

Muirburn and the government failure to implement & Wildlife Management and Muirburn (Scotland) Act 2024

Description



Muirburn on Phoinies estate from A9 14th February 2025. Old muirburn visible left foreground and on Meall Cuaich behind. Photo credit Andy Cloquet

Driving north up the A9 on Saturday Andy Cloquet observed muirburn on five sites between Dalwhinnie and Newtonmore with "an acrid smell over five miles of road" and sent parkswatch these two photos.



Toxic smoke from muirburn rising opposite Crubenmore and drifting onto the A9. Photo credit Andy Cloquet

The ostensible purpose of the Wildlife Management & Muirburn (Scotland) Act 2024 (‘the Act’), which was passed by the Scottish Government last March and received Royal Assent at the end of April, was to improve how sporting estates like Phoinies ([see here](#)) were being managed. The measures in the bill were supposed to end the most egregious practices involved in boosting the numbers of red grouse to shoot, including raptor persecution and the destruction of peatland.

The response of sporting estates like Phoinies to the very poor breeding seasons for red grouse in 2021 ([see here](#)) and 2023 ([see here](#)) and a recent downward trend in numbers appears to have been to intensify the way they are managing grouse moors still further.



Muirburn on the Glen Lethnot Estate. Note the two lines of grouse butts up the hillside. Photo 14th February

On the same day Andy took his photos, I went a walk on the Glen Lethnot Estate, a 3000 acre intensively managed grouse moor ([see here](#)) in Angus which lies just outside the boundary of the Cairngorms National Park. A high proportion of the muirburn, evident from the black patches but also the lingering smell of burned heather, appeared to have taken place over the last year or so.



One of the multiple burned strips running up the hillside on the Glenlethnot Estate. A small part of the next strip is visible top left. Note the mowed fire containment line which runs up the left edge of the muirburn

Initially, I thought the recent burst of activity might have been an attempt to pre-empt Clause 20 in the Act which should have changed the effective legal muirburn season from 1st October to 30th April to 15th September until 31st March. Although only a reduction of two weeks, with most muirburn in the past taking place in the Spring, some conservationists had hopes that as well as protecting ground nesting birds the change would make it harder for sporting estates to burn the land. The generally dry weather of the last few weeks illustrates that was a forlorn hope. Grouse moor managers only need a couple of dry weeks within the muirburn season to burn large areas of land.

On returning home, however, I found that Clause 20, along with most of the other provisions of the Act, have not yet come into force. Only Clauses 35 and 36 of the Act ([see here](#)) came into force on the date of the Royal Assent with the implementation of the other clauses being left to the discretion of Scottish Ministers.

In July two statutory instruments were passed ([see here](#)) and ([here](#)). These put the Muirburn Code (Clause 18) onto a statutory footing from 1st July, introduced the licensing scheme to shoot grouse (clauses 9 and 10) from 24th July and banned the use of snares from 25th November.

None of the other main provisions of the Act have yet been implemented including: clauses 1 & 5 banning glue traps; clauses 7-8 introducing a requirement for licenses to operate wildlife traps and increasing the penalty for using spring traps to £40,000; clauses 12 & 20 (with the exception of clause 18) on the new muirburn licensing regime; clauses 24-31 on enforcement; and last but not least clause 32 requiring Scottish Ministers to review the effectiveness of the Act.

What this means in respect of muirburn is there is:

- still no requirement for sporting estates and others to apply for a muirburn license;
- still no consequences for those who burn on deep peat;
- still no requirement for those carrying out muirburn to go on approved training courses;
- still no change to the muirburn season; and,
- still no requirement on land managers to notify the neighbouring properties within 1km of muirburn activity.

The Act in my view always was a joke, designed to placate those who had been calling for grouse moor reform for the last 20 years ([see here](#)), while doing as little as possible to interfere with the legal rights of landowners to abuse the land as they wish. For example it did nothing to change the Scottish Government's definition of peatland in Scotland which applies to both muirburn and forestry as being where peat is over 50cms deep and left this up to Scottish Ministers who have so far done nothing even to redefine it as peat over 40cms deep as they promised to do). And unfortunately notifying neighbours, such as Transport Scotland, that muirburn might be taking place within 1km of the A9 will do nothing to stop the public from having to inhale carcinogenic smoke. (Most grouse moor owners of course, are far away when muirburn takes place).

Since being passed, however, the Act has turned from a joke to a sick joke. Not only has most of it not been implemented but as Raptor Persecution UK has shown clauses 9 and 10, which were supposed

to introduce grouse moor licensing to protect raptors, have been totally undermined by NatureScot and are effectively meaningless ([see here](#)).



Evidence of the impact of “shallow burns” on shallow peaty soils Glen Lethnot 14th February. Note how the edge of burned horizon of peaty soil is crumbling away.

The Scottish Government Minister responsible for the Act, Mairi Gougeon, visited the Glenlethnot estate, which is in her constituency, in 2022 for a muirburn demonstration ([see here](#)). This was before the Wildlife Management and Muirburn Bill was introduced to the Scottish Parliament in March 2023. It does not appear that Ms Gougeon was accompanied by any peatland or ecological experts who could have questioned some of the claims made by BASC, Scottish Land and Estates or Scotland’s Regional Moorland Groups on that visit.

Among those claims was that “muirburn targets just the upper lengths of vegetation and does not set fire to the soil or peat beneath”. “Shallow burns” may not set fire to the peat but they do burn the surface, as the above photo shows, and the exposed carbon is then left to oxidise releasing more CO₂ (on top of that produced by the burning vegetation) into the atmosphere.

While a research report by NatureScot in 2022 ([see here](#)) concluded there was a lack of research on carbon emissions and muirburn, an excellent new article in SCOTTISH FORESTRY Volume 78 No 3 Autumn/Winter 2024 about “What do we know about the impacts of forestry on soil carbon in Scotland?” by Naomi Housego, Lorna E Street & Willie McGhee makes a key point:

“Scotland’s soils contain approximately 3,000 million tonnes of carbon in the top one metre of soil . This means that a loss of just 0.34% of Scotland’s soil carbon per year, in the form of carbon dioxide, would roughly double national greenhouse gas emissions (equivalent to 11 million tonnes of carbon per

year). Preserving Scotland's soil carbon must be an urgent priority if we are to achieve the Scottish Government's commitment to reaching net zero CO2 emissions by 2045.

The question therefore is whether the burning in the photos above has released 0.34% of the soil carbon? I don't think it needs more research, though that would help, to appreciate it must be considerably more than that.



Scots Pine sapling, a long way from any seed source, and gorse regenerating on the moorland with burned strip behind

In their blog on Mairi Gougeon's visit BASC also claimed:

Muirburn revitalises Scotland's upland landscapes and creates a diverse mosaic habitat, which in turn, increases the abundance of iconic species such as lapwing, curlew, and golden plover.

It is an extremely important land management tool, which is used effectively to tackle the twin climate and nature crises that Scotland is currently facing.

This is not true. The whole point of muirburn is to produce more heather, on which red grouse feed. This means less of other vegetation, including trees, which are not so tolerant of fire. The result of the sort of extensive muirburn which takes place at Glenlethnot (or at Balmoral in the Cairngorms National Park) is a heather monoculture. While that benefits a few species, as monocultures do, it harms many others – as the NatureScot research cited above explains. And that is before predator control, as practised on many sporting estates, attempts to remove a significant proportion of birds and animals from the landscape:



Spot the trap! The preferred method at Glenlethnot appeared to be to place traps in specially constructed piles of stones, where stoats and weasels like to shelter, rather than place them in the open.

One wonders whether those demonstrating the dark art of muirburn to Mairi Gougeon pointed out to her the number of wildlife traps on the estate and what questions she asked about this?

Mairi Gougeon, if she had had any understanding of nature, could have used the evidence of what she had seen at Glenlethnot to press harder for grouse moor reform. The fact she did not suggests she had very little knowledge of upland ecology (not her fault) but accepted the misinformation fed to her on the day by grouse moor interests (which in my view she had a responsibility to fact check). That Mairi Gougeon allowed herself to be trapped by sporting interests is also suggested by this quote from Scottish Land and Estates (from an article in the Ferret about muirburn and peatland [\(see here\)](#)):

“Unlike those associated with this campaign led by t
responsible for this bill, Mairi Gougeon MSP, has
undertaken for herself at a recent demonstration ev
hope that she will see this campaign for what it is –
prohibit legitimate practices associated with grouse
of what the latest science suggests and w
Ross Ewing, of Scottish Land and
default watermark

After the Bill was passed, Mairi Gougeon could also have defended NatureScot against the threat of legal challenges from sporting interests, as described by Raptor Persecution UK, but so far has chosen not to do so. It will be interesting to see whether she responds to the recent questions to the Scottish Parliament about the Scottish Government’s position on how the Act is being undermined ([see here](#)) or whether she leaves the response to her deputy, Jim Fairlie. However, as this post has shown, both Ms Gougeon and Mr Fairlie also need to be held to account for all the delays in implementing the other provisions in the Act.

Unfortunately, one is left with the impression that Mairi Gougeon and the rest of the Scottish Government value the interests of sporting estate owners above those of the public and the need to tackle the climate and nature emergencies. A first step to remedying that might be for Ms Gougeon to visit a grouse moor with some soil scientists and some ecological experts!



Muirburn Glen Girnock and the Coyles of Muick from Conachraig on land managed by Balmoral.
Photo credit Gordon Bulloch

Perhaps the Cairngorms National Park Authority, who are meant to be standing up for nature and climate, could arrange a visit to Balmoral for Ms Gougeon to understand for herself the destruction being caused by King Charles's whose assent was needed before any of the Wildlife Management and Muirburn (Scotland) Act 2024 could become law.

Category

1. Cairngorms

Tags

1. carbon emissions
2. CNPA
3. conservation
4. grouse moors
5. NatureScot
6. Scottish Government
7. sporting estates

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