



Q&A for the updated Heather and Grass Burning Code and Regulations 2007

Part 1. General Questions

1. Can you summarise the main changes?

Firstly, the updated Regulations (i) introduce new bans that protect soils from exposure and erosion, and (ii) cut the red-tape associated with the previous Regulations. Secondly, we have worked with a large number of organisations to improve the existing Code, to form a new 'industry standard' for burning. Finally, we will produce Best Practice Guides that offer you more specific advice than the Code.

2. What do you hope these changes will achieve?

We want to prevent burning that harms wildlife, pollutes water courses, and releases carbon. We want to promote expert up-to-date advice to burn in ways which benefit wildlife and carbon rich soils. This will help our targets towards climate change, reversing the decline of BAP habitats and species, and achieving favourable condition on SSSIs. We also want to cut red tape for those that work on the ground.

3. How optimistic are you of results?

We're optimistic because (i) we have the strong support of game shooting and farming organisations, and (ii) it makes business sense to follow the new Code, which is based on advice from burners themselves.

Part 2 The new Code

1. What will the new Code do?

The Code establishes a new voluntary industry standard for the sustainable use of fire in land management. It does two main things:

(a) It outlines good practice. For instance, it has sections on planning how to burn; identifying environmentally sensitive areas; equipment, skills and training; communicating with neighbours; minimising risks; and conducting safe and controlled burns.

(b) It summarises the main laws which apply to burning.

We hope that by following the Code, burning is carried out in ways which benefit wildlife and carbon-rich soils.

2. How does it differ from the old Code?

The new Code generally updates the old (1994) Code. We hope it is easier to read, and it brings the Code into line with modern thinking on the environment. In particular:

(a) it identifies “sensitive areas” where there should be a strong presumption against burning (e.g. peat bogs, wet heath, near woodland, and where there is a high risk of soil erosion)

(b) it encourages planned burning which minimises impacts on the environment (not just wildlife, but also pollution of watercourses and protection of soil-based carbon).

(c) it raises awareness of the laws which apply to burning, such as the new provisions of the updated Regulations

3. Who was involved in writing the Code?

The Code was co-written by Defra and Natural England working closely with experts from a range of organisations including:

- Association of National Parks Authorities
- Country Land and Business Association
- English Heritage
- Environment Agency
- Fire Service
- Forestry Commission
- Game Conservancy Trust
- Heather Trust
- Moorland Association
- National Gamekeepers Organisation
- National Farmers Union
- National Sheep Association
- National Trust
- Royal Society for the Protection of Birds

4. What about the Best Practice Guides?

For the sake of readability, the Code does not go into great detail on specific aspects of burning. Where there is a need for such detail, we will produce Best Practice Guides. These may cover things like burning on specific habitats, fire control and safety equipment etc. We hope that the first guide, on how to produce a burning plan, will be available by October 2007.

Part 3. The new Regulations

1. When do they take effect?

From 1st October 2007

2. What has stayed the same?

(a) Burning must only take place in the burning season (1 October – 15 April in the uplands, 1 November – 31 March elsewhere) unless under licence from Natural England.

(b) Burning must be conducted safely. Specific requirements are (i) sufficient personnel and equipment must be present; (ii) you must take reasonable precautions to prevent injury to people or damage to adjacent land and property; and (iii) burning must not start between sunset and sunrise.

3. What has gone?

You are no longer legally required to notify ‘interested persons’ when you are going to burn. However, we recommend in the Code that you inform neighbours who wish to be informed. We hope that this removes the unnecessary burden of telling large numbers of people who don’t want to be told.

4. What is new?

There are new bans on burning which risk soil exposure and erosion. However, they can be breached under a licence from Natural England. The new bans are:

(a) burns must not exceed 10ha

(b) burns must not exceed 0.5ha on slopes over 45 degrees

(c) burns must not exceed 0.5ha on rocky areas (more than half rock or scree)

(d) burns must not expose bare soil over an area greater than 0.5 hectares

(e) burns must not expose bare soil along the banks of watercourses, where the bare soil extends more than 25 metres along the bank and is at least a metre wide at all points

(f) burns must not leave soil smouldering for more than 48 hours

These new bans fill a gap in existing legislation. We already have various laws requiring that burning is conducted safely and without harming wildlife, but there was nothing to protect soils.

6. How do I apply for a licence?

To summarise, you need a licence to burn outside the burning season, or if you intend to breach the bans listed above. Application forms will be available on this website before the start of the burning season.

7. What happens if I breach the Regulations?

You will be committing an offence under the Hill Farming Act 1946. If convicted, you may be liable to a fine of up to level 3 on the standard scale (currently up to £1,000).

8. What about cross-compliance?

Cross-compliance applies to adherence to the burning season and the safety requirements described in 2 above.

9. What if my land is within a SSSI?

You must apply for consent, through your local Natural England office, prior to applying for a licence. Further details can be found in the Cross Compliance Handbook for England (available through the Defra and Rural Payments Agency websites).

10. Are there other laws I should be aware of?

Yes, the Wildlife and Countryside Act prohibits any activity, including burning, which disturbs or destroys wild birds and their nests, or other protected animals and plants. It is an offence under the Ancient Monuments and Archaeological Areas Act 1979 to damage Scheduled Monuments. Various other safety and environmental legislation also applies; for instance there are bans on burning which (i) endangers the public, (ii) is likely to cause injury, interruption or danger to road users, and (iii) causes emission of smoke which is prejudicial to health or causes a nuisance.

11. It's different for railway land isn't it?

In a sense yes. You must adhere to the burning season and the safety requirements described in 2 above, but the new bans described in 4 above do not apply to railway land.