CHAPTER 30.

An Act to facilitate the burning of heather in Scotland and to extend the period in which this can be done. [4th August 1926.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Prohibition of muirburn at certain times.

1.—(1) It shall not be lawful to make muirburn or set fire to any heath or muir except before the sixteenth day of April or after the thirtieth day of September in any year: Provided that—

(*a*) It shall be lawful for the proprietor of any lands, or for the tenant with the written authority of the proprietor or of his factor or commissioner, to make muirburn or burn the heath thereon at any time during the period from the sixteenth day to the thirtieth day of April, both days inclusive; and

(*b*) Where the proprietor of any lands or his factor or commissioner has refused or has failed to give such written authority within seven days after written application therefor has been made to him by the tenant of such lands, being a tenant who is entitled under the provisions of his lease or by virtue of an order made in pursuance of the immediately succeeding section of this Act to make muirburn or burn the heath on such lands, the tenant may, after giving to the proprietor or his factor or commissioner written notice of his intention to do so, make application to the Board of Agriculture for Scotland (hereafter in this Act referred to as the Board) and the Board may on such application, if they are satisfied that it is expedient to do so, by order authorise the tenant to make muirburn or burn the heath on

such lands during the whole or part of the period last mentioned in the year to which the order relates, in accordance with the conditions contained in the lease or in the order under the immediately succeeding section as the case may be. A copy of any such order shall be sent by the Board to the proprietor or his factor or commissioner.

(2) In the case of a deer forest more than fifteen hundred feet above sea level, the foregoing subsection shall have effect as if the fifteenth day of May were substituted for the thirtieth day of April.

Regulation of muirburn by Board of Agriculture for Scotland.

2.—(1) Where the tenant of any lands is precluded by the terms of his lease or otherwise from making muirburn or burning the heath thereon in such manner or to such extent as to him seems necessary or expedient, he may, after giving to the proprietor or his factor or commissioner two weeks notice in writing of his intention to do so, make application to the Board for an order regulating muirburn on such lands.

(2) On any application under the foregoing subsection, if the Board, after such inquiry as they think fit and after considering any representations by the parties interested which may be lodged with the Board within a period fixed by them (including any representations as to the manner in which and the extent to which muirburn or the burning of the heath has been or is being carried out by the proprietor) are satisfied that it is expedient to do so, the Board may make an order regulating muirburn or the burning of the heath on such lands. Any such order may specify the lands on which, and shall prescribe the conditions subject to which, muirburn may be made or the heath may be burnt in any year during the currency of the lease:

Provided always that such order shall not authorise any muirburn or burning of the heath at any time when such burning by the tenant would be in contravention of section one of this Act. A copy of any such order shall be sent by the Board to the proprietor or his factor or

commissioner. In making any such order the Board shall have regard to—

(*a*) the interests of the proprietor, of the tenant and of any other person whom they may deem to have an interest; and

(*b*) the protection of woodlands and plantations.

When any such order shall have been made the tenant shall be entitled to make muirburn or burn the heath in accordance therewith, notwithstanding anything to the contrary in the terms of the lease or tenancy. In the event of the tenant contravening the order or failing to comply with any of the conditions thereof, the Board shall have power to rescind the order.

Offences.

3. Any person who makes muirburn or sets fire to or burns the heath or causes or procures the making of muirburn, or the setting fire to or burning of the heath on any lands in contravention of section one of this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds or to imprisonment for any period not exceeding thirty days, and in the case of a second or subsequent offence to a fine not exceeding twenty pounds or to imprisonment for any period not exceeding three months.

Repeal. 13 Geo. 3. c. 54.

4. Sections four, five, six and seven of the Game (Scotland) Act, 1772, are hereby repealed.

Construction, short title and extent.

5.—(1) In this Act the expression "tenant" means a tenant for agricultural or pastoral purposes and in the case of a common grazing includes the committee appointed under the Small Landholders (Scotland) Acts, 1886 to 1919, and the expression "lease" in relation to such common grazing includes regulations made or approved by the Land Court under the said Acts.

(2) This Act may be cited as the Heather Burning (Scotland) Act, 1926, and shall extend to Scotland only.