

CLIMATE CHANGE (SCOTLAND) ACT 2009

EXPLANATORY NOTES

THE ACT

Part 5 – Other Climate Change Provisions

Chapter 2 – Land Use

Duty to produce a land use strategy

Variation of permitted times for making muirburn

103. [Section 58](#) of the Act inserts a new section 23A into the Hill Farming Act 1946 (the “1946 Act”).
104. Subsection (1) of new section 23A enables the Scottish Ministers to make successive orders specifying the dates before or after which it is lawful to make muirburn in any year. Subsection (1) also clarifies the effect of any order made under subsection (1), that is, to substitute for any of the dates specified in section 23(1), (2) or (3) of the 1946 Act, the dates specified in any such order.
105. Subsection (2) of new section 23A provides that the Scottish Ministers may make an order under new section 23A(1) of the 1946 Act only where they consider it necessary or expedient to do so in relation to climate change. Subsection (3) of new section 23A prevents the order-making power being exercised so as to reduce the length of the muirburn season below that currently provided for under section 23 of the 1946 Act.
106. Subsection (5) of new section 23A of the 1946 Act provides that any statutory instrument containing an order made under subsection (1) of that section is subject to affirmative parliamentary procedure.
107. [Schedule 2](#) to the Act provides for a minor amendment of section 23(1) of the 1946 Act, to clarify that section 23 of the 1946 Act is subject to any provision made by order under new section 23A(1) of that Act.