a Section 12C licence, they will be committing an offence under Section 12A. In addition, it expands the Section 17 offence relating to the making of false statements to obtain a 12A licence.

26. While Section 12A contains new offences, it is already an offence to use spring traps that are non-compliant with the STAO. Live capture bird traps can only be used if a person holds a valid licence under Section 16 of the 1981 Act, and they comply with the conditions of that licence.

27. In this regard, the provisions in the Bill will not change the usage requirements of those traps, and it is envisaged that the training for each relevant trap will replicate the existing trap use requirements. Therefore, the Scottish Government does not expect any increase in offences associated with the use of these traps. Over the long term, it is expected that the increased regulation and oversight will eventually reduce the number of trapping related offences that occur.

28. The provisions in the Bill will, however, require individuals to be trained and hold a licence to carry out activities that they already undertake.

29. The new offence of tampering with a legally set trap has been brought forward to address the issue of interference with traps that are covered by the wildlife trap licence scheme. While there have been very few recorded incidents of the comparable offence of vandalism of such traps and no prosecutions, the Scottish Government has heard anecdotal evidence that this is an issue, and therefore expects that there may be an increase in the number of prosecutions that arise as a result of this new offence.

30. The provisions relating to grouse licences amend the 1981 Act to have the effect that if a person takes grouse during the open season on land that does not have a Section 16AA licence, they will be committing an offence under Section 1 of that Act. In addition, it expands the existing Section 17 offence of making a false statement or representation to obtain a licence under Part 1 of the 1981 Act to include false statements made to obtain the new Section 16AA licence.

31. Due to the low numbers of prosecutions and convictions for each of the existing offences described above, and in order to create a more meaningful cost estimate, the Scottish Government will use the average annual number of prosecutions and convictions for ALL offences under Part 1 of the 1981 Act as a comparable baseline for the new and amended offences relating to grouse licensing, wildlife trap licensing and the prohibition of glue traps and snares. While this approach will overestimate the baseline of relevant offences, it will ensure that any cost scenarios illustrate the maximum potential increase to the Scottish Courts and Scottish Prison Service.

32. Table 1 shows from 2012 to 2021, 126 people in Scotland have been submitted to the court for prosecution where the main charge was an offence under Part 1 of the 1981 Act, resulting in a total of 98 convictions. This gives an annual average of 14 prosecutions and 11 convictions.

Table 1: Prosecutions under Part 1 of the 1981 Act 2012 - 2021

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Total
Total prosecuted	34	21	23	12	8	15	5	7	1	126
Not guilty	5	8	6	3	1	2	1	1	1	28
Custody	1	-	1	-	-	1	-	-	-	3
Community sentence	4	3	-	3	1	2	-	2	-	15
Monetary	17	8	14	4	5	9	3	4	-	64
Other	7	2	2	2	1	1	1	-	-	16

33. The 1981 Act provides that some of the offences under Part 1 can be tried either summarily or on indictment under solemn procedure, and others can be tried by summary procedure only. Where a case can be tried either by summary or solemn procedure, COPFS will decide the appropriate forum in each case taking into account, among other things, the seriousness of the offending.

34. The 1981 Act was amended in by the Animals and Wildlife (Penalties, Powers and Protections) (Scotland) Act 2020 to allow courts to prosecute a number of offences under solemn procedure, as well as summary procedure as was previously the case. Therefore, much of the data in table 1 refers to cases where the offence could be prosecuted by summary procedure only.

35. Between 2012 and 2021, of the 126 people prosecuted for an offence under Part 1 of the 1981 Act, three custodial sentences were issued, only one of which was of the severity to warrant a sentence of more than 150 days. For the purposes of assessing likely costs associated with the Bill, it is assumed that this case may have been suitable to be tried by solemn procedure, had that option been available to the prosecutor at the time, and so the upper estimate is that an average of one case in 9 years, or 0.1 of the 14 cases prosecuted per annum, may be tried by solemn procedure.

36. The provisions relating to muirburn licences have the effect that a person can only undertake muirburn during the muirburn season, if they hold a muirburn licence and adhere to the

conditions set out in that licence. Muirburn during the close season is largely unaffected as it can only currently be undertaken for limited purposes under licence.

37. The practice of muirburn during the muirburn season is unlicensed, however it is still subject to compliance with conditions outlined in the 1946 Act. Section 25 for example, provides that a person who makes muirburn on any land without providing sufficient staff and equipment to control and regulate the burning operations so as to prevent damage to any woodlands on or adjoining the land or commences muirburn between one hour after sunset and one hour before sunrise is guilty of an offence. Section 26 provides that a person who intends to make muirburn during the muirburn season must give notice in writing to any occupier of land within a 1km radius. These sections also contain offences relating to making muirburn during the close season. The offences in these sections can therefore be used as a comparative baseline to estimate potential costs associated with any increase in prosecutions and convictions.

38. Offences relating to muirburn under the 1946 Act can only be tried summarily and are subject to a maximum penalty of a level 3 fine on the standard scale. The Bill requires that the new offences relating to muirburn can only be tried summarily but increases the maximum penalty to a month's imprisonment and/or a level 5 fine.

39. Table 2 shows from 2012 to 2021, 3 people in Scotland have been submitted to the court for prosecution where the main charge was an offence under Sections 25 and 26 of the 1946 Act, resulting in a total of two convictions. This gives an annual average of 0.3 prosecutions and 0.2 convictions.

Table 2: Prosecutions under Sections 25 & 26 of the 1946 Act 2012 - 2021

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Total
Total prosecuted	-	2	-	-	-	-	1	-	-	3
Not guilty	-	1	-	-	-	-	-	-	-	1
Monetary	-	1	-	-	-	-	-	-	-	1
Other	-	-	-	-	-	-	1	-	-	1

40. The nature of the offences created by the Bill, and those inserted in the 1981 Act are not expected to significantly deviate from and therefore change the procedure taken for the majority of cases, and the Scottish Government expects most cases to continue to be tried by summary procedure. Proceedings at solemn level are likely to be the exception for particularly extreme offending and possibly for persistent offenders. Table 3 details the costs associated with criminal proceedings:

Table 3: Estimates of the unit cost of criminal proceedings 2016-2017¹

Level of Jurisdiction	Procedure	Average prosecution costs per procedure (COPFS)	Average court costs per procedure (SCTS)	Average legal assistance costs per procedure (SLAB)	Total average costs
Sheriff Court solemn	Section 76 pleas		£154	£1,294	
	Guilty plea at first diet		£203	£1,294	
	Guilty plea at trial diet		£258	£2,035	
	Trials - Evidence led		£9,351	£3,397	
	Average cost of procedure	£4,363	£2,190	£1,622	£8,175
Sheriff Court summary (includes stipendiary cases)	Guilty plea at pleading diet		£105	£565	
	Continued without plea then guilty plea tendered	£444 (this figure represents the average cost of procedure for the Sheriff Court Summary and Justice of the Peace court (excluding stipendiary cases)).		£565	
	Guilty plea at intermediate diet		£154		
	Guilty plea at trial diet		£203	£584	
	Trials - Evidence led		£308	£584	
	Average cost of procedure		£1,679	£764	
		£430	£604	£1,034	

41. Solemn prosecutions cost COPFS an average of £4,363 to prosecute, as opposed to the average cost of a summary procedure of £444.

42. The average court costs for solemn procedures for the Scottish Courts and Tribunals Service (“SCTS”) is £2,190, as opposed to the average cost of a summary procedure of £430. These figures are the average cost of procedure and are a weighted average using the volume of procedures. The figures include depreciation.

43. The average costs relating to the Scottish Legal Aid Board (“SLAB”) have been calculated as £1,622 for solemn and £604 for summary proceedings. These figures are average cost per legal aid certificate (per individual). These figures are calculated by dividing total legal aid costs for cases which finish at each procedure by the corresponding number of legal aid certificates. Where a case progresses through several procedures, all legal assistance costs are included in the costs of the final procedure.

¹ [Costs of the criminal justice system in Scotland dataset: 2016-17 \(published December 2019\) - gov.scot \(www.gov.scot\)](http://www.gov.scot)

44. Persons prosecuted for offences under the Bill will be responsible for their own legal expenses in the usual way. Persons of limited means will be eligible to seek legal aid.

45. The proposed changes to the legislation are not expected to have a significant effect on the number of people applying for legal aid. It is considered reasonable that the same proportion of individuals will need to apply for legal aid in any case.

46. In order to estimate potential additional court costs arising from the changes to the existing legislation, and following on from the assumptions above, it is assumed that annually, there will be 14.2 cases submitted to the courts in relation to offences under the Bill subject to summary procedure, and 0.1 cases subject to solemn procedure. Estimates are also provided for other potential scenarios in Table 4:

Table 4: Estimated costs associated with increased prosecutions

	Procedure	number of people prosecuted	cost of scenario	resulting additional costs
current costs of prosecution	Summary	14.2	£14,683	£0
	Solemn	0.1	£818	
10% increase in prosecutions	Summary	15.62	£16,151	£1,550
	Solemn	0.11	£899	
50% increase in prosecutions	Summary	21.3	£22,024	£7,750
	Solemn	0.15	£1,226	
100% increase in prosecutions	Summary	28.4	£29,366	£15,500
	Solemn	0.2	£1,635	
200% increase in prosecutions	Summary	42.6	£44,048	£31,001
	Solemn	0.3	£2,453	

Scottish Prison Service (SPS)

47. Another identified cost associated with the new offences and amended existing offences under the Bill would be incurred by SPS if more individuals receive custodial sentences. As stated above, there may be a small increase in court cases resulting from the Bill, which could correspondingly increase the number of people receiving custodial sentences.

48. The provisions in the Bill do not provide for mandatory minimum sentencing. Rather, the provisions allow the courts to issue maximum penalties for some offences of up to five years. Maximum penalties for wildlife offences, including those under the 1981 Act, were reviewed and standardised through the Animals and Wildlife (Penalties, Powers and Protections) (Scotland) 2020 Act. The penalties for new offences and amended existing offences under the Bill are consistent with the penalties for other similar wildlife offences.

49. Sentencing in any given case is a matter for the courts. The court decides an appropriate sentence within the overall legal framework, subject to decisions about the appropriate procedure, summary or solemn.

50. As can be seen from Table 1, there have been 3 custodial sentences for offences under Part 1 of the 1981 Act between 2012 and 2021, an average of 0.3 per year. Currently the relevant offences under the 1946 Act offer a penalty of a fine only and so there is no comparable data for the provision relating to muirburn.

51. Within this context, it is challenging to make assumptions about the length of sentences in future cases. It is also not possible to predict what sentences may be appropriate without making assumptions about the type of cases that will come before the courts in terms of the type, range and severity of offending and also about the profile of the offender e.g., age, previous convictions (including similar offending), personal circumstances and means etc. All of these factors will inform the appropriate sentencing outcome in any court case.

52. It is considered that any extra costs to the SPS will arise from an increased number of prosecutions and sentencing powers to impose custodial sentences for those offences. Such costs would relate to the additional people convicted of relevant offences who may be given custodial sentences in future years as compared to the number currently sentenced.

53. In order to estimate what those extra costs might amount to, sentencing data for the period 2012 to 2021 for offences under Part 1 of the 1981 Act have been considered to inform reasonable estimates of potential future sentences relating to all offences in the Bill.

54. The Scottish Government has developed potential scenarios and made assumptions about future sentences using the data held on these previous offences. However, as discussed above, this data also relates to offences committed before the increased penalties had been made available to the courts.

55. The scenarios in Table 5 estimate the costs associated with increased custodial sentences and assume that the average cost of a year in prison is £38,213 per year (Costs of Criminal Justice System in Scotland, December 2020²), and an average sentence length of 143 days, based on the three custodial sentences issued for offences under Part 1 of the 1981 Act in between 2012 and 2021.

Table 5: Estimated costs associated with increased custodial sentences

	Cost of existing sentences	10% increase	50% increase	100% increase	200% increase
Average annual sentences issued	0.3	0.33	0.45	0.6	0.9
Average annual sentence length (days)	143	143	143	143	143

² Scottish Prison Service, Source SPS accounts 2019-20. The cost of a prisoner place is £38,213, calculated on a resource accounting basis (including depreciation and impairment charges).

Annual cost of proposed sentence	£4,491	£4,940	£6,737	£8,983	£13,474
Maximum additional cost (per year)	£0	£449	£2,246	£4,491	£8,983

56. As can be seen from Table 5, a 200% increase in custodial sentences issued, would result in a maximum additional cost to the SPS of around £8,983 per year. In reality, and as explained above, it is unlikely that there will be such an increase in the number of cases receiving a custodial sentence, and the actual costs are likely to be close to the current scenario.

COSTS ON LOCAL AUTHORITIES

57. The investigation of wildlife crime falls to Police Scotland; local authorities do not enforce any wildlife legislation.

58. In addition to the public consultation the Scottish Government also contacted all Scottish local authority pest control departments to ascertain the extent to which they used glue traps. Of the fourteen local authorities who responded, eleven confirmed that they would never use glue traps, two stated that they do not provide a pest control service, and one confirmed that, while they do not regularly use glue traps, they would consider using them where there is justifiable concern for public health and no alternative practical solution.

59. The Scottish Government therefore estimates that the Bill provisions will not introduce any new responsibilities for local authorities and as such will not result in any additional costs to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

60. Costs on individuals and businesses arising from the provisions of the Bill related to wildlife trap, grouse moor and muirburn licences and the requirement to undertake training for wildlife trap licences are detailed below. It is anticipated that the costs to individuals and businesses arising from the provisions relating to glue traps are minimal due to the wide availability of alternative methods of rodent control at comparable cost. The costs for NatureScot (the operating name for Scottish Natural Heritage), as the licensing authority for the provisions in the Bill are detailed below.

61. With regards to the expanded enforcement powers of inspectors appointed under section 49(2)(a) of the 2006 Act, the Scottish Government does not expect any additional costs to be incurred as a result of those powers because they can only be used when appointed inspectors are already exercising their other powers under the 2006 Act. During the Rural Affairs and Islands Committee Stage 1 evidence session on the Bill, Chief Superintendent Mike Flynn of the Scottish SPCA said “There is no additional resource, but there should also be no additional cost to us. In fact, the suggested approach might, in a way, save us money, because we will already be at the scene. At the moment, we have to involve the police, wait until they are available and then go back to the scene. Often we could have taken most of the steps on our first visit, but it is all part of the protocol. In short, the Scottish SPCA will not be putting in any additional resource, and we will not be employing more inspectors to deal with this slight extension to the 2006 Act.”.

62. With regards to the wildlife trap licence scheme, individuals will be required to hold a licence and successfully complete training approved by NatureScot in relation to the traps that they are using. The Scottish Government expects the training to be based on the existing conditions of use for each trap type and therefore easily completed for anyone currently undertaking legal trapping.

63. The traps covered by the provisions in the Bill are more often used by professionals rather than individual or domestic use. Those who conduct wildlife management using traps often already undertake training and continued professional development that includes the use of traps. The Scottish Government expect this kind of training to be updated to cover the new requirements of the Bill following enactment.

64. With regards to the muirburn licence scheme, individuals will be required to hold a licence and successfully complete training approved by NatureScot in relation to muirburn. The Scottish Government is aware that a large majority of people currently undertaking muirburn on moorland have completed some form of training, and there are formal training courses currently available. For example, the Lantra approved Muirburn Practitioner Foundation Course costs approximately £250. It is expected that the training required by the Bill will be based on the existing available training, taking into account the introduction of the muirburn licensing scheme.

65. At present, we do not have an estimate of how much this training will cost to individuals, as the details of the courses are still to be developed by NatureScot. In developing the framework to endorse training courses, the Scottish Government and NatureScot will work with stakeholders to ensure that training courses are available at a cost that is accessible. Training requirements are common in other professions, especially those relating to animal welfare, the costs of such courses vary, are often covered by employers, and sometimes available through further education courses with various funding options available.

66. Individuals and businesses may apply for a licence if they meet the specified criteria, to continue to be able to take grouse, use wildlife traps and make muirburn without cost. Those who currently use glue traps and snares will have a transition period to develop, trial and source alternative legal methods of pest control.

67. NatureScot operates the licensing schemes for wildlife management across several pieces of legislation that enable people to carry out activities that are otherwise illegal in order to achieve a legitimate aim. The licensing schemes proposed by the Bill use a similar framework to that of the existing wildlife licensing schemes. The Bill will contain power to allow Scottish Ministers to delegate their licensing functions to NatureScot.

68. For the purposes of this memorandum, it is assumed that the cost of a licence will not be passed on to the applicant, as NatureScot do not currently charge for any licences relating to wildlife management and the Bill does not specify that a fee should be charged.

69. However, although NatureScot do not currently operate licences on a cost recoverable 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. For future-proofing purposes, the Bill will therefore include

provisions to allow for the possible introduction of charges for licences issued under these provisions at a later date, however those charges must be reasonable.

70. While it is not possible to anticipate the outcome of this review, consideration has been given to the possibility that the review may include recommendations that licences should be charged on a partial or fully-cost recoverable basis.

71. For the purposes of this memorandum, it is assumed that, if a decision was made in the future to administer licences on a fully-cost recoverable basis the cost to the individual to apply for a licence would be in-line with the figures provided below, that being £50 for a wildlife trap licence, £100 for a grouse moor licence and £250 for a muirburn licence.

72. However, it is important to note that this should not be taken as an assumption that licensing costs will be introduced in the future or that the costs will be exactly as set out in this document.

73. The full impact and costs to individuals and businesses arising to from any future changes to how licences are funded or administered will be considered as part of the review process. Where required, further impact assessments will be undertaken by the relevant authorities, which will set out in detail the anticipated impact and cost of any changes arising from the review.

74. The NatureScot licensing team currently process approximately 5000 licences per year. While it is not possible to accurately estimate at this stage how many additional licences will be applied for following commencement of the Bill, the Scottish Government does not expect this number to exceed 4000, based on the calculations and assumptions outlined below.

75. NatureScot will process the additional licence applications using the existing licensing team however, they are currently exploring whether they need to expand the size of the team to meet the increased demand. The set-up costs of the licence scheme detailed below includes the creation of an online digital platform that would automate much of the licensing process. The ongoing costs per licence is then based on the estimated staff time required for each application, plus proportional overhead costs, which will account for the additional costs of expanding the licensing team.

76. The Scottish Government has also committed to reviewing the wider species licensing system and as part of that review, NatureScot's ongoing resource requirement for processing licences will be looked into.

77. Requests by the applicant for the review of licensing decisions cost on average, £1500. NatureScot estimate there are less than 10 review requests annually across the whole program, or 1 review for every 500 licences issued.

Set up costs

78. Due to the nature of the three licence schemes in the Bill, and their similarity to existing wildlife licences already in operation, the cost of the creation and administration of each licence is expected to vary and has been estimated as follows.

79. The exact detail of the licences will not be settled until the Bill becomes an Act, and as a result, the costings provided below are an estimate based on the provisions of the Bill at introduction. NatureScot have already undertaken discussions to explore the development of a new on-line licensing system for all of the wildlife management licences they currently issue. From those discussions, they have been able to estimate the potential additional costs associated with three licence schemes in the Bill.

80. As discussed above, NatureScot already administer licences to allow the live capture of wild bird traps under Section 16 of the 1981 Act. They have confirmed that the wildlife trap and grouse moor management licence proposals contained in the Bill are similar to their existing framework. Therefore, the anticipated costs associated with the implementation of these licences relate to tailoring the existing framework. NatureScot anticipate however, that the muirburn licence provisions are sufficiently different to the existing out of season muirburn licence to necessitate the creation of a new licensing framework.

81. NatureScot have been investigating the cost of building a new online platform for their existing licences, and based on the on the estimated number of applications and complexity of each licence, have calculated the additional cost of expanding that new build to cover the three new licences in the Bill.

82. The costs of the on-line platform for the three new licences are based on an estimate of the number of *sprints* (development stages) required to build each system. NatureScot have estimated the number of *sprints* for each licence from the number it took to develop the on-line licences for gulls. The gull licence platform required 25 *sprints* (10 days per *sprint*) and cost £20k for contractor time per *sprint*. The wildlife trap licences are likely to require minimal amendment to the current approach, resulting in minimal additional work. NatureScot anticipate the grouse moor licence to be administered in a similar manner to a registration scheme, which can be developed from the existing wildlife trap registration approach, therefore estimated to require 7-10 sprints. The muirburn licence scheme is more involved as it requires application, assessment and approval functions, and will subsequently take longer to develop, although NatureScot believe that some of the functionality can be based on work already done for gull licences.

83. This represents the best current estimate given that the final licence details will not be known until the Bill is approved by the Scottish Parliament. NatureScot estimate that all three of the licence schemes in the Bill could be developed in a similar timeframe as was needed to develop the gull licence platform, subject to having the necessary staff resource available.

84. They estimate the cost for the online build of these licences to be £330,000, with a further staffing cost of £120,000, to cover three extra C band staff to undertake the extra work associated with the development of the new licences including stakeholder consultation and producing guidance.

Ongoing administration costs

85. NatureScot have estimate that the wildlife trap licence scheme is likely be administered in a similar way to the existing trap registration process for live capture bird traps. NatureScot estimate that it costs £50 to process each registration. This estimated cost is based on the current staff time to administer the existing live capture bird trap registration process. The wildlife trap

licences in the Bill are expected to be a similar process and therefore the costs in terms of staff time are estimated to be similar, and so the Scottish Government has used that figure to estimate the potential cost of administering the scheme.

86. To estimate the potential number of applicants, while there is data on the number of registrations currently in place for the use of live capture bird traps (approx. 2100), but there is no data on the number of people who use spring traps. The Scottish Government has therefore used the total number of licences issued by NatureScot for any wildlife management purpose as a baseline to estimate the overall cost of this. However, as the proposed trap licences will only be issued once every 10 years, the annual estimate is therefore 500. Table 6 shows different costing scenarios should that number increase by 50%, 100%, and 200%:

Table 6: estimated annual average cost of wildlife trap licence administration

	Current situation	50% increase	100% increase	200% increase
Number of licences	500	750	1000	1500
Annual cost of licences	£25,000	£37,500	£50,000	£75,000
Number of licence decision review	1	1.5	2	3
Additional cost of licence decision review	£1,500	£2,250	£3,000	£4,500
Additional cost to NatureScot	£26,500	£39,750	£53,000	£79,500

87. NatureScot have confirmed that while the grouse moor management licence scheme is likely be administered in a manner broadly based on the existing wildlife trap registration process, there is the potential for the processing of these licences to be somewhat more involved, requiring the processing of additional information with each application. For example, as the licence will relate to a specific area of land, it is likely that a map will be required as part of the application process. NatureScot estimate that this more detailed process will take staff up to double the time required for the existing registration process for wildlife traps. The cost to NatureScot of administration of a grouse moor management licence is therefore estimated to be £100 per application, based on the estimated staff time required for each application, plus proportional overhead costs.

88. To estimate the number of grouse moor licence applications, while the Scottish Government does not have the exact number of grouse moor businesses in Scotland, the 2019 report that recommended the licensing of such businesses estimated them to number approx. 120³. The Scottish Government has used this as a baseline for the number of licences expected to be applied for on a five year basis, working out to an annual average of 24 applications. Table 7 shows different costing scenarios should the number of grouse licence applications increase by 50%, 100%, and 200%:

³ [Grouse Moor Management Group: report - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Table 7: estimated annual average cost of grouse licence administration

	Current situation	50% increase	100% increase	200% increase
Number of licences	24	36	48	72
Annual cost of licences	£2,400	£3,600	£4,800	£7,200
Number of licence decision review	0.048	0.072	0.096	0.144
Additional cost of licence decision review	£72	£108	£144	£216
Additional cost to NatureScot	£2,472	£3,708	£4,944	£7,416

89. It is likely that many of those applications will fall within the first year of the licence scheme coming into force. The actual number of applications and the annual distribution of those applications is difficult to estimate as they depend on the individual circumstances of each application and renewals may occur more frequently than every five years. However, Table 8 illustrates an estimate of the cost of an uneven distribution of licence applications over five years, based on the estimated number of 120 applications, if 75% of applications are received in the first year.

Table 8: estimated cost of licences broken down by year

	Year 1	Year 2	Year 3	Year 4	Year 5
Number of licences	90	10	10	5	5
Annual cost of licences	£9,000	£1,000	£1,000	£500	£500
Number of licence decision review	0.18	0.02	0.02	0.01	0.01
Additional cost of licence decision review	£270	£30	£30	£15	£15
Additional cost to NatureScot	£9,270	£1,030	£1,030	£515	£515

90. NatureScot have confirmed that processing of the muirburn licence application is likely to be more complex compared to wildlife trap or grouse moor management licences, as it is likely that they will require a burning plan and map. The maps will show the extent of peatland and any other requirements included in the provisions of the Bill. The applicant will also need to apply on the basis of undertaking a licensable purpose which will require justification, and will be specific to either burning in season, out of season and on peatland. The Bill currently provides that licences to burn on peatland must also meet the additional criteria that “*the making of muirburn is necessary for the specified purpose*”, and “*no other method of vegetation control is practicable*”. Because this is a more in depth process with the potential for additional checks required by staff NatureScot estimate this could take up to five times as long as the existing registration process for wildlife traps. They have therefore estimated the potential cost to be £250 per application.

91. To estimate the potential number of muirburn licences, the Scottish Government used information collated by NatureScot, deducted from satellite imagery on the geographical spread of burning activity (muirburn and wildfire). This data can then be overlain with data on Business Reference Numbers (BRNs), which is required to apply for funding from the Rural Payments and Inspections Division and/or to keep livestock, and details of areas which have received funding

through the Agri-Environment Climate Scheme (AECS) muirburn option and which haven't been picked up by the satellite imagery of burns. Table 9 shows the number of individual applicants or businesses that have been identified as undertaking muirburn using various sources of data:

Table 9: recorded number of businesses and applicants associated with muirburn

Data	Date	Applicants/BRNs
AECS muirburn scheme	2015-2022	173
Satellite muirburn/wildfire data overlapped with SIACS	2018-2022	878
Number of BRNs in AECS with burns mapped	N/A	99
Total number of potential BRNs that have recorded burning or are in an AECS scheme	N/A	952

92. The number of muirburn licence applications can be estimated to be between 200 per year up to a maximum of 1000 per year. Table 10 therefore shows different costing scenarios should the number of muirburn licence applications based on a minimum of 200, an average of 500 or the maximum of 1000. The resulting figures should show the potential additional costs annually, as it is envisaged that licences will be applied for on an annual basis.

Table 10: estimated annual average cost of muirburn licence administration

Number of licences	200	500	1000
Annual cost of licences	£50,000	£125,000	£250,000
Number of licence decision review	0.4	1	2
Additional cost of licence decision review	£600	£1,500	£3,000
Additional cost to NatureScot	£50,600	£126,500	£253,000

Summary

93. A summary of the upper limit of potential additional costs of the provisions of the Bill is set out in Table 11, below. These potential costs could occur from 2024 onwards and represent the maximum estimated annual cost, based on a 200% increase in number of offences committed, and the submission of an extra 2572 licence applications to NatureScot.

Table 11: Summary of maximum additional costs outlined in this Financial Memorandum

	One-off (year 2024-25)	Annual (year 2024-25 onwards)
SCTS	£0	£31,001
SLAB		

This document relates to the Wildlife Management and Muirburn (Scotland) Bill (SP Bill 24A) as amended at Stage 2

Scottish Prison Service	£0	£8,983
Police Scotland	£0	£0
Local Authorities	£0	£0
NatureScot set up costs	£450,000	£0
NatureScot administration costs	£0	£339,916
General Public	£0	£0
Total maximum additional costs	£450,000	£379,900

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**WILDLIFE MANAGEMENT AND MUIRBURN
(SCOTLAND) BILL**
[AS AMENDED AT STAGE 2]

REVISED FINANCIAL MEMORANDUM

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