

Fire and fires – one law for the landowners, another for the rest of us

Description

Scottish Ministers last week approved byelaws ([see here](#) for the text) which will make it an offence, with a fine of up to £500, for a person *“without lawful authority”* to light a fire or barbecue or *“place or throw or let fall a lighted match, firework or any other thing so as to be likely to cause a fire”* in the Cairngorms National Park between 1st April and 30th September. Far from the byelaws *“leading the way in safeguarding Scotland’s natural and cultural heritage from climate crisis threats”* as the Scottish Minister responsible, Mairi Gougeon claimed, they show the incoherence of both the Scottish Government’s and the Cairngorms National Park Authority (CNPA)’s approach to fire and wildfire prevention in the countryside.

The key phrase in the byelaws is that they apply to those *“without lawful authority”*. This allows landowners and those they employ to continue to do what they want, when they want, under the byelaws. While campfires will be banned, landowners can continue to set fire to vast areas of the National Park, destroying nature and releasing large amounts of carbon into the atmosphere.

The Wildlife Management and Muirburn (Scotland) Act 2024 of course was supposed to introduce comprehensive controls over muirburn for the first time. That is a reason the CNPA used not to include landowners in the fire byelaws – they claimed the issues were being dealt with by other legislation. In June implementation of the provisions of the new muirburn licensing scheme, which was supposed to start on 15th September, were delayed to 1st January 2026 as a result of landowner lobbying ([see here](#)). That means landowners can continue to burn on *“deep peat”*, defined as peat over 40cms deep, this autumn without fear of losing their license to do so.

Once muirburn licensing is introduced, however, the periods when the public and when landowners can lawfully light fires in the Cairngorms National Park will be different. Landowners will be able to start burning large swathes of the countryside from 15th September (two weeks earlier than currently) whereas the public won’t be able to light the smallest of fires until 30th September. It says something about the state of government in Scotland that no-one in the CNPA or the civil service or Scottish Ministers appears to see any need to take a consistent approach or anything wrong with *“one law for them, another for us”*.



The recent fire warning issued by the Scottish Fire and Rescue Service for almost the whole of Scotland suggests that allowing muirburn to start on 15th September, when we know landowners from King Charles downwards ignore fire risk ([see here](#)), is unjustifiable.

Byelaws etc.

- 8 (1) A National Park authority may make byelaws for the National Park for the purposes of
- (a) protecting the natural and cultural heritage of the National Park,
 - (b) preventing damage to the land or anything in, on or under it,
 - (c) securing the public's enjoyment of, and safety in, the National Park.
- (2) In particular, a National Park authority may make byelaws under sub-paragraph (1)—
- (a) to regulate or prohibit the lighting of fires,
 - (b) to prohibit the depositing of rubbish and the leaving of litter,
 - (c) for the prevention or suppression of nuisances,
 - (d) to regulate the use of vehicles (other than the use of vehicles on a road (Scotland) Act 1984 (c.50)),
 - (e) to regulate the exercise of recreational activities.

Section 8 to Schedule 2 of the National Parks (Scotland) Act

The byelaws banning fires by the public have been introduced, like the Loch Lomond and Trossachs National Park Authority's camping byelaws, under the National Parks (Scotland) Acts 2000 rather than under the Land Reform (Scotland) Act 2003, which also contains byelaw making provisions. By doing so the CNPA and Scottish Ministers avoided the need to have a much wider debate about the

implications of banning fires for access rights and have also avoided setting a precedent for the rest of Scotland. The rationale, however, for banning the public from lighting fires in the Cairngorms but not in other parts of Scotland over the Spring and summer remains to be explained.

The use of its conservation powers under the National Parks (Scotland) Act to introduce these fire byelaws, however, tells you that the CNPA could, if they had the will, have also introduced bans on landowners lighting fires *to prevent damage to the land or anything in, on or under it*. While banning muirburn by landowners for the same period as the public, from 1st April to 30th September, would only make two weeks difference to the muirburn provisions due to come into force next year, a more sensible and coherent approach would have been for the CNPA TO BAN BOTH THE PUBLIC AND LANDOWNERS FROM LIGHTING FIRES IN PROTECTED AREAS AND ANYWHERE IN THE NATIONAL PARK AT TIMES OF HIGH FIRE RISK.

Instead, according to the CNPA news release ([see here](#)):

In preparation for the byelaw coming into force in April 2026, the Park Authority and its partners are taking forward a range of measures, including:

- *Working with Police Scotland and the Scottish Fire and Rescue Service to prepare for robust enforcement of the byelaw, including enhanced patrols at key sites and an extensive training programme for rangers on the ground.*

This means the CNPA and other public authorities are going to waste significant resources trying to enforce the fire byelaws in places which have been burn to bits by landowners and at times when there is little or no fire risk because the ground is so wet. One wonders how much resource, by comparison, the Scottish Government intends to devote to enforcing the muirburn licensing scheme when it comes into effect in January?

Category

1. Cairngorms

Tags

1. access rights
2. Camping bye laws
3. CNPA
4. conservation
5. muirburn
6. natural environment
7. Scottish Government

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