

# Wildlife Management and Muirburn (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 28

Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1

#### Christine Grahame

38 In section 1, page 1, line 9, leave out <, without reasonable excuse,>

#### Christine Grahame

39 In section 1, page 1, line 11, leave out <, without reasonable excuse,>

#### Colin Smyth

40 In section 1, page 1, line 13, at end insert—

<( ) It is an offence for a person to knowingly cause or permit an unauthorised person to commit an offence under subsection (1) or (2).>

#### Jim Fairlie

1 In section 1, page 1, line 13, at end insert—

<( ) A person does not commit an offence under subsection (1) or (2) if the person is an authorised person.>

#### Edward Mountain

41 In section 1, page 1, line 13, at end insert—

<( ) Subsection (1) or (2) does not apply if the glue trap is used under, and in accordance with the terms of, a glue trap licence (see section (*Glue trap licences*)).>

#### Jim Fairlie

2 In section 1, page 1, line 14, leave out <subsection (1) or (2)> and insert <this section>

#### Jim Fairlie

3 In section 1, page 2, line 1, after <section> insert <—

“authorised person” means a person—

- (a) authorised by the scheme made under section (*Authorisation for use, supply or possession of glue trap*), and
  - (b) acting in accordance with the person’s authorisation,
- and references to the authorisation of a person are to be construed accordingly,>

## **Section 2**

### **Edward Mountain**

42 In section 2, page 2, line 8, after <where> insert—

<( ) the glue trap is purchased (or otherwise acquired) for use in accordance with the terms of a glue trap licence, or  
( )>

### **Jim Fairlie**

4 Leave out section 2

## **After section 2**

### **Jim Fairlie**

5 After section 2, insert—

#### **<Offence of supplying glue trap**

- (1) It is an offence for a person, without reasonable excuse, to supply, or offer to supply, a glue trap.
- (2) It is an offence for a person to knowingly cause or permit an unauthorised person to commit an offence under subsection (1).
- (3) A person does not commit an offence under subsection (1) if the person is an authorised person
- (4) A person who commits an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £40,000 (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (5) In this section—
  - “authorised person” has the meaning given in section 1(5),
  - “glue trap” has the meaning given in section 1(5),
  - “supply” of a glue trap includes—
    - (a) selling it,
    - (b) exchanging it for a consideration other than money,
    - (c) giving it as a prize or otherwise making a gift of it,

(d) otherwise making the glue trap available.>

**Jim Fairlie**

6 After section 2, insert—

**<Offence of possessing glue trap**

- (1) It is an offence for a person, without reasonable excuse, to possess a glue trap.
- (2) A person does not commit an offence under subsection (1) if the person is an authorised person.
- (3) A person who commits an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £40,000 (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (4) In this section—

“authorised person” has the meaning given in section 1(5),  
“glue trap” has the meaning given in section 1(5).>

**Edward Mountain**

43 After section 2, insert—

**<Glue trap licences**

- (1) The Scottish Ministers may grant a licence under this section (a “glue trap licence”) authorising a pest controller specified or described in the licence to engage in conduct for the purpose of controlling rats and mice in educational, catering or medical premises which would otherwise amount to an offence under section 1 or 2.
- (2) The Scottish Ministers may not grant a glue trap licence for the purpose mentioned in subsection (1), unless the Scottish Ministers are satisfied that, as regards that purpose, there is no other satisfactory solution.
- (3) The Scottish Ministers may not grant a glue trap licence under subsection (1) unless the pest controller or controllers to be specified in the licence have completed an approved training course in respect of glue traps (see section (*Glue trap licences: approved training courses*)).
- (4) A glue trap licence—
  - (a) may be general or specific,
  - (b) may be subject to any conditions specified in the licence,
  - (c) may be modified or revoked at any time by the Scottish Ministers (whether or not on an application from the pest controller or controllers authorised by the licence),
  - (d) may be for a specified period of time.
- (5) The Scottish Ministers may require an application for the grant or modification of a glue trap licence, or of a glue trap licence of a particular description, to be made in such form, and to be accompanied by such documentation or information, as the Scottish Ministers consider appropriate.

- (6) The Scottish Ministers may by regulations—
- (a) make provision about the meaning of education, catering or medical premises for the purposes of subsection (1),
  - (b) make provision about the evidence to be provided by a licence holder when purchasing (or otherwise acquiring) a glue trap, including evidence that the applicant has completed a training course approved under section (*Glue trap licences: approved training courses*),
  - (c) make provision about the display of the glue trap licence number on the glue trap,
  - (d) make provision about the trap being used and monitored appropriately in accordance with the approved training course for the glue trap,
  - (e) make provision for the charging of fees or other charges in relation to an application for the grant or modification of a glue trap licence (and such fees or other charges may be set by reference to any costs incurred, or expected to be incurred, by the Scottish Ministers in connection with this section),
  - (f) make provision for, or in connection with, appeals in respect of—
    - (i) a decision to refuse an application for the grant or modification of a glue trap licence,
    - (ii) a decision to modify or revoke a glue trap licence,
  - (g) make provision for offences in connection with an application for a glue trap licence.
- (7) Regulations under subsection (6) may, in particular, make provision about—
- (a) the grounds upon which an appeal may be made,
  - (b) when an appeal may be made,
  - (c) the court, tribunal or other person who is to determine the appeal,
  - (d) the procedure for making, or determining, an appeal.
- (9) In this section, “pest controller” means a person who—
- (a) in the course of a business, provides a service which consists of, or involves, pest control, or
  - (b) is employed by a public authority to carry out pest control.
- (10) The Scottish Ministers may by regulations make further provision about the evidence and qualifications that a pest controller may need to provide or have (as the case may be) for the purposes of this section.
- (11) Regulations under subsection (6) and (10) are subject to the affirmative procedure.
- (12) For the purposes of this section, a public authority is a person who carries out functions of a public nature.>

### **Edward Mountain**

**44** After section 2, insert—

#### **<Glue trap licences: approved training courses**

- (1) The Scottish Ministers are to approve training courses that are required to be undertaken by a pest controller who is applying for a glue trap licence under section (*Glue trap licences*).

- (2) For the purposes of subsection (1), the Scottish Ministers may—
- (a) determine training requirements, such as—
    - (i) the form and content of courses,
    - (ii) requiring a person providing training to meet certain criteria (such as having relevant experience or holding a particular qualification),
  - (b) accredit courses and the persons providing courses,
  - (c) determine the minimum criteria for successful completion of courses, and
  - (d) determine how successful completion of such courses is to be recorded.>

### Section 3

#### Jim Fairlie

- 7 In section 3, page 2, line 18, leave out <or 2> and insert <, (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*)>

#### Jim Fairlie

- 8 In section 3, page 2, line 19, after <trap> insert <—  
( )>

#### Jim Fairlie

- 9 In section 3, page 2, line 19, at end insert <, or  
( ) that is in the possession of the person.>

#### Jim Fairlie

- 10 In section 3, page 2, line 27, leave out <or 2> and insert <, (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*)>

### After section 3

#### Jim Fairlie

- 11 After section 3, insert—
- <Authorisation for use, supply or possession of glue trap**
- (1) The Scottish Ministers may, by regulations, make a scheme for the authorisation of the use, supply or possession of glue traps (“the scheme”)—
    - (a) by specified persons,
    - (b) in specified circumstances.
  - (2) Regulations under subsection (1) must provide that a person may only be authorised under the scheme to use, supply or possess a glue trap if—
    - (a) it is necessary or expedient to do so for the purpose of protecting public health, and
    - (b) no other method of rodent control is practicable.

- (3) Regulations under subsection (1) may in particular—
- (a) make provision about the application for authorisation under the scheme, including the payment of such reasonable fee as the Scottish Ministers may require in connection with an application,
  - (b) make provision for the form and content of an application, including the information that must be provided,
  - (c) make provision relating to the grant of an authorisation, including the criteria for granting an authorisation,
  - (d) specify the maximum period for which an authorisation may be granted,
  - (e) enable conditions to be attached to authorisations,
  - (f) create an offence in connection with the provision of false statements for the purposes of obtaining an authorisation,
  - (g) make provision relating to the modification, suspension and revocation of an authorisation,
  - (h) provide for an appeal to be made against a decision to refuse to grant authorisation, or to modify, suspend or revoke an authorisation,
  - (i) require an applicant to complete a training course,
  - (j) make provision relating to training courses, including—
    - (i) determining training requirements, such as—
      - (A) the form and content of the training course,
      - (B) requiring a person providing training to meet specified criteria (such as having relevant experience or holding a particular qualification),
    - (ii) accrediting courses and the persons providing courses,
    - (iii) determining the minimum criteria for successful completion and how successful completion is to be recorded,
  - (k) enable the Scottish Ministers to delegate their functions under the scheme to local authorities.
- (4) The maximum penalty that may be provided for in regulations under subsection (1) creating an offence is, on summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) local authorities, and
  - (b) such other persons as they consider likely to be interested in, or affected, by the authorisation of the use, supply or possession of glue traps.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.
- (7) In this section—
- “glue trap” has the meaning given in section 1(5),
  - “specified” means specified in regulations made under subsection (1),
  - “supply” has the meaning given in section (*Offence of supplying glue trap*)(5).>

## Section 3A

### Jim Fairlie

12 In section 3A, page 3, line 26, at end insert—

<( ) in subsection (1A)—

(i) the word “and” immediately following paragraph (a) is repealed,

(ii) after paragraph (b) insert—

“(c) must not grant a licence for any purpose mentioned in subsection (1) that permits the use of a snare to kill a wild bird, and

(d) must not grant a licence for any purpose mentioned in subsection (1)(cb) to (k) that permits the use of a snare to take a wild bird.”>

### Edward Mountain

45 Leave out section 3A

## Section 4

### Edward Mountain

46 In section 4, page 4, line 29, leave out <killing or>

### Edward Mountain

47 In section 4, page 4, line 29, after second <or> insert <killing or taking a>

### Edward Mountain

48 In section 4, page 6, leave out lines 18 to 22 and insert—

<(1) The relevant authority must, on receipt of an application under section 12B, grant or renew a wildlife trap licence if the requirements in subsection (1A)(a) or (b) are met.

(1A) The requirements are that—

(a) the applicant has completed an approved training course (see section 12E), or

(b) the applicant—

(i) was born on or before 31st December 1973, and

(ii) has used the type of trap in question in a professional capacity for a period of at least 10 years consecutively.>

### Rachael Hamilton

49 In section 4, page 6, line 18, leave out <may> and insert <must>

### Edward Mountain

50 In section 4, page 6, line 35, at end insert—

<(3A) The Scottish Ministers may by regulations make further provision about the evidence that may be required for the purposes of subsection (1A)(b)(ii).

(3B) Regulations under subsection (3A) are subject to the negative procedure.>

**Edward Mountain**

51 In section 4, page 7, line 11, after <satisfied> insert <beyond reasonable doubt>

**Rachael Hamilton**

52 In section 4, page 7, line 15, at end insert—

<( ) specify in the notice the reason for the modification, suspension or revocation, and>

**Colin Smyth**

53 In section 4, page 8, line 5, after <trap> insert <(to include, in particular, independently validated guidance on the animal welfare impact of each type of trap)>

**Jim Fairlie**

13 In section 4, page 8, line 7, and end insert—

<(aa) require that any fee payable in connection with a course is reasonable,>

**Edward Mountain**

54 In section 4, page 8, line 11, at end insert—

<(2A) Before determining training requirements under subsection (2)(a), the relevant authority must consult such persons as they consider likely to be interested in or affected by wildlife trap licensing, including land managers.>

**Section 6**

**Rachael Hamilton**

55 In section 6, page 10, line 22, leave out <a bird included in Part 1B of Schedule 2> and insert <red grouse (*lagopus lagopus scoticus*)>

**Rachael Hamilton**

56 In section 6, page 10, line 31, leave out from <bird> to <2> in line 32 and insert <red grouse (*lagopus lagopus scoticus*)>

**Edward Mountain**

57 In section 6, page 11, line 15, at end insert—

<( ) In section 22 (power to vary schedules)—

(a) after subsection (2) insert—

“(2ZZA) If a bird is a game bird within the meaning of section 27, an order under subsection (1)(a) may only add that bird to Part 1B of Schedule 2 if the



bird to be added is on the current United Kingdom Birds of Conservation Concern Red or Amber List.”,

(b) after subsection (2A) insert—

“(2B) Before making an order under subsection (1)(a) to add a bird to Part 1B of Schedule 2, the Scottish Ministers must consult such persons as they consider likely to be interested in or affected by the proposed order, including land managers.”.>

**Rachael Hamilton**

58 In section 6, page 11, leave out subsection (3)

**Rhoda Grant**

14 In section 6, page 11, line 23, at end insert—

<( ) after subsection (4B) insert—

“(4C) Before making an order under section 22(1)(a) which adds any bird to, or removes any bird from, Part 1B of Schedule 2, the Scottish Ministers must—

- (a) lay a draft of the order before the Scottish Parliament for a period of 60 days, of which no fewer than 30 days must be days which the Scottish Parliament is not dissolved or in recess, and
- (b) before finalising the order, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to wildlife management for the time being appointed by virtue of the standing orders.

(4D) The Scottish Ministers must, when making the order to add any bird to, or remove any bird from, Part 1B of Schedule 2, lay a statement setting out—

- (a) details of the views mentioned in subsection (1)(b), and
- (b) the changes (if any) they have made to the order in response to such views and the reasons for those changes.”.>

**Rachael Hamilton**

59 In section 6, page 11, leave out subsection (5)

**Section 7**

**Rachael Hamilton**

60 In section 7, page 12, line 1, leave out <certain birds> and insert <red grouse>

**Rachael Hamilton**

61 In section 7, page 12, line 2, leave out <may> and insert <must>

**Rachael Hamilton**

- 62 In section 7, page 12, line 4, leave out <any type of bird included in Part 1B of Schedule 2> and insert <red grouse (*lagopus lagopus scoticus*)>

**Rachael Hamilton**

- 63 In section 7, page 12, line 8, at end insert—  
<(2A) Where the relevant authority refuses to grant a licence to an applicant, the relevant authority must give written notice to the applicant of the reasons for doing so.>

**Rachael Hamilton**

- 64 In section 7, page 13, line 8, after <revocation> insert <and specify in the notice the reason for the modification, suspension or revocation>

**Rachael Hamilton**

- 65 In section 7, page 13, line 14, at end insert—  
<(9ZA) The written notice given under subsection (9)(a) must include—  
(a) a statement setting out the reasons for the modification, suspension or revocation, and  
(b) information about the process for appealing the decision under section 16AB.>

**Colin Smyth**

- 66 In section 7, page 13, line 14, at end insert—  
<(9ZA) Where the relevant authority has modified, suspended or revoked a person's section 16AA licence, the Scottish Ministers may by regulations disapply section 14(2A) in relation to the land to which the modified, suspended or revoked licence applied.>

**Rachael Hamilton**

- 67 In section 7, page 13, line 26, after second <offence> insert <, committed after a section 16AA licence has been granted, >

**Rachael Hamilton**

- 68 In section 7, page 13, leave out line 28

**Rachael Hamilton**

- 69 In section 7, page 13, leave out line 33

**Jim Fairlie**

- 15 In section 7, page 14, line 4, leave out <the decision appealed against was made> and insert <notice of the decision being appealed against was given>

**Jim Fairlie**

- 16 In section 7, page 14, line 9, at end insert—

<( ) Where a summary sheriff is hearing an appeal, the summary sheriff is to have the same power to make an interim order under section 88(1) of the Courts Reform (Scotland) Act 2014 as a sheriff hearing the appeal would have.>

**Edward Mountain**

70 In section 7, page 14, line 13, at end insert—

<(5A) Where—

(a) a person appeals to the appropriate sheriff against a decision of a relevant authority to refuse to grant to the person a section 16AA licence, and

(b) on determining the appeal, the sheriff directs the relevant authority to grant a section 16AA licence to the person,

the sheriff must consider making an award of expenses against the relevant authority.>

**Colin Smyth**

71 In section 7, page 14, leave out line 39 and insert—

<(b) whether, when and how the taking or killing of any wild birds should be carried out, prioritising methods with the least negative animal welfare impact,>

**Colin Smyth**

72 In section 7, page 14, leave out line 40 and insert—

<(c) whether, when and how predator control should be carried out, prioritising methods with the least negative animal welfare impact.>

**Alasdair Allan**

73 In section 7, page 15, leave out line 8 and insert—

<(b) such other persons as they consider likely to be interested in or affected by the management of land to which a section 16AA licence relates.>

**Edward Mountain**

74 In section 7, page 15, line 8, leave out <appropriate> and insert <likely to be interested in or affected by the code of practice, including land managers>

**Edward Mountain**

75 In section 7, page 15, line 22, at end insert—

<(2A) A direction under this section must include a requirement that, before preparing, reviewing or revising the code of practice, Scottish Natural Heritage must consult such persons as it considers likely to be interested in or affected by the code of practice, including land managers.>

**Emma Harper**

76 In section 7, page 15, line 23, at end insert—

**<16AE Report on operation and effect of section 16AA licences**

- (1) The Scottish Ministers must, for each reporting period, prepare a report on the operation and effect of section 16AA licences.
- (2) The report must include an assessment of the conservation status, including population size and range, of the following species—
  - (a) golden eagle (*aquila chrysaetos*),
  - (b) hen harrier (*circus cyaneus*),
  - (c) peregrine falcon (*falco peregrinus*),
  - (d) merlin (*falco columbarius*).
- (3) The report may include—
  - (a) the number of licences issued under section 16AA and the area of land affected,
  - (b) the number of licences that have been, or are, subject to suspension or revocation, the duration of those suspensions or revocations, and the reasons for those suspensions or revocations,
  - (c) the number and outcomes of any appeals undertaken under section 16AB, and
  - (d) such other matters as the Scottish Ministers consider appropriate.
- (4) As soon as practicable after each reporting period, the Scottish Ministers must lay the report before the Scottish Parliament.
- (5) The Scottish Ministers may by regulations amend subsection (2) to add or remove species of birds.
- (6) In this section, “reporting period” means—
  - (a) in relation to the first report, the period of 5 years beginning on the day on which section 16AA comes into force, and
  - (b) in relation to each subsequent report, the period of 5 years beginning on the day after the expiry of the previous reporting period.

**16AF Report on operation and effect of section 16AA licences: delegation**

- (1) The Scottish Ministers may delegate the preparation and publication of the report under section 16AE to Scottish Natural Heritage.
- (2) Any delegation must be made by written direction.
- (3) The Scottish Ministers may modify or revoke a direction.>

**Colin Smyth**

77 In section 7, page 16, line 4, leave out <16AA(12)> and insert <16AA(9ZA) and (12)>

**Emma Harper**

78 In section 7, page 16, line 4, after <16AA(12)> insert <or 16AE(5)>

**Colin Smyth**

79 In section 7, page 16, line 7, leave out <16AA(12)> in insert <16AA(9ZA) and (12)>

**Emma Harper**

- 80 In section 7, page 16, line 7, after <16AA(12)> insert <or 16AE(5)>

**Section 8A**

**Edward Mountain**

- 81 In section 8A, page 16, line 14, at end insert—
- <(2B) The Scottish Ministers may appoint or authorise a person (as the case may be) as an inspector under subsection (2)(b) for the purposes of paragraph 5A of schedule 1 only if the person has completed an approved training course.
  - (2C) The Scottish Ministers must by regulations make further provision about approved training courses for the purposes of subsection (2B), including—
    - (a) the form and content of courses,
    - (b) the experience and qualifications of the person providing the course,
    - (c) the accreditation of courses.”.>

**Rachael Hamilton**

- 82 Leave out section 8A

**After section 8A**

**Rhoda Grant**

- 17 After section 8A, insert—
- <Powers to inspect and investigate certain wildlife offences: review**
- (1) Within five years of section 8A coming into force, the Scottish Ministers must review the operation of the section.
  - (2) The review must consider in particular whether, in relation to relevant offences—
    - (a) the exercise of powers under paragraph 5A of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act) has resulted in convictions,
    - (b) the exercise of powers under paragraph 5A of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act) has resulted in investigations or proceedings related to a relevant offence being compromised as a result of the involvement of a third sector body, and
    - (c) there is a need for additional policing resource as an alternative to the use of powers under paragraph 5A of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act).
  - (3) On completion of the review, the Scottish Ministers must—
    - (a) prepare and publish a report of the review,
    - (b) lay a copy of the report before the Scottish Parliament,
    - (c) take such action as they consider appropriate.

(4) Where the Scottish Ministers do not intend to take any action in consequence of the review, the report must include a statement to this effect and the reasons why.

(5) In this section—

“relevant offence” means an offence mentioned in paragraph 5A(2) of schedule 1 of the Animal Health and Welfare (Scotland) Act 2006 (as inserted by section 8A(4) of this Act),

“third sector body” means a body (whether or not formally constituted) established for purposes which consist of, or consist mainly of, providing benefits for society (but does not include a body established under an enactment).>

## Section 9

### Jim Fairlie

18 In section 9, page 17, line 24, at end insert—

<( ) It is not an offence under subsection (2) for a person to make muirburn on land to which a muirburn licence relates if muirburn is made in connection with the person’s completion of a training course approved under section 13A.>

### Edward Mountain

83 In section 9, page 17, line 27, at end insert—

<(5) In this Part, “land” means land that—  
(a) is moorland, and  
(b) is not heath.>

## Section 10

### Jim Fairlie

19 In section 10, page 17, line 36, at end insert—

<( ) preventing, or reducing the risk of, wildfires causing damage to habitats,>

### Edward Mountain

84 In section 10 page 18, line 4, at end insert—

<( ) managing the habitats of moorland game or wildlife,>

### Rachael Hamilton

85 In section 10, page 18, line 5, leave out <restoring> and insert <conserving, restoring, or enhancing>

## After section 10

### Rhoda Grant

20 After section 10, insert—

### **<Modifying purposes for muirburn: pre-laying procedure**

- (1) Before laying regulations to modify the purposes for muirburn under section 10(5), the Scottish Ministers must—
  - (a) lay a draft of the regulations before the Scottish Parliament for a period of 60 days, of which no fewer than 30 days must be days which the Scottish Parliament is not dissolved or in recess, and
  - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to muirburn management for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying regulations to amend the purposes for muirburn, lay a statement setting out—
  - (a) details of the views mentioned in subsection (1)(b), and
  - (b) the changes (if any) they have made to the regulations in response to such views and the reasons for those changes.>

## **Section 11**

### **Emma Harper**

- 86** In section 11, page 19, line 2, at beginning insert <Subject to subsection (2A),>

### **Rachael Hamilton**

- 87** In section 11, page 19, line 2, leave out <may> and insert <must>

### **Emma Harper**

- 88** In section 11, page 19, line 4, leave out <only>

### **Emma Harper**

- 89** In section 11, page 19, leave out lines 12 and 13 and insert—  
<(2A) The Scottish Ministers—
  - (a) must not grant a licence permitting muirburn to be made outwith the muirburn season for the purpose mentioned in section 10(2)(a)(i) or (ii),
  - (b) may grant a licence permitting muirburn to be made outwith the muirburn season for any of the purposes mentioned in section 10(2)(a)(iii) to (v) only if they are satisfied that it is necessary to do so.>

### **Edward Mountain**

- 90** In section 11, page 19, line 12, leave out from <for> to end of line 13 and insert <during the muirburn season only for the purposes mentioned in section 10(2)(a)(i) and (ii).>

### **Edward Mountain**

- 91** In section 11, page 19, line 13, at end insert—

<( ) A licence granted under subsection (1) may permit muirburn to be made outwith the muirburn season only for the purposes mentioned in section 10(2)(a)(iii), (iv), (v), or 10(2)(b).>

## Section 12

### Edward Mountain

- 92 In section 12, page 19, line 28, after <effect> insert <, being—
- ( ) a period of 8 years, or
  - ( ) a period of less than 8 years if the Scottish Ministers consider it necessary for environmental reasons>

### Alasdair Allan

- 21 In section 12, page 19, line 31, at end insert—
- <( ) complete a training course approved under section 13A before making muirburn,>

## After section 13

### Edward Mountain

- 93 After section 13, insert—
- <13ZA Register of muirburn licences**
- (1) The Scottish Ministers must establish and maintain a register containing information relating to muirburn licenses and notices of muirburn activity.
  - (2) The Scottish Ministers may by regulations make provision as to—
    - (a) information which the register is to contain, which must include the name of the name or description of the land to which the licence applies, and
    - (b) the form and manner in which the register is to be kept, which must include a version accessible online.
  - (3) The Scottish Ministers must make the register available for public inspection at all reasonable times.
  - (4) Regulations under subsection (2) are subject to the affirmative procedure.>

## Section 13A

### Jim Fairlie

- 22 In section 13A, page 21, line 1, leave out <require> and insert <requiring>

### Jim Fairlie

- 23 In section 13A, page 21, line 2, at end insert—
- <( ) require that any fee payable in connection with a course is reasonable,>



## Section 14

### Rhoda Grant

- 24 In section 14, page 21, line 8, leave out <The Scottish Ministers> and insert <Scottish Natural Heritage>

### Rhoda Grant

- 25 In section 14, page 21, line 14, leave out <The Scottish Ministers> and insert <Scottish Natural Heritage>

### Rhoda Grant

- 26 In section 14, page 21, leave out subsections (4) to (6) and insert—
- <(4A) Before preparing or revising the Muirburn Code, Scottish Natural Heritage must consult any such person as they consider likely to be interested in or affected by the making of muirburn.
  - (5A) Scottish Natural Heritage must submit a proposed Muirburn Code (or a proposed revision) to the Scottish Ministers and, on receiving it, the Scottish Ministers may—
    - (a) approve it, with or without modifications, or
    - (b) reject it.
  - (6A) Where the Scottish Ministers reject a proposed Muirburn Code (or a proposed revision) under subsection (5A)(b) above they may either instruct Scottish Natural Heritage to submit a new Muirburn Code (or revision) or they may substitute a new Muirburn Code (or revision) of their own devising.
  - (6B) Any Muirburn Code or revision must—
    - (a) be laid before the Scottish Parliament, and
    - (b) specify the date on which it is to come into effect (such date to be at least 40 days after it is so laid, disregarding any period during which the Scottish Parliament is dissolved or in recess).
  - (6C) The Scottish Parliament may, before the Muirburn Code or revision comes into effect, resolve that it is not to come into effect.
  - (6D) The Scottish Ministers must publish the Muirburn Code (or any revision) no later than the day before the Muirburn Code (or revision) is to come into effect.>

### Alasdair Allan

- 94 In section 14, page 21, line 19, leave out <or reviewing> and insert <, reviewing or revising>

### Edward Mountain

- 95 In section 14, page 21, line 22, after <muirburn> insert <including persons involved in the management of land on which muirburn may be made>

## Section 15

### Edward Mountain

- 96 In section 15, page 22, line 4, leave out from <at> to <site> in line 5 and insert <the register established under section 13ZA>

## Section 16

### Edward Mountain

- 97 In section 16, page 22, line 37, at end insert—
- <( ) The period in subsection (1) can be extended to 15 April with the permission of Scottish Natural Heritage.>

### Edward Mountain

- 98 In section 16, page 23, line 7, at end insert—
- <( ) taking into account annual variations in weather conditions in particular geographic areas.>

### Edward Mountain

- 99 In section 16, page 23, line 15, after <muirburn> insert <, including persons involved in the management of land on which muirburn may be made>

### Edward Mountain

- 100 In section 16, page 23, line 16, at end insert—
- <(7) Scottish Natural Heritage may make a recommendation to the Scottish Ministers that the muirburn season be extended for a period of not more than 20 days—
- (a) for a specified geographical area, and
  - (b) for a specified muirburn season.
- (8) Where Scottish Natural Heritage make a recommendation under subsection (7), the Scottish Ministers must—
- (a) have regard to the recommendation, and
  - (b) either—
    - (i) make regulations under subsection (2) to give effect to the recommendation, or
    - (ii) set out their reasons to Scottish Natural Heritage in writing for not doing so.>

## After section 16

### Rhoda Grant

- 27 After section 16, insert—

**<Amendment to Muirburn season: pre-laying procedure**

- (1) Before laying regulations to amend the dates of the muirburn season under section 16(2), the Scottish Ministers must—
  - (a) lay a draft of the regulations before the Scottish Parliament for a period of 60 days, of which no fewer than 30 days must be days which the Scottish Parliament is not dissolved or in recess, and
  - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to muirburn management for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying regulations to amend the dates of the muirburn season, lay a statement setting out—
  - (a) details of the views mentioned in subsection (1)(b), and
  - (b) the changes (if any) they have made to the regulations in response to such views and the reasons for those changes.>

**Section 17**

**Edward Mountain**

**101** In section 17, page 23, line 23, at end insert—

<( ) the establishment and maintenance of the register of muirburn licences under section 13ZA,>

**Rhoda Grant**

**28** In section 17, page 23, leave out lines 25 and 26.

**Section 18**

**Edward Mountain**

**102** In section 18, page 23, line 36, at end insert—

<“land” has the meaning given in section 9(5),>

**Edward Mountain**

**103** In section 18, page 24, line 6, leave out <40> and insert <50>

**Colin Smyth**

**104** In section 18, page 24, line 6, leave out <40> and insert <30>

**Edward Mountain**

**105** In section 18, page 24, line 8, leave out <heath or>

**Colin Smyth**

**106** In section 18, page 24, line 8, at end insert—

<(1B) The Scottish Ministers must review the definition of “peat” and “peatland” in subsection (1) by the end of each review period.

(1C) The Scottish Ministers must in reviewing the definition of “peat” and “peatland” consult—

- (a) Scottish Natural Heritage,
- (b) individuals or organisations with relevant scientific expertise, and
- (c) such other persons as they consider likely to be interested in or affected by the making of muirburn.>

**Colin Smyth**

107 In section 18, page 24, line 9, at beginning insert <Following a review under subsection (1B),>

**Colin Smyth**

108 In section 18, page 24, line 11, leave out subsection (3)

**Colin Smyth**

109 In section 18, page 24, line 15, at end insert—

<( ) In this section, “review period” means—

- (a) the period of 5 years beginning with the day on which section 18 comes into force, and
- (b) each subsequent period of 5 years.>

**Section 20**

**Jim Fairlie**

29 In section 20, page 25, line 8, leave out <2> insert <(Offence of supplying glue trap), (Offence of possessing glue trap)>

**Jim Fairlie**

30 In section 20, page 25, line 11, leave out <2> insert <(Offence of supplying glue trap), (Offence of possessing glue trap)>

**Jim Fairlie**

31 In section 20, page 25, line 31, leave out <2> insert <(Offence of supplying glue trap), (Offence of possessing glue trap)>

**After section 21**

**Jim Fairlie**

32 After section 21, insert—

### **<Powers of local weights and measures authorities**

The schedule makes provision about the powers of a local weights and measures authority (and its officers) to enforce the offences under sections (*Offence of supplying glue trap*) and (*Offence of possessing glue trap*) in its area and related matters.>

**Jim Fairlie**

**33** After section 21, insert—

#### **<Offence of obstructing officer of local weights and measures authority**

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

**Jim Fairlie**

**34** After section 21, insert—

#### **<Offence of impersonating officer of a local weights and measures authority**

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

### **Section 22**

**Jim Fairlie**

**35** In section 22, page 26, line 17, leave out <or 2> and insert <, (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*)>

### **After section 24**

**Elena Whitham**

**110** After section 24, insert—

<Review of operation and effectiveness

**Review of operation and effectiveness**

- (1) The Scottish Ministers must carry out a review of the operation and effectiveness of—
  - (a) the prohibition of the use of glue traps under this Act,
  - (b) the prohibition of the use of snares under the Wildlife and Countryside Act 1981,
  - (c) the extension of the powers of inspectors under the Animal Health and Welfare (Scotland) Act 2006 by section 8A of this Act, and
  - (d) the licensing of the making of muirburn under this Act.
- (2) The review may also review the operation and effectiveness of any other matter included in this Act.
- (3) The review must be completed no later than 5 years after the day on which this Act receives Royal Assent.
- (4) When conducting the review, the Scottish Ministers must consult—
  - (a) Scottish Natural Heritage, and
  - (b) such persons as they consider are likely to be interested in or affected by the matters that are included in the review.
- (5) As soon as reasonably practicable after carrying out the review, the Scottish Ministers must—
  - (a) prepare a report of the review's findings and include—
    - (i) a statement of any action the Scottish Ministers intend to take as a result of the review, and
    - (ii) where the Scottish Ministers do not intend to take any action, their reasons for this,
  - (b) lay the report before the Scottish Parliament, and
  - (c) publish the report.>

**After section 28**

**Jim Fairlie**

36 After section 28, insert—

<SCHEDULE

*(introduced by section (Powers of local weights and measures authorities))*

INVESTIGATORY POWERS OF A LOCAL WEIGHTS AND MEASURES AUTHORITY

*General*

- 1 (1) A local weights and measures authority (and its officers) may exercise the powers under this schedule for the purpose of ascertaining whether an offence under section (*Offence of supplying glue trap*) (offence of supplying glue trap) or (*Offence of possessing glue trap*) (offence of possessing glue trap) has been, or is being, committed.

- (2) A local weights and measures authority (and its officers) may exercise the power under paragraph 8 (power to seize and retain items) in relation to—
  - (a) an item which an officer of the authority reasonably suspects may disclose (by means of testing or otherwise) the commission of an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*),
  - (b) an item which an officer of the authority reasonably suspects is liable to forfeiture under this Act, and
  - (c) an item which an officer of the authority reasonably suspects may be required as evidence in proceedings for an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*).
- (3) A local weights and measures authority (and its officers) may not exercise the power under paragraph 9 (powers in relation to documents) or paragraph 11 (power of entry with warrant) for the purpose mentioned in sub-paragraph (1) unless an officer of the authority reasonably suspects that an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*) has been, or is being, committed.
- 2 An officer of a local weights and measures authority (or a person acting under the direction of an officer) does not commit an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*) if the supply or possession of the glue trap is in connection with the officer's duties under this Act.
- 3 In this schedule, "glue trap" has the meaning given in section 1(5).

#### *Power to purchase glue trap*

- 4 (1) An officer of a local weights and measures authority may—
  - (a) make a purchase of a glue trap, or
  - (b) direct or enter into an agreement with a person to secure the acquisition or supply of such a glue trap.
- (2) For the purpose of exercising the power under sub-paragraph (1), the officer may—
  - (a) at any reasonable time, enter premises to which the public has access (whether or not the public has access at that time), and
  - (b) inspect any product on the premises which the public may inspect.
- (3) The power of entry in sub-paragraph (2) may be exercised without first giving notice or obtaining a warrant.
- (4) In this paragraph, "premises" includes any—
  - (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,except where the premises are used wholly or mainly as a private dwelling.

#### *Power to observe carrying on of business etc.*

- 5 (1) An officer of a local weights and measures authority may enter premises to which the public has access in order to observe the carrying on of a business on those premises.

- (2) The power under sub-paragraph (1) may be exercised at any reasonable time (whether or not the public has access at that time).
- (3) The power of entry under sub-paragraph (1) may be exercised without first giving notice or obtaining a warrant.
- (4) In this paragraph, “premises” includes any—
  - (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,except where the premises are used wholly or mainly as a private dwelling.

*Power to enter premises without warrant*

- 6 (1) An officer of a local weights and measures authority may enter premises at any reasonable time.
- (2) In the case of a routine inspection, the power of entry in sub-paragraph (1) may only be exercised if a notice has been given to the occupier of the premises in accordance with the requirements in sub-paragraph (3), unless sub-paragraph (4) applies.
- (3) Those requirements are that—
  - (a) the notice is in writing and is given by the officer,
  - (b) the notice sets out why the entry is necessary and indicates the nature of the offence under section (*Offence of obstructing officer of local weights and measures authority*) (offence of obstructing officer of local weights and measures authority), and
  - (c) there are at least two working days between the date of receipt of the notice and the date of entry.
- (4) A notice need not be given if the occupier has waived the requirement to give notice.
- (5) In this paragraph “routine inspection” means an exercise of the power under sub-paragraph (1) other than where—
  - (a) the power is exercised by an officer who reasonably suspects that an offence has been, or is being, committed under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*), or
  - (b) the officer reasonably considers that to give notice in accordance with sub-paragraph (2) would defeat the purpose of the entry.
- (6) If an officer enters premises under sub-paragraph (1) that are occupied, otherwise than in the course of a routine inspection, the officer must provide to an occupier a document that—
  - (a) sets out why the entry is necessary, and
  - (b) indicates the nature of the offence under section (*Offence of obstructing officer of local weights and measures authority*).
- (7) If an officer enters premises under sub-paragraph (1) that are occupied, the officer must produce evidence of the officer’s identity and authority to an occupier.
- (8) An officer need not comply with sub-paragraph (6) or (7) if it is not reasonably practicable to do so.



- (9) Proceedings resulting from the exercise of the power under sub-paragraph (1) are not invalid merely because of a failure to comply with sub-paragraph (6) or (7).
- (10) An officer entering premises under sub-paragraph (1) may be accompanied by such persons, and may take onto the premises such equipment, as the officer considers necessary.
- (11) In this paragraph—
- “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises,
- “premises” includes any—
- (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,
- except where the premises are used wholly or mainly as a private dwelling,
- “working day” means any day other than—
- (a) Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.

*Power to inspect and test glue trap*

- 7 (1) An officer of a local weights and measures authority may—
- (a) inspect a glue trap or an item suspected to be a glue trap on the premises,
  - (b) arrange for a glue trap or an item suspected to be a glue trap to be tested (and may seize and retain the item under paragraph 8).
- (2) Inspection and testing under this paragraph may be carried out only for the purposes of determining whether or not an item is a glue trap.

*Power to seize and retain items*

- 8 (1) An officer of a local weights and measures authority may seize and retain an item other than a document (for which see paragraph 9).
- (2) An officer seizing an item under this paragraph from premises which are occupied must produce evidence of the officer’s identity and authority to an occupier of the premises before seizing it.
- (3) The officer need not comply with sub-paragraph (2) if it is not reasonably practicable to do so.
- (4) An officer seizing an item under this paragraph must take reasonable steps to—
- (a) inform the person from whom it is seized that it has been seized, and
  - (b) provide that person with a written record of what has been seized.

- (5) An item seized under this paragraph (except an item seized for the purpose in paragraph 1(2)(b)) may not be detained—
  - (a) for a period of more than 3 months beginning with the day on which it was seized, or
  - (b) where the item is reasonably required to be retained for a longer period by the officer for a purpose for which it was seized, for longer than it is required for that purpose.

*Powers in relation to documents*

- 9 (1) An officer of a local weights and measures authority may, at any reasonable time—
  - (a) require a person who is, or is suspected of, offering to supply glue traps to the public in the course of a business (“the trader”), an employee of the trader or any other person acting on behalf of the trader, to produce any document relating to the trader’s business to which the trader, employee or other person has access,
  - (b) take copies of, or copies of any entry in, any such document,
  - (c) seize and retain any such document which the officer reasonably suspects may be required as evidence.
- (2) The powers in sub-paragraph (1) include power to require the trader, employee or other person to give an explanation of the document.
- (3) Where a document required to be produced under sub-paragraph (1) contains information recorded electronically, the power under that sub-paragraph includes power to require the production of a copy of the document in a form in which it can easily be taken away and in which it is visible and legible.
- (4) This paragraph does not permit an officer to require a person to create a document other than as described in sub-paragraph (3).
- (5) An officer seizing a document under this paragraph from premises which are occupied must produce evidence of the officer’s identity and authority to an occupier of the premises before seizing it.
- (6) The officer need not comply with sub-paragraph (5) if it is not reasonably practicable to do so.
- (7) An officer seizing a document under this paragraph must take reasonable steps to—
  - (a) inform the person from whom it is seized that it has been seized, and
  - (b) provide that person with a written record of what has been seized.
- (8) This paragraph does not permit an officer to require a person to produce or seize any document which the person would be entitled to refuse to produce in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (9) In sub-paragraph (8), “communications” means—
  - (a) communications between a professional legal adviser and the adviser’s client, or
  - (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.
- (10) In this paragraph, “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises.

*Power to break open container etc.*

- 10 (1) An officer of a local weights and measures authority may, for the purpose of exercising the powers under paragraph 7, 8 or 9, require a person with authority to do so to—
- (a) break open any container, or
  - (b) access any electronic device in which information may be stored or from which it may be accessed.
- (2) Where a requirement under sub-paragraph (1) has not been complied with, the officer may, for the purpose of exercising any of the powers in paragraph 9—
- (a) break open the container, or
  - (b) access the electronic device.
- (3) Sub-paragraph (1) or (2) applies if and to the extent that the exercise of the power under that sub-paragraph is reasonably necessary for the purposes for which that power may be exercised.
- (4) In this paragraph, “container” means anything in which an item or document may be stored.

*Power of entry with warrant*

- 11 (1) A sheriff may grant a warrant under this section authorising an officer of a local weights and measures authority to enter premises if the sheriff is satisfied, by evidence on oath, that—
- (a) there are reasonable grounds for suspecting—
    - (i) that an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*) has been, or is being, committed at the premises, or
    - (ii) that there is an item or document on the premises that the officer has the power to inspect or require to be produced, and
  - (b) one of the following conditions is met—
    - (i) access to the premises has been or is likely to be refused and notice of the officer’s intention to apply for a warrant under this paragraph has been given to the occupier of the premises,
    - (ii) it is likely that items or documents on the premises would be concealed or interfered with if notice of entry on the premises were given to the occupier of the premises, or
    - (iii) the premises are unoccupied or the occupier of the premises is absent and it might defeat the purpose of the entry to wait for the occupier’s return.
- (2) A warrant granted under this section remains in force for a period of 28 days beginning with the day on which it was granted.
- (3) An officer may be accompanied by such persons, and may take onto the premises such equipment, as the officer considers necessary.
- (4) A warrant granted under this section may authorise an officer to—
- (a) enter the premises by force if necessary,
  - (b) exercise the powers in paragraph 7, 8, 9 or 10.
- (5) If the premises are occupied when the officer enters them, the officer must produce the warrant for inspection to an occupier of the premises.

- (6) Sub-paragraph (7) applies if the premises are unoccupied or the occupier is temporarily absent.
- (7) On leaving the premises, the officer must—
  - (a) leave a notice on the premises stating that the premises have been entered under a warrant under this paragraph, and
  - (b) leave the premises as effectively secured as the officer found them.
- (8) In this paragraph—

“occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises,

“premises” includes any—

  - (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,

(whether or not the premises are used wholly or mainly as a private dwelling).

*Power to require assistance from person on premises*

- 12 If an officer of a local weights and measures authority has entered premises under paragraph 6(1) or under a warrant under paragraph 11, the officer may require any person on the premises to provide such assistance or information as the officer reasonably considers necessary.

*Access to seized items and documents*

- 13 (1) This paragraph applies where a thing seized by an officer of a local weights and measures authority under this schedule is retained by the authority.
- (2) If a request for permission to be granted access to that thing is made to the local weights and measures authority by a person who had custody or control of it immediately before it was seized, the authority must allow that person access to it under the supervision of an officer of the authority.
  - (3) If a request for a photograph or copy of that thing is made to the local weights and measures authority by a person who had custody or control of it immediately before it was seized, the authority must—
    - (a) allow that person access to it under the supervision of an officer of the authority for the purpose of photographing or copying it, or
    - (b) photograph or copy it, or cause it to be photographed or copied.
  - (4) Where anything is photographed or copied under sub-paragraph (3), the photograph or copy must be supplied to the person who made the request within a reasonable time from the making of the request.
  - (5) This paragraph does not require access to be granted to, or a photograph or copy to be supplied of, a thing if the local weights and measures authority has reasonable grounds for believing that to do so would prejudice the investigation for the purposes of which it was seized.

- (6) A local weights and measures authority may recover the reasonable costs of complying with a request under this paragraph from the person by whom or on whose behalf it was made.
- (7) References in this paragraph to a person who had custody or control of a thing immediately before it was seized include a representative of such a person.

#### *Notice of testing of item*

- 14 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a glue trap purchased (or acquired under direction or by agreement) by an officer of a local weights and measures authority under paragraph 4 is submitted to a test and as a result proceedings are brought for an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*), or
  - (b) a glue trap or item seized by an officer of a local weights and measures authority under paragraph 8 is submitted to a test.
- (2) The local weights and measures must inform the relevant person of the results of the test.
  - (3) The local weights and measures authority must allow a relevant person to have the glue trap or item tested if it is reasonably practicable to do so.
  - (4) In sub-paragraph (2), “relevant person” means the person from whom the glue trap or item was purchased or seized.
  - (5) In sub-paragraph (3), “relevant person” means—
    - (a) in a case within sub-paragraph (1)(a), a person who is a party to the proceedings, or
    - (b) in any other case, a person referred to in sub-paragraph (4).

#### *Application for release of item or document*

- 15 (1) This paragraph applies where an item or document is being retained as the result of the exercise of a power under this schedule.
- (2) A person with an interest in the item or document may apply to the sheriff for an order requiring it to be released to that or another person.
  - (3) The sheriff may make an order requiring an item or document to be released only if satisfied that condition A or B is met.
  - (4) Condition A is that—
    - (a) no proceedings have been brought for an offence as the result of the investigation in the course of which the item or document was seized, and
    - (b) the period of 12 months beginning with the day on which the item or document was seized has expired.
  - (5) Condition B is that—
    - (a) proceedings of the kind mentioned in sub-paragraph (4)(a) have been brought, and
    - (b) those proceedings have been concluded without the item or document being forfeited.

#### *Compensation*

- 16 (1) This paragraph applies where an officer of a local weights and measures authority has seized and retained an item under this schedule for a purpose within paragraph 1(2)(a).

- (2) The local weights and measures authority must pay compensation to any person with an interest in the item in respect of any loss or damage caused by the seizure and retention if—
  - (a) the item has not disclosed an offence under section (*Offence of supplying glue trap*) or (*Offence of possessing glue trap*), and
  - (b) the power to seize and retain the item was not exercised as a result of any neglect or default of the person seeking the compensation.
- (3) Any dispute about the right to or amount of any compensation payable under this paragraph is to be determined by a single arbitrator appointed by the parties or, if there is no agreement between the parties as to that appointment, by the sheriff.>

### **Long Title**

**Jim Fairlie**

**37** In the long title, page 1, line 2, after <glue traps> insert <and snares>

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