

DRAFT

Code of Practice for Grouse Moor Management

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1 INTRODUCTION

1.1 Context – Grouse Moors & Moorlands

All moorlands are valued habitats – prized for their biodiversity and for their capacity to store carbon, reduce flood risk, as well as their intrinsic value and role in supporting local, rural economies and communities.

We are in a nature/climate crisis. All land management activities including conservation, sporting, agricultural or crofting have a role to play in helping to address this crisis. This includes management of our moorlands. Moorlands can include substantial areas of peat and can provide habitat for red-listed species such as ground nesting birds like curlew.

This Code of Practice for Grouse Moor Management (Grouse Code) aims to help ensure that moorlands managed for grouse are done so in a way which supports biodiversity and net zero targets.

1.2 What is the status of the Code of Practice for Grouse Moor Management?

This Code of Practice for Grouse Moor Management has been introduced by the Wildlife Management & Muirburn (Scotland) Act 2024 (WM&M Act). It underpins and aids our journey towards Scotland's net zero targets by supporting the licensing of land which may be used to take or kill red grouse as set out in the Act.

The licensing approach will be delivered in line with the [Scottish Regulators Strategic code of practice](#) and the [Principles of Better regulation](#) which underpin processes for species and wildlife management licensing.

Conditions on a licence for land over which red grouse may be taken or killed can be drawn from the Grouse Code. There is a requirement in the WM&M Act that a licence holder 'must have regard' to the Grouse Code. Non-adherence to the requirements set out in the Grouse Code could result in a licensing sanction. Consequences for non-compliance will be considered in line with the Licensing Framework (**insert link when complete**). This sets out the processes used to make decisions on licence modifications, suspensions or revocations.

1.3 What is the purpose of the Code of Practice for Grouse Moor Management?

The Grouse Code sets out the legal requirements associated with managing land for killing and/or taking red grouse. It also signposts to Moorland Management Best Practice. It categorises actions according to whether they **must** be undertaken to avoid risk of prosecution and to comply with a licence for land which may be used to take or kill red grouse and those that **should** be undertaken because they demonstrate good practice in moorland management.

1.4 Who and where does the Code of Practice for Grouse Moor Management apply to?

The Grouse Code applies to everyone involved in the management of land for the purpose of taking or killing red grouse.

1.5 Who will the Code of Practice for Grouse Moor Management be of interest to?

The Grouse Code may be of interest to those who manage moorlands for any purpose and/or who provide advice on the management of moorlands for grouse shooting as well as to the wider public.

1.6 How will compliance with the Code of Practice for Grouse Moor Management be monitored?

All those who operate under the licence for land which may be used to take or kill red grouse must have regard to the Grouse Code. In considering whether to grant a licence NatureScot must have regard to an applicant's compliance with the Grouse Code. Compliance monitoring is a key aspect of any licensing approach. Compliance monitoring will consist of:

- **Desk-top checks** - the licence holder will be required to provide details on how they have complied with the Grouse Code as a condition of the licence. Desk top checks will assess the information supplied (including details on return data) in relation to whether and how the Grouse Code has been complied with.
- **On-site visits** – visits to the land covered by the licence can be carried out to ascertain compliance with certain aspects of the Grouse Code. The triggers for carrying out on-site checks can include follow up to specific, credible complaints, a police investigation or as part of a randomised spot-checking process.
- **Accreditation schemes** - compliance monitoring may also be incorporated into approved accreditation schemes.

1.7 Reviewing the Code of Practice for Grouse Moor Management

The Grouse Code will be subject to review on a five yearly basis to ensure it reflects the most up to date legislative requirements and to ensure that links to other guidance and best practice are current.

2 LEGAL AND LICENSING REQUIREMENTS

2.1 Introduction

This section provides a summary of the legal and licensing requirements associated with managing land for killing and/or taking of red grouse. It focuses on the law as it relates to the key activities associated with grouse moor management.

The principal legislation governing grouse moor management is the Wildlife Management & Muirburn (Scotland) Act 2024. This legislation introduces the requirement for a licence for land which may be used to take or kill red grouse. The Grouse Code has a key role to play in supporting this licence. Actions which **must** be carried out are set out in the sections below.

2.2 What is the role of licensing?

As well as the licence over land which may be used to take or kill red grouse there are other licences which can be applied for or used in a grouse moor setting. Licences have a very specific role in species and land management, where they can allow activities to be carried out which would otherwise be illegal. Examples include licences to control birds to prevent serious damage to livestock or for the conservation of wild birds. Each species licence requires strict licensing tests to be met before it can be granted. These tests include ensuring that the activity will fit with a specified licensable purpose, that there are no satisfactory alternatives and that there will not be a negative impact on the conservation status of the species being controlled. Some of the 'must nots' listed below may be permitted through licence, provided specified conditions are met. There are also General Licences which can allow more common, low risk activities to take place. General Licences don't need to be applied for but activities carried out under them can only be undertaken according to specified licensing purposes and must adhere to licence conditions. Further details are included in the section on licensing below.

2.3 What are the legal requirements associated with managing grouse moors?

The Wildlife Management & Muirburn (Scotland) Act 2024 states that 'Scottish Ministers must prepare a code of practice for the purpose of providing guidance about managing land to which a section 16AA licence relates' (licence for land which may be used to take or kill red grouse). The Act lists three areas which a 'code of practice may, in particular, provide guidance on'. These three areas are presented as subheadings below.

2.3.1 'How land should be managed to reduce disturbance of and harm to any wild animal, wild bird and wild plant (including the use of medicated grit for such purposes)'

The list below summarises the key legal requirements associated with a range of species (wild animal, bird and plant) which are considered to be relevant to those who manage moorlands and land where grouse are likely to be killed or taken. Details are drawn from the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), Wildlife & Countryside Act 1981 (as amended) and Nature Conservation (Scotland) Act 2004.

Wild Birds

Under the Wildlife & Countryside Act, you **must not intentionally or recklessly:**

- Kill, injure or take a wild bird;
- Take, damage, destroy or interfere with a nest of any wild bird whilst it is in use or being built
- Obstruct or prevent any wild bird from using its nest; or,
- Take or destroy an egg of any wild bird
- Disturb any wild bird listed on Schedule 1 whilst it is building a nest or is in, on, or near a nest containing eggs or young, or whilst lekking;
- Disturb the dependent young of any wild bird listed on Schedule 1

Those species listed on Schedules A1 and 1A receive additional protection which makes it an offence to intentionally or recklessly:

- at any time take, damage, destroy or interfere with any nest habitually used by any wild bird included in Schedule A1; and
- at any time harass any wild bird included in Schedule 1A.
- Schedule 1A birds
 - Golden Eagle (*Aquila chrysaetos*)
 - Hen Harrier (*Circus cyaneus*)
 - Red Kite (*Milvus milvus*)
 - White-tailed eagle (*Haliaeetus albicilla*)
- Schedule A1 birds
 - Golden Eagle (*Aquila chrysaetos*)
 - White-tailed eagle (*Haliaeetus albicilla*)

Wild Animals

You **must not intentionally or recklessly:**

- Kill or injure reptiles
- Kill, injure or take protected mammals, such as badger, wildcat, otter, red squirrel, mountain hare or pine marten
- Disturb a protected mammal while it is occupying any place it uses for shelter or protection
- Damage or destroy the place of shelter of a protected mammal.

Wild Plants

You **must not intentionally or recklessly:**

- Uproot or destroy any plants, fungi and lichens included in Schedule 8 of the Wildlife and Countryside Act 1981 (note this is an extensive list but only some will relate to grouse moors).

Protected Areas

You **must not intentionally or recklessly:**

- Damage the natural features of a Site of Special Scientific Interest (SSSI) or other Protected Areas e.g. Special Areas of Conservation (SACs) or Special Protection Areas (SPAs) (a list to all SSSIs can be found here: <https://sitelink.nature.scot/home>)

You must apply for and obtain consent from NatureScot to carry out activities included on a SSSI's list of Operations Requiring Consent (ORCs).

Medicated Grit

Use of medicated grit is regulated under the Veterinary Medicines Regulations 2013 and through guidance issued by the Veterinary Medicines Directorate. Where medicated grit is administered all regulation governing its use must be adhered to. Evidence of need is required by a veterinarian before a prescription can be dispensed and only medicated grit supplied and approved by way of a prescription can be used. A withdrawal period is set out in the Veterinary Medicines Regulations 2013. This requires medicated grit to be withdrawn from use 28 days before taking or killing of grouse can take place.

2.3.2 'How the taking or killing of any wild birds should be carried out'

All wild birds in Scotland are protected under the Wildlife and Countryside Act 1981 (as amended). Some more rare, threatened or vulnerable species are given extra protection. Control of predatory wild birds is governed by a range of regulations which vary depending on the species and time of year. Individual species licences can be granted to permit the control of wild birds for a range of specific purposes. General Licences permit 'authorised persons' for specific licensing purposes, to perform certain activities affecting listed bird species, which would otherwise be illegal. General Licences are renewed annually and uploaded to the NatureScot [general licences webpage](#).

You must be aware of and where relevant, comply with the need for and conditions of:

- A valid licence for land used to take or kill red grouse
- A trap registration for use of Larsen Traps, Larsen Mate Traps, Larsen Pod Traps and multicatch crow traps.
- Specific individual licences for birds which cannot be controlled under General Licence e.g. gulls and ravens.

2.3.3 'How predators should be controlled'

Some common, generalist predators, such as foxes, weasels and stoats, are often subject to some form of predator management on moorlands managed for grouse. All predator control carried out on a grouse moor must comply with the specific legal requirements. The use of any wildlife trap must comply with the relevant regulation. Land managers intending to use more than two dogs to flush foxes from cover to be shot must also ensure [a hunting with dogs licence](#) is in place before they do so.

2.4 Relevant Offences (as set out in the bill)

The following legislation are specifically referenced in 10(2) of the WM&M Act as being relevant offences i.e. an offence which if committed by 'the licence holder or a person involved in managing the land to which the licence relates, or (if either of these) has knowingly caused or permitted another person to do so' can lead to revocation of a licence for land to take or kill red grouse:

- ***The Protection of Badgers Act 1992***
Both badgers and their setts are protected under this Act. Offences under the Act include:
 - wilfully taking, injuring or killing a badger

- cruelty to a badger
- intentional or reckless interference with a badger sett
- possession, control or sale of a badger
- marking or ringing of a badger

Offences associated with interfering with a badger sett includes:

- damaging or destroying a sett or any part of it
- obstructing access to a sett
- disturbing a badger while it is in a sett
- causing or allowing a dog to enter a badger sett

○ **Part 3 of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716)**

This Part of the Habitats Regulations covers species protection.

In relation to European Protected Species (EPS) it is an offence (amongst others) to:

- Deliberately or recklessly capture, injure or kill any such species
- Deliberately or recklessly harass, disturb, obstruct access to breeding or resting sites
- Take or destroy eggs
- Damage or destroy a breeding site or resting place
- Deliberately or recklessly pick, collect, cut, uproot or destroy and wild plant that is EPS

This Part also sets out prohibited methods for killing or taking species listed on Schedule 3 of the Regulations and EPS. Schedule 3 species which may be found on land which may be used to take or kill red grouse include mountain hare and pine marten.

○ **Section 1 of the Wild Mammals (Protection) Act 1996**

Under section 1 of the Wild Mammals (Protection) Act 1996 it is an offence for any person, with intent to inflict unnecessary suffering:

- to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal.

○ **Section 19 of the Animal Health and Welfare (Scotland) Act 2006**

This Act creates offences in relation to protected animals, the definition of which includes an animal '*under the control of man on a permanent or temporary basis.*'

Section 19 of this Act creates offences unnecessary suffering to animals. Offences under this section include:

- Causing a protected animal unnecessary suffering by an act where it ought reasonably to have known, that the act would have likely caused the suffering.
- A person responsible for an animal causes unnecessary suffering by an act or omission or permits another person to cause unnecessary suffering by an act or omission or fails to prevent another person from causing unnecessary suffering by an act or omission.

○ **The Hunting with Dogs (Scotland) Act 2023**

Under the Hunting with Dogs (Scotland) Act 2023 it is illegal to hunt a wild mammal using a dog except for limited purposes. However use of more than two dogs to flush wild mammals requires [a licence from NatureScot](#). NatureScot can issue licences for using more than two dogs for (i) the prevention of serious damage to livestock; and (ii) environmental benefit. The Act also bans trail hunting.

2.5 Relevant Licences

This section covers the main licences as they relate to grouse moor management activities. It provides a summary of the purpose of each licence and links to further information including application forms and licensing guidance. Not every licence will be applicable to every grouse moor and there will be other licences not directly connected to managing grouse moors which may be applicable. Where a relevant species or land management licence is applied for and granted you must comply with the terms and conditions of that licence/s.

- ***Licence for land over which red grouse may be taken or killed***

To exercise the right to take or kill red grouse over an area of land there must be a valid 'section 16AA licence' covering the land over which this right may be exercised. The licence holder must be the owner or occupier of the land who owns or has the right to take or kill grouse. Shooting red grouse over an area of land without an appropriate licence will be an offence.

- ***Licence to carry out muirburn***

The WM&M Act requires that all muirburn will be required to be carried out under licence. Once this licence is introduced failure to carry out muirburn without a valid licence will be an offence.

- ***Licence to control mountain hare***

Mountain hares are a fully protected species and can only be controlled under an individual licence for specific purposes. These purposes include preventing damage to growing timber and young naturally regenerating native trees. Where mountain hares are controlled on a moorland the control must be carried out according to the conditions of the individual licence. Further details can be found at <https://www.nature.scot/doc/mountain-hare-licensing-guidance-applicants>.

- ***Licence to hunt with dogs***

It is against the law to hunt a wild mammal using a dog except for limited purposes e.g. to prevent serious damage to livestock. Use of more than two dogs to flush foxes from cover to waiting guns requires [a licence from NatureScot](#). NatureScot can issue licences for using more than two dogs for (i) the prevention of serious damage to livestock; and (ii) environmental benefit.

- ***Licence to use certain wildlife traps***

The use of specific wildlife traps as set out in the WM& M Act will require a licence to be obtained by the individual operator of trapping infrastructure. This licence is contingent on a specified training course having been carried out and requires an id number to be placed on all traps used.

- **Individual licences for birds**

There are a number of activities in relation to wild birds which can be permitted under licence. These include licences for:

- **Surveys, research and ringing**

Most bird surveys don't need a licence. But a licence is required if a survey will involve disturbance of breeding Schedule 1 bird species or involves interfering with nests or nest contents or any other offence in relation to wild birds. The British Trust for Ornithology (BTO), under licence from NatureScot, operates a system of training and permits to allow competent people to monitor Schedule 1 birds nests, and catch and ring wild birds in Scotland. Any research work must be done under licence. Further information is available here: [Surveys, research and ringing licences webpages](#).

- **Control of predatory species**

Individual licences can be issued to control bird species, where predation is having a conservation impact. More information can be found here: [control of predatory birds licences webpages](#).

- **Public health and safety and air safety**

Where wild birds pose a threat to public health or safety and there is no satisfactory alternative, NatureScot may issue a licence to permit certain actions that might otherwise constitute an offence. This may include situations where problems arise as a result of some bird species using houses and other buildings as nest sites. Further information can be found here: [Public health and air safety licences webpages](#).

- **Preventing serious damage**

The Wildlife and Countryside Act 1981 allows licences to be issued in respect of wild birds for the purpose of: "preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters". Further information can be found here: [Preventing Serious Damage Licences webpages](#).

An application to control a wild bird/s needs to provide details on how the purpose will be met, why other non-licensable methods have not been satisfactory in resolving the issue and an assessment of the predicted conservation impacts on the species being controlled.

- **General Licences**

General Licences cover relatively common situations where there is unlikely to be any significant conservation impact. You do not need to apply to use a General Licence, but you must be sure that your activities meet one of the General Licences purposes and that you adhere to the terms and conditions of the licence in full. Abuse of, or failure to comply with, the conditions could constitute an offence. General Licences may be used as part of grouse moor management. Examples include those covering control of certain corvid/crow species. Further information on General Licences can be found here - [general licences webpage](#).

3 GOOD PRACTICE

This section signposts to good/best practice guidance on moorland management by acting as an introduction to relevant [Moorland Management Best Practice](#) (MMBP) Guides. This guidance **should** be carried out to ensure that moorlands are managed according to good practice. The headings below are those used to structure the MMBP Guides.

- **Carbon & Peatlands**

Moorland management can play an important role in carbon storage, soil condition and peatland restoration and management. It is helpful to consider moorland activities such as muirburn, grazing and vegetation cutting in terms of their impacts (positive and negative) on the overall, long term carbon budget and whether they are appropriate.

- **Biodiversity**

All moorland management, including muirburn, can play an important role in supporting biodiversity objectives. This can include taking into account habitat management and species management and protection for wider biodiversity. The impacts on moorland species, like waders, should be considered when managing land for grouse as should the potential impact on reptiles, small mammals and invertebrates. Flora and wild plants should also be considered.

- **Wildlife management**

Wildlife management is a key feature of moorland management. Guidance in relation to the management of wild deer and other mammals is available.

- **Parasites & diseases**

There are a number of parasites and diseases which can affect key moorland species, including red grouse & mountain hare and people.

- **Land Management**

Guidance is available on the use of all-terrain vehicles, creation of hill tracks and responsible access.

4 GLOSSARY

Medicated Grit - Medicated grit is administered to red grouse to help deal with parasitic strongyle worms. Its use is regulated and requires a veterinarian prescription based on evidence of need.

Moorland Management - Mountains, moors, hills and heaths cover more than 50% of our land area. They extend from near sea level in the north and west to our highest mountain tops. All these different habitats are managed in various ways for a range of objectives. This can include objectives to achieve woodland targets, for sporting interests, agriculture, peatland restoration and many more.

Muirburn – According to the WM&M Act ‘references to making muirburn include references to the setting of fire to, or the burning of, any heath or muir’.

Nature/Climate Crisis - The Scottish Government declared a climate emergency in April 2019. The Climate Change (Scotland) Act 2009 sets out the legal framework for climate action in Scotland. The risks of increasing global temperatures are far reaching. Alongside the climate emergency there has been a significant decline in nature with large numbers of species increasingly under threat.

Net zero targets – Scotland has a target to reach net zero emissions by 2045.

5 FURTHER REFERENCES, RESOURCES AND CONTACTS

[Wildlife Management & Mireburn \(Scotland\) Act 2024](#)

[Grouse Moor Management Report 2019 \(Werritty Report\)](#)

[Moorland Management Best Practice Guides](#)

[NatureScot website](#)

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