



For decision

Title: Fire Management Byelaws – Proposed Consultation

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Purpose

Fire risk is increasing in Scotland with climate modelling showing a predicted increase in drought periods. Wildfire risk has been increasing in the Park and there is a need to consider all potential solutions to reducing risk. There is a need to protect people, nature and property.

Members are now invited to agree an approach to a public consultation on whether to take forward a fire management byelaw for the Cairngorms National Park and what that fire management byelaw should include or cover. It builds on the discussion at the last Board meeting in September.

If the Board agree to proceed with this consultation, then the results will be taken back to the Board with a recommendation on the next steps in mid-2024.

Recommendations

The Board is asked to:

- a) Agree to proceed to a public consultation based on three options as outlined in this paper, starting in January 2024 for 8 weeks.

Strategic context

1. At the meeting of the Park Authority Board on the 8 September it was agreed by the Board that a 'paper on potential bylaw implementation across the Park be presented to a future meeting of the board'.
2. The changing climate will make wildfire risk considerably higher in the future. This year there has already been a number of incidents in the National Park and there have been large wildfires just outside the Park at Daviot and Cannich in the



Highlands. The Park Authority has also received multiple expressions of community and land manager concern about this issue.

3. The Park Authority has already committed in the National Park Partnership Plan (NPPP) to establish an Integrated Wildfire Management Plan (IWMP) for the Park. Preparation of this plan will be led by the Land Management team within Cairngorms National Park Authority and work has already started. The purpose of the IWMP is to increase the ability of land managers across the Park to:

- a) minimise the risk of wildfires starting.
- b) respond effectively to wildfires that do start.
- c) reduce the impact of any wildfires in a changing landscape.

4. The IWMP will be developed in parallel with any proposals for byelaws. It is hoped that the IWMP will be in place for late summer 2024.

Strategic policy consideration

- 5. The Cairngorms National Park is home to 19,000 people and visited by around 2 million people each year. It is home to 25% of the rare and endangered species and the Cairngorms has over half of Scotland's semi-natural pine woodland. A large wildfire in the Cairngorms could be an ecological disaster and could impact significantly on people's property and livelihoods.
- 6. Wildfires can start in a number of different ways, including from natural causes (e.g. lightning), visitors lighting fires (e.g. for cooking or recreation) which get out of control or from muirburn that gets out of control.
- 7. Scottish Fire and Rescue Service (SFRS) have identified resource and operational management issues around the approach to wildfire management in Scotland. This was highlighted in their response to the Criminal Justice Committee in September 2023¹.

¹ [Response 187996251 to Criminal Justice Pre-Budget scrutiny: 2024-25 - Scottish Parliament - Citizen Space](#)



8. The issues surrounding muirburn are currently being addressed through the Wildlife Management and Muirburn (Scotland) Bill which, if it passes, will require land managers to get a licence to undertake muirburn at any point in the year. The need, at present, is therefore for any new form of regulation in the Park to focus mainly on issues to do with visitors lighting fires.
9. The Scottish Outdoor Access Code currently states that “Wherever possible, use a stove rather than light an open fire. If you do wish to light an open fire, keep it small, under control, and supervised - fires that get out of control can cause major damage, for which you might be liable. Never light an open fire during prolonged dry periods or in areas such as forests, woods, farmland or on peaty ground or near to buildings or in cultural heritage sites where damage can be easily caused. Heed all advice at times of high risk. Remove all traces of an open fire before you leave.”
10. The Civic Government (Scotland) Act 1982 (Section 56) also states that “Any person who lays or lights a fire in a public place so as to endanger any other person or give him reasonable cause for alarm or annoyance, or so as to endanger any property, shall be guilty of an offence”
11. The Park Authority Ranger Service has collected comprehensive statistics for live fires and fire remains over the past 3 years. Appendix 1 sets out the statistics and heat maps for 2023. In 2023 there were 219 active fires dealt with by the Park Authority Rangers and 678 fire remain sites dealt with.
12. The Park Authority has also asked for the number of call outs to wildfires from SFRS. This data is not Park-specific but shows the levels of call-outs that SFRS have had to attend in areas that cover the National Park.

SFRS Wildfire Attendance

	2020	2021	2022
Aberdeenshire and Moray	17	5	22
Highlands	22	54	49

13. There have also been significant communication campaigns run nationally and within the National Park to highlight the issues around fires as covered in the paper in September 2023.



Byelaw Options

14. This section sets out the three options that the Park Authority will consult on in January 2024 if approved. In the consultation the pros and cons of each of the options will be set out more fully. Appendix 2 & 3 sets out the wording for options 1 & 2 set out below and will be the basis for the consultation on those options.

Option 1 – Year Round Fire Management Byelaw

15. This option is the simplest to communicate with a consistent approach throughout the year but is not directly linked to a wildfire risk-based approach. If implemented it would mean that, even at times of lower fire risk it would not be possible to have a fire in the National Park. There would need to be a significant communication campaign in advance of introduction and the Park Authority would need to look at appropriate signage within the Park and on all materials.

Option 2 – Time Limited Fire Management Byelaws

16. This option is framed so that it would only apply at times of high fire risk and is more permissive of fire at other times. It would be significantly more complicated to communicate and requires periods of high fire risk to be agreed and communicated when they start and finish. It is however the approach most closely aligned with a wildfire linked risk-based approach. Different areas of the Park may also be covered by different fire risks. A significant communications campaign would be needed to let people know when the byelaw applied.

Option 3 – No Byelaw

17. This approach would involve the least change and carrying on as at present but with increased communication and education with the intent that this will lead to a reduction in fire incidents and the risk of wildfire in the National Park. The Park Authority and other partners would continue to communicate fire messages through Rangers and through our media campaigns and would speak to people on the ground and remove traces of old fires. We would continue to work with land managers, Police Scotland and SFRS. As part of this the Park Authority would continue to look at the ability to simplify the message in SOAC to be more practical.



Enforcement

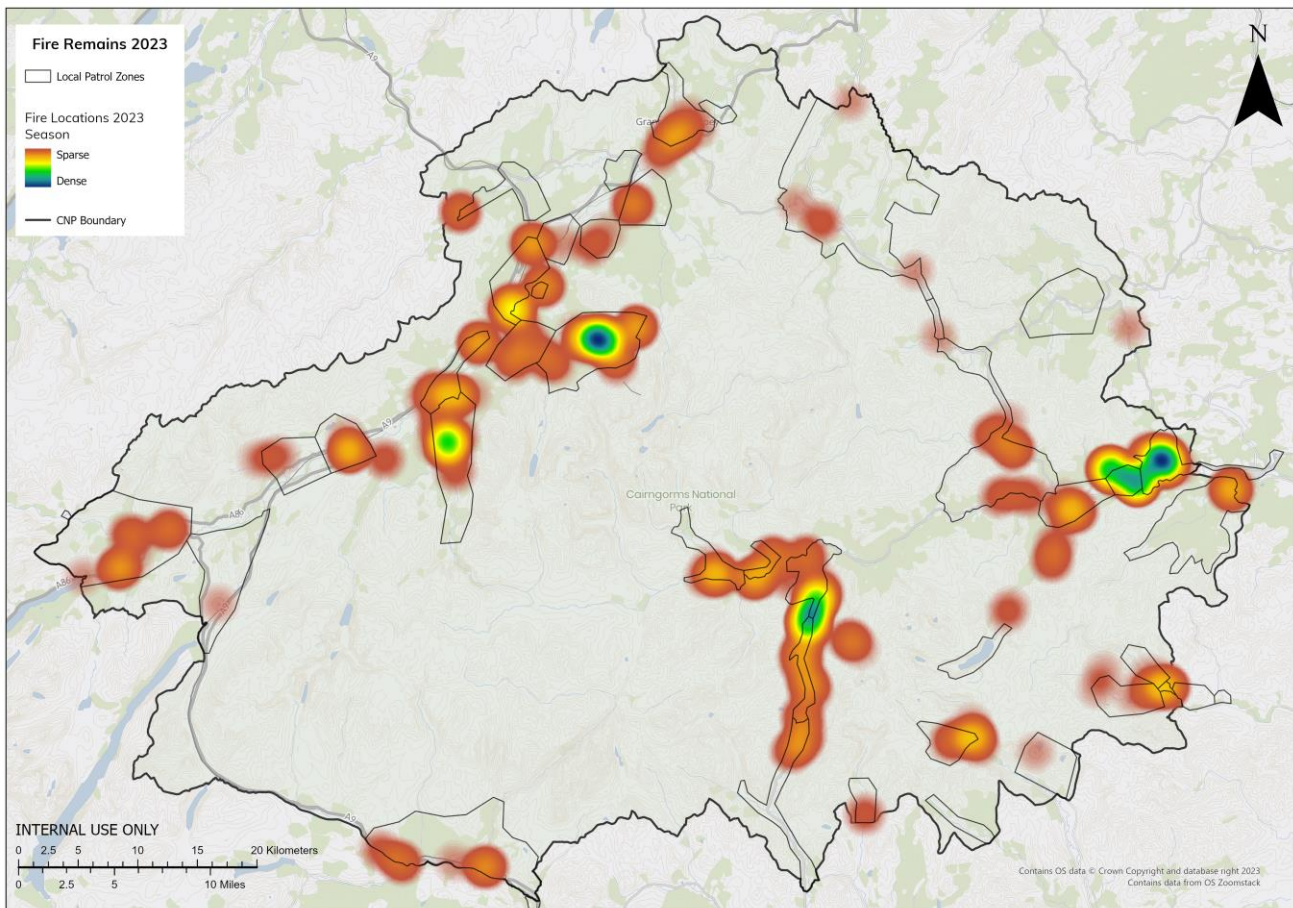
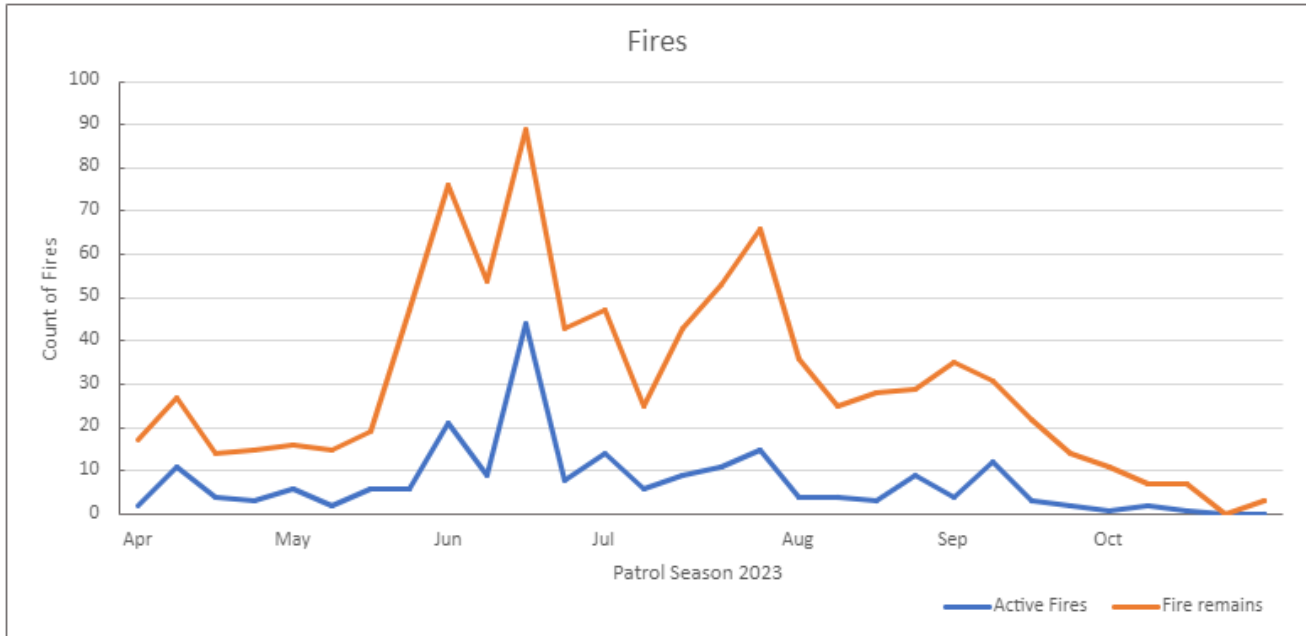
18. If byelaws are taken forward every ranger employed by the National Park Authority would be empowered to enforce the byelaws. This will mean ensuring training and preparation in advance of any byelaws coming into force. There will also need to be a consideration of whether the current resource base is adequate to ensure that there is a threat of enforcement in the Park.

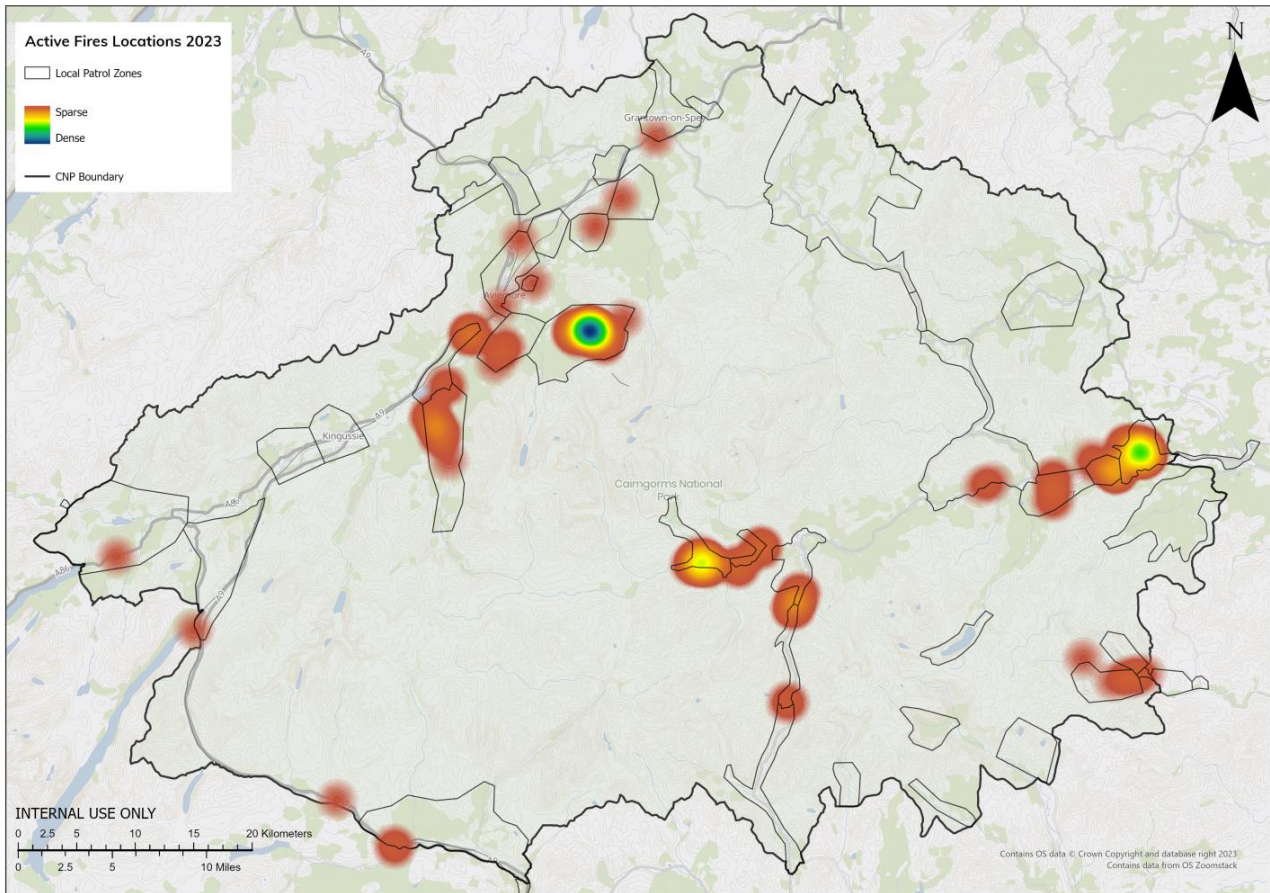
Timescale and Next Steps

19. It is proposed to go to consultation in January 2024 on the options for 8 weeks. Following the consultation, a paper with the consultation results and a recommendation will be taken to the Board in mid-2024. If it is agreed by the Board to proceed with a byelaw it will be formally consulted on as per the process set out in Appendix 4. Scottish Ministers require to confirm the byelaw and the earliest a byelaw could come into operation would be in 2025.



Appendix 1 – Fire Statistics collected by Park Authority Ranger Service







Appendix 2 – Option 1: Year-Round Fire Management Byelaw

General

The Cairngorms National Park Authority, constituted under the National Parks (Scotland) Act 2000 and the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003, and having its principal offices at 14 The Square, Grantown-on-Spey, Moray, PH26 3HG (“**the Authority**”), in exercise of the powers conferred upon it by Paragraph 8 of Schedule 2 to the National Parks (Scotland) Act 2000 hereby makes the following byelaws:

Citation and Application

- (1) These byelaws may be cited as The Cairngorms National Park Fire Management Byelaws 20XX.
- (2) These byelaws shall apply between the dates of 1 January and 31 December in each calendar year (both dates inclusive) within the Cairngorms National Park (“**the National Park**”)

Definitions and Interpretations

- (3) In these byelaws, the following words, phrases and expressions are printed in bold wherever they appear and they have the interpretation and meaning hereby assigned to them, respectively:
 - a) “**avoidable damage**” means any damage resulting from fire where that fire that has not been properly planned, controlled and/or managed in recognition of the local ground terrain, vegetation, accessibility and weather conditions between the time of ignition to when the fire is fully extinguished;
 - b) “**barbecue**” means an appliance or rack on which food is cooked out of doors over an open fire and shall include a disposable, gas and coal portable barbecue whether manufactured as such or otherwise;
 - c) “**bothy**” means a building of no more than two storeys which-
 - i. does not have any form of mains electricity, piped fuel supply, and piped mains water supply; and
 - ii. is 100 metres or more from the nearest public road (within the meaning of section 151 of the Roads (Scotland) Act 1984); and
 - iii. is 100 metres or more from the nearest habitable building;



- d) “**curtilage**” means land which is used for the comfortable enjoyment of a building and which serves the purpose of that building in some necessary or reasonably useful way;
- e) “**dwellinghouse**” means a residential property, including a building containing one or more flats, or a flat contained within such a building;
- f) “**fireplace**” means a structure that is designed to contain a fire and is made of brick, stone, metal or any other material;
- g) “**land manager**” means (i) a **landowner, tenant** or **partner** lawfully authorised by or on behalf of such **landowner** or **tenant** to manage land within the National Park; and (ii) or in the case of a **landowner, tenant** or other person that is a body corporate or unincorporated body, any individual who has the power to control the affairs of that body, by whatever means;
- h) “**landowner**” means the owner of any land or building within or connected to the National Park;
- i) “**licensed**” means holding a valid licence issued under the Caravan Sites and Control of Development Act 1960;
- j) “**muirburn licence**” means any statutory licence issued by the Scottish Ministers or their nominees in relation to **making muirburn**;
- k) “**occupier**” means any person who is occupying a **dwellinghouse** or **property** with the consent of the **landowner**;
- l) “**partner**” means a sporting partner engaged in the management of any land within the National Park;
- m) “**property**” includes both land and built infrastructure;
- n) “**SFRS**” means the Scottish Fire and Rescue Service established in terms of the Fire (Scotland) Act 2005 and its statutory successors;
- o) “**tenant**” means the **tenant** of any land within the National Park leased or let to such tenant under a lease of one year or more;

Fire

- (4) It shall be an offence under these byelaws for any person without lawful authority to light a **fire** in the National Park, or place or throw or let fall a lighted match, firework or any other thing so as to be likely to cause a fire, unless the fire is wholly contained:
 - a) within the **curtilage** of a private **dwellinghouse** and is under the control of the **landowner, tenant** or **occupier** of the **dwellinghouse** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation;
 - b) in a **fireplace** in a **bothy** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation; or



- c) in a **licensed** caravan site so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation, has permission from the owner of the site and is not taking place during a time of high fire risk as determined by **SFRS**; or
- d) within private **property**, is under the control or the **landowner, tenant or occupier** of the **property** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation and has the consent of the **landowner**, such consent having been notified in advance to the Authority, and is not taking place during a time of high fire risk as determined by **SFRS**.

This byelaw shall not prevent the use of a camping stove manufactured as a camping stove or cooker, provided it is used in such a manner as not to cause danger of, or damage by, fire.

Barbecues

- (5) It shall be an offence under these byelaws for any person without lawful authority to light or use a **barbecue** anywhere in the National Park unless the **barbecue** is wholly contained;
 - a) within the **curtilage** of a private **dwellinghouse** and is under the control of the **landowner tenant or occupier** of the **dwellinghouse** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation; or
 - b) in a **licensed** caravan site so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation, has permission from the owner of the site and is not taking place during a time of high fire risk as determined by **SFRS**; or
 - c) within private **property**, is under the control or the **landowner, tenant or occupier** of the **property** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation and has the consent of the **landowner**, such consent having been notified in advance to the Authority, and is not taking place during a time of high fire risk as determined by **SFRS**

Muirburn

- (6) It shall be an offence under these byelaws:
 - a) for any person other than a **land manager** to make muirburn; and
 - b) for a **land manager** to make muirburn, otherwise than in accordance with a **muirburn licence** granted by the Scottish Ministers; and
 - c) for a **land manager** to make muirburn during a time of high fire risk as determined by **SFRS**.



Provision of details

- (7) It shall be an offence under these byelaws for any person to refuse to provide their full name and address to any person authorised in writing by the Authority who has reasonable grounds for believing that such person has committed an offence under these byelaws.

Penalties and Offences

- (8) No person shall obstruct any person authorised in writing by the Authority in the execution of their duties in relation to these byelaws.
- (9) Any person who contravenes any of the foregoing byelaws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale in respect of each offence.

END



Appendix 3 – Option 2: High Fire Risk Byelaw

General

The Cairngorms National Park Authority, constituted under the National Parks (Scotland) Act 2000 and the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003, and having its principal offices at 14 The Square, Grantown-on-Spey, Moray, PH26 3HG (“the Authority”), in exercise of the powers conferred upon it by Paragraph 8 of Schedule 2 to the National Parks (Scotland) Act 2000 hereby makes the following byelaws:

Citation and Application

- (1) These byelaws may be cited as The Cairngorms National Park Fire Management Byelaws 20XX.
- (2) These byelaws shall apply only at times of high fire risk as determined by **SFRS**.

Definitions and Interpretations

- (3) In these byelaws, the following words, phrases and expressions are printed in bold wherever they appear and they have the interpretation and meaning hereby assigned to them, respectively:
 - a) **“barbecue”** means an appliance or rack on which food is cooked out of doors over an open fire and shall include a disposable, gas and coal portable barbecue whether manufactured as such or otherwise;
 - b) **“bothy”** means a building of no more than two storeys which-
 - i. does not have any form of mains electricity, piped fuel supply, and piped mains water supply;
 - ii. is 100 metres or more from the nearest public road (within the meaning of section 151 of the Roads (Scotland) Act 1984); and
 - iii. is 100 metres or more from the nearest habitable building;
 - c) **“curtilage”** means land which is used for the comfortable enjoyment of a building and which serves the purpose of that building in some necessary or reasonably useful way;
 - d) **“dwellinghouse”** means a residential property, including a building containing one or more flats, or a flat contained within such a building;
 - e) **“fireplace”** means a structure that is designed to contain a fire and is made of brick, stone, metal or any other material;
 - f) **“landowner”** means the owner of any land or building within or connected to the National Park;



- g) "**licensed**" means holding a valid licence issued under the Caravan Sites and Control of Development Act 1960;
- h) "**occupier**" means any person who is occupying a **dwellinghouse** or **property** with the consent of the **landowner**;
- i) "**property**" includes both land and built infrastructure;
- j) "**SFRS**" means the Scottish Fire and Rescue Service established in terms of the Fire (Scotland) Act 2005 and its statutory successors;
- k) "**tenant**" means the **tenant** of any land within the National Park leased or let to such tenant under a lease of one year or more;

Fire

- (4) It shall be an offence under these byelaws for any person without lawful authority to light a fire in the National Park, or place or throw or let fall a lighted match, firework or any other thing so as to be likely to cause a fire unless the fire is wholly contained:
 - a) within the curtilage of a private **property** and is under the control of the **landowner, tenant or occupier** of the **property** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation; or
 - b) in a **fireplace** connected with a **bothy** so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation.

This byelaw shall not prevent the use of a camping stove manufactured as a camping stove or cooker, provided it is used in such a manner as not to cause danger of or damage by fire.

Barbecues

- (5) It shall be an offence under these byelaws for any person without lawful authority to light or use a barbecue anywhere in the National Park unless the barbecue is wholly contained within the **curtilage** of a private **dwellinghouse** and is under the control of the **landowner, tenant or occupier** of the **dwellinghouse**, so as to safeguard against damage or danger to any person, wildlife, building, structure, tree, shrub or vegetation.

Muirburn

- (6) It shall be an offence under these byelaws for any person to make muirburn.



Provision of details

- (7) It shall be an offence under these byelaws for any person to refuse to provide their full name and address to an officer of the Authority, a police officer or any other person authorised in writing by the Authority who has reasonable grounds for believing that such person has committed an offence under these byelaws.

Penalties and Offences

- (8) No person shall obstruct any person authorised in writing by the Authority in the execution of their duties in relation to these byelaws.
- (9) Any person who contravenes any of the foregoing byelaws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale in respect of each offence.

END



Appendix 4 – Process to get byelaws in place

Schedule 2 to the 2000 Act provides at paragraph 9 for the procedure to be followed where the Park Authority proposes to make byelaws. Sections 202 to 204 of the Local Government (Scotland) Act 1973 will also apply in relation to the proposed byelaws. These impose additional requirements in relation to the adoption and revocation of byelaws.

The following steps will be required in order to promote and confirm byelaws under the 2000 Act:

- The byelaws would have to be drafted by competent legal professionals. It will be important for the drafting to be both detailed and precise.
- The Authority would then have to obtain approval from the CNPA Board to allow the proposed byelaws to be publicised – this process will align with Park Authority timescales and frequency of relevant Board meetings;
- The proposed byelaws must then be made available for public inspection for at least 12 weeks and publicised in such manner as the Park Authority thinks fit;
- The Park Authority must consult: every local authority and community council any part of whose area is within the area to which the proposed byelaws would apply (the “byelaw area”); such persons as appear to the Authority to be representative of the interests of those who live, work, carry on business or engage in recreational activities in the byelaw area; and such other persons as the Authority thinks fit;
- Account must be taken of any views or comments provided by the consultees during the consultation period. The Authority may consider that the byelaws should remain the same or should be modified. It is estimated that consideration of the comments may take another month at the end of the consultation period, although that may be longer or shorter depending on the number of objections and comments received and the nature thereof;
- The Park Authority would then have to obtain authority to seek confirmation of the byelaws from CNPA Board – this process will align with internal Authority timescales and frequency of relevant Board meetings;



- At least one month before application for confirmation of the byelaws is made, notice of: the intention to apply for confirmation; the place where a copy of the byelaws may be inspected; and of the authority to whom objections may be notified – i.e. the Scottish Ministers – must be given in a newspaper circulating in the byelaw area. A copy of the byelaws must also be deposited at the offices of the Authority and shall at all reasonable hours be open to public inspection without payment. A copy of the byelaws should be provided to any person upon request;
- Within one month after publication of the notice, any person can submit a written objection to the Scottish Ministers;
- Before confirming the byelaws, the Scottish Ministers must take into account any objections received and may hold a local inquiry or cause a local inquiry to be held;
- The Scottish Ministers may confirm the byelaws with or without modification or may refuse to confirm. They may fix the date on which the byelaws come into operation. If no date is fixed, the byelaws will come into operation one month after the date of confirmation; and
- The Authority must, as soon as practicable after receiving intimation of the confirmation of the byelaws, give notice of: the confirmation; the date on which the byelaws are to come into operation; and the place where a copy of the byelaws as confirmed may be inspected, to be given in a newspaper circulating in the byelaw area or in such other manner as the Scottish Ministers on the application of the Authority may determine to be sufficient in the circumstances.