

Muirburn licensing: wildlife, King Charles & the failure of government in Scotland

Description



Muirburn on the northern slopes of Meall nan Tarmachan 1st April taken from the high road from Bridge of Balgie in Glen Lyon over to Loch Tay.

Had the muirburn provisions of the the Wildlife Management and Muirburn (Scotland) Act 2024 (“the Act”) passed a year ago come into force such fires at hat pictured above would be now illegal. Clause 20 of the new Act shifted the current muirburn season, which dates back to the Heather Burning (Scotland) Act 1926, from 1st October – 15th April to 15th September – 1st April. It would also remove the discretion of landowners to continuing burning until 30th April.

Clause 20, however, also allows Scottish Ministers to change the dates of the muirburn season by regulation “if they consider it necessary or expedient to do so”. This means as soon as the new season becomes law, Scottish Ministers could change the season back to what it is currently! Perhaps that is why the policy memorandum for the new Act ([see here](#)) strangely failed to provide any rationale for moving the muirburn season back two weeks or for removing landowners’ discretion to extend it by another two?

NatureScot’s information on the Muirburn Code ([see here](#)), however, explains the reason the current muirburn season ends on 15th April “*is mainly to avoid harm to the many moorland birds that nest in spring as well as reptiles coming out of hibernation*”. Perhaps the proposed shift in dates was because Spring is now arriving earlier as a result of global warming? In two days hillwalking over moorland around Glen Lyon and Loch Tay at the start of this week I saw dozens of meadow pipit, a few skylarks,

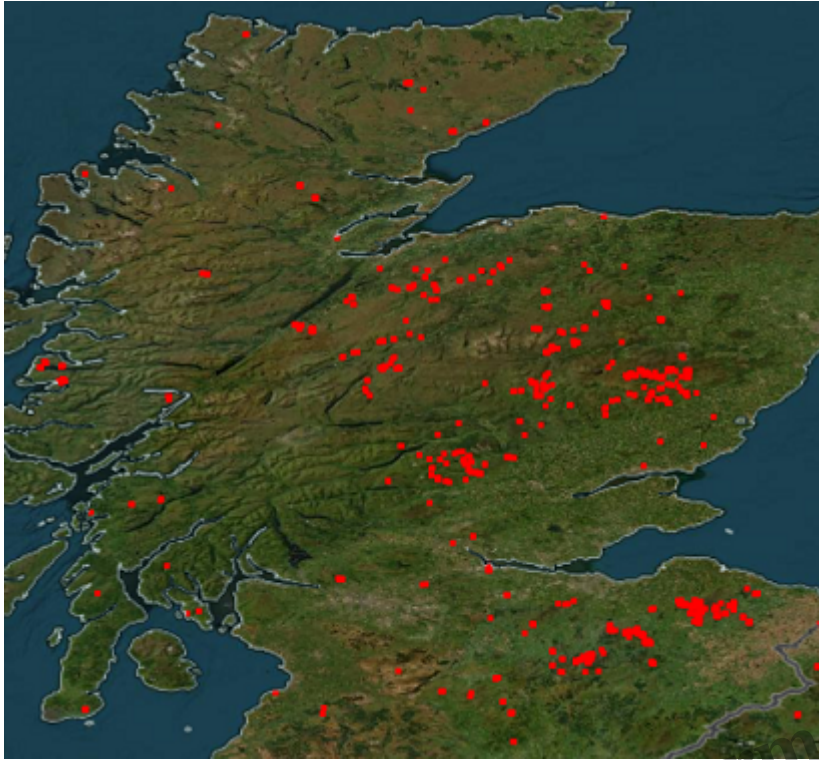
a lizard and heard one golden plover. While I found no nests, if the good weather continues as forecast some species are likely to have started breeding by 15th April. Where they do, their eggs/young will risk incineration by continued muirburn.

On 31st March smoke from several fires was visible in the distance including from over the Cairngorms.



Ben Vrackie viewed from Farragon Hill 31st March with three fires visible (there was also another fire near Ben Chonzie to the south). The muirburn on the left was definitely within the Cairngorms National Park boundary

The risk to migratory birds nesting, however, is at present probably still not that great and not in my view the fundamental issue. Research from the British Trust for Ornithology ([see here](#)) based on data for the last forty years shows that breeding dates for birds nesting on moorland are advancing by about a day every 8 years. It remains relatively rare for ground nesting birds do so in the first half of April, although that could start to change more quickly if we have more Springs like this. For example research in Strathspey has shown that 3 % of red grouse clutches are laid before 15th April but 73% by the 30th. Most grouse moor owners won't want to use their discretion to conduct muirburn after mid-April for that reason.



Fires in Scotland recorded by NASA in the three weeks until 2nd April. The concentration of fires in and around the Cairngorms and the hill south of Edinburgh are a consequence of muirburn. Map credit FIRNS database.

What struck me more than the birds in two days of walking was the number of invertebrates I saw on the ground (and a few in the air). It is the emergence of these creatures from the vegetation, not the good weather per se, which attract insectivorous birds back to the moor, feeds the lizards and the frogs for that matter (we saw lots). One aspect of muirburn which is rarely considered is that even if it takes place over the winter when few birds are about, it sends a significant proportion of their future food source up in smoke. The attempt by sporting interests to defend intensive grouse moor management, which includes muirburn, on the basis it is good for ground nesting birds is fundamentally flawed.



Newer version of moorland sign Glen Lethnot Feb 2025. Logically, if dogs pose a risk to ground nesting birds like curlew, black grouse and lapwing throughout the month of April then muirburn does too.

The voluntary approach to moorland management and King Charles

While walking on 31st March I received a response from the Scottish Fire and Rescue Service to a Freedom of Information request I had submitted about the muirburn which took place on King Charles' estate of Delnadamp on 27th February, a day of high winds ([see here](#)).

Under the muirburn code, which remains voluntary until the Scottish Government decides to implement the provisions of the muirburn licensing scheme, landowners are supposed to provide muirburn plans to the SFRS and then notify the local control centre on the day when muirburn takes place.

Please see below your request:

Was the Scottish Fire and Rescue Service notified by the Delnadamp Estate (managed as part of Balmoral) that muirburn would take place on Thursday 27th February? (I understand appropriate control centre is North, Dundee). If so, what was the response from the SFRS (the high winds forecast that day and the very high fire warning for north east Scotland issued a few days later)?

In response:

We have searched our Operations Control and Command system for 27th February 2025 and there are no indications of a call being received reporting muirburn where the address passed by the caller has been Delnadamp Estate. This is a large estate and the location details entered by Dundee Operations Control would be completely dependent on that passed by the caller. There are 2 incidents of Controlled Burns recorded within that vicinity on 27th February:

Incident 041436 Allargue House, A939 and A944 at Colnabaichin to Moray Boundary at the Corgarff, Strathdon Time of Call 12:06

Incident 041458 Boilhandy Cottage, A939, Glenfenzie access road to A944 at Colnabaichin, Strathdon Time of Call 13:15

On receipt of calls to muirburn Operations Control would record the details passed by the caller. It is the responsibility of the landowner to be aware of weather warnings which may impact their burn.

It appears from this response that the SFRS' current system of recording of muirburn notifications is a bit hand to mouth and is not based on a geographical information system which would enable them to record exact locations and compare, for example, muirburn notifications with the fires recorded on the NASA database. Hence their proviso that they are completely dependent on the information provided by the caller to establish the location. SFRS have, however, been very helpful in providing details of

other muirburn they had been notified of in the local area that day.

Neither Allargue House nor Boilhandy cottage are on Delnadamph so it appears almost certain therefore that King Charles' staff did not follow good practice and contact the SFRS as advised under the Moorland Code.

Unfortunately, SFRS' statement that *"it is the responsibility of the landowner to be aware of weather warnings which may impact their burn"*, suggests that they don't currently advise those contacting them not to burn because of forecast wind speeds (burning is not supposed to take place in winds above Force 3, 8-12 mph). Nor is it clear how SFRS responds to notifications during times of extreme fire risk, such as that which has just been issued for the period until 7th April ([see here](#)).

All this suggests that the systems that would be necessary for enforcing the provisions of a muirburn licensing scheme are not in place at present. This is not a justification for delaying the implementation of the Act, quite the opposite. If King Charles, a self-proclaimed environmentalist, won't voluntarily abide by best practice and set an example, clearly it is in the public interest that the provisions of the Muirburn Code need to be put on a statutory basis as soon as possible. But it does mean that government has a lot of work to create the systems necessary for monitoring what is actually happening on the ground.

Following my first post on the muirburn at Delnadamph, two more readers have provided me of examples of this.



Muirburn on Ben Rinnes Monday 19th March with smoke blowing across the main walkers path.

Photo Credit Gordon Bulloch.

Gordon Bulloch sent in a number of photos, including the one above. The Muirburn Code states requires those conducting muirburn to:

“Erect warning signs, if burning close to popular areas for public access.”

How will that be monitored once the code has statutory force?

Another reader provided the following information in a comment:

“Invercauld Estate were burning again last Sunday (9th March) on the Baddoch sector. This was clearly not compliant with the Muirburn Code on at least four points:

1 The wind was 15-20 mph.

2 There was only one practitioner on site (the code says a minimum of 3).

3 A large proportion of the recent burns was on steep ground, up to 40 degrees. (The code says a max of 27 degrees)

4 A large proportion of the burns were on thin, rocky soils”.

It is not just the SFRS that need to create geographical information systems for monitoring muirburn but NatureScot and the Cairngorms National Park Authority too. How can they claim to be promoting best practice through the East Cairngorms Moorland Partnership (which used to include the Invercauld Estate] when they have no systems to monitor and report on what is really going on?

Muirburn and deer management

While I do not know the purpose of the muirburn I witnessed on Meall nan Tarmachan on Tuesday, it is more likely to have been to foster new growth for red deer rather than grouse. The report on “The management of wild deer in Scotland” considered this practice and concluded that:

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

As reported in the Policy Memorandum for the Act the Deer Working Group went on to recommend that the *“Hill Farming Act 1946 [which replaced the 1926 Act but basically contained the same provisions] should be amended to make it an offence to carry out muirburn for wild deer without a licence from SNH [NatureScot].”*

Under Clause 13 (2) of the Act a muirburn license will be able to be issued for six purposes. One of these is “improving the grazing potential of moorland for livestock”. There is no mention of improving moorland for deer and, if I am right about the purpose of the muirburn in the top photo, that would have been doubly illegal if the muirburn provisions in the Act were now law. What is not clear in the Act,

however, is how burning for livestock will be distinguished from burning for deer. All a sporting landowner will need to do is put a few sheep on the ground and it would appear they can burn away to their heart's content!

Trailing England on carbon emissions

Different provisions have applied to muirburn in Scotland and England since at least 1926. The Act, once implemented in Scotland, will ban burning on peatland, defined as land where peat is over 40cms thick. This is the same rule that is being applied to tree planting in Scotland.

On 31st March the UK Government issued a consultation on grass and heather burning in England ([see here](#)). In England they are now proposing to ban burning on peat more than 30cms thick. This will also bring the rules into line with those that operate for forestry south of the border.

The latest report from the UK Climate Change Committee published on 26th February endorsed tree planting as a means of offsetting carbon emissions provided that:

“Trees are only planted on mineral soils, with organic soils excluded to protect biodiverse habitats and minimise carbon loss from planting disturbance”.

That means the UK's foremost experts on climate change believe all peaty soils should be protected, however thick. Sadly, instead of Scotland competing with England to show who can do most to reduce carbon emissions, it appears we are competing to see who can curry most favour with landowners and do the least. Hence the disgraceful delays in the implementation of the Act. I will explain why I consider the claims that muirburn can be conducted without damaging peat to be wrong in a further post.

Category

1. Cairngorms
2. Other parts Scotland

Tags

1. climate change
2. CNPA
3. conservation
4. grouse moors
5. landed estates
6. muirburn
7. NatureScot
8. Scottish Government

Date Created

April 2, 2025

Author

nickkempe