

# The Muirburn Code 2017 - Supplementary Information 2

## Offences & Legislation

All of the following actions are **offences**, which could result in prosecution:

- 1 **Burning outwith the statutory burning season** (unless under licence from NatureScot) [Hill Farming Act 1946, s23].
- 2 **Burning at night, between 1 hour after sunset and 1 hour before sunrise** [Hill Farming Act 1946, s25].
- 3 **Leaving a fire unattended** [Hill Farming Act 1946, s25].
- 4 **Being unable to control a fire or having not made provision for its proper control** [Hill Farming Act 1946, s25].
- 5 **Causing damage to *any* woodland** [Hill Farming Act 1946, s25].
- 6 **Causing damage to neighbours' property** [Hill Farming Act 1946, s25].
- 7 **Causing damage to a scheduled monument** [Ancient Monuments and Archaeological Areas Act 1979, s2(2)a].
- 8 **Failing to take fire safety measures in respect of harm caused by fire** [Fire (Scotland) Act 2005, Part 3, s53 & s54].
- 9 **Carrying out burning on a Site of Special Scientific Interest**, without consent from NatureScot, if burning has been notified as an 'Operation Requiring Consent' [Nature Conservation (Scotland) Act 2004, s19].
- 10 **Intentional or reckless harassment of birds listed in Schedule A1** [Wildlife and Countryside Act 1981, Schedule A1].
- 11 **Intentional or reckless damage to the natural features of a Site of Special Scientific Interest** [Nature Conservation (Scotland) Act 2004, s19].
- 12 **Intentionally or recklessly disturbing or destroying the nests, eggs or young of breeding birds** [Wildlife & Countryside Act 1981 (as amended), s1, Schedule 1 and Schedule A1].
- 13 **Willfully killing, injuring or taking, or attempting to kill, injure or take, a badger** [Protection of Badgers Act 1992, s1].

- 14 **Intentionally or recklessly damaging or destroying a badger sett, obstructing access to, or any entrance of, a badger sett; or disturbing a badger when it is occupying a badger sett** [Protection of Badgers Act 1992, s3].
- 15 **Deliberately or recklessly capturing, injuring, killing, disturbing or harassing an otter or wildcat; Deliberately or recklessly obstructing access to a place otters or wildcats use for shelter or protection or otherwise denying the animal use of that place. Damaging or destroying a breeding site or resting place of an otter or wildcat** [The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), Reg. 39(1)].
- 16 **Intentionally or recklessly killing, injuring or taking a pine marten** [Wildlife and Countryside Act 1981 (as amended), s9(1)].
- 17 **Intentionally or recklessly damaging, destroying, or obstructing access to, any structure or place which a pine marten or water vole uses for shelter or protection; or disturbing the animal while it is occupying it** [Wildlife and Countryside Act 1981 (as amended), s9(4)].
- 18 **Intentionally or recklessly killing, injuring or taking any reptile** [Wildlife and Countryside Act 1981 (as amended), s9(1)].
- 19 **Omitting to give the landowner, or occupiers of land within 1 km of the proposed muirburn site, written notice of your intention to burn during the coming muirburn season. Notice must be given after the end of the previous season and at least 7 days before burning** [Hill Farming Act 1946, s26].
- 20 **Omitting to give further information, if requested, by the landowner or neighbouring occupiers (within 1 km) of the dates, location and approximate extent of intended muirburn, not later than the end of the day before burning** [Hill Farming Act 1946, s26].
- 21 **Lighting a fire, or allowing a fire to spread, within 30 m of a road so as to damage the road or endanger traffic on it, without lawful authority or reasonable excuse** [Roads (Scotland) Act 1984, s100(c)].
- 22 **Creating smoke that is a nuisance to inhabitants of the neighbourhood** [Clean Air Act 1993, s17, refers to an offence under the Public Health (Scotland) Act 1897].
- 23 **Endangering anyone's health or safety, including members of the public** [Health and Safety at Work etc. Act 1974, s2 and s3, Management of Health and Safety at Work Regulations 1999 S.I. 3242].