RURAL ECONOMY AND CONNECTIVITY COMMITTEE

FORESTRY AND LAND MANAGEMENT (SCOTLAND) BILL

SUBMISSION FROM CONFOR

Requested amendments
Confor is grateful for the opportunity to comment on the bill. These requested changes are the result of wide consultation with our members, participation in the REC Committee evidence session on 21 June (written evidence here), and detailed discussions with the Scottish Government team preparing the bill.

Confor (www.confor.org.uk) is a not-for-profit membership organisation representing the whole sustainable forestry and wood supply chain, including forest management companies, sawmills and wood processors, forestry professionals and woodland owners.

Summary

Confor would like to see changes to the bill on the following points:

1. Definitions of Sustainable Forest Management and Sustainable Development
2. Commitment to woodland expansion
3. Commitment to productive capacity of the national forest
4. Retention of professional staff
5. Compulsory purchase
6. Forestry land
7. Definition of felling
8. Felling provisions
9. Community bodies
10. Registration
11. ‘Forest’ and ‘Woodland’

1. Definitions

What is the problem?
Sustainable Forest Management and Sustainable Development should be defined in the bill. These terms are not widely understood, have sometimes been abused, and without definition have no clear framework for assessing whether they are being met. The omission of definitions from other legislation is not a good reason to omit them here.

What is our suggested solution?

1. Sustainable Forest Management
The wording of the widely-accepted definition cited in the policy memorandum should be included in the bill: “The stewardship and use of forest lands in a way and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil now and in
the future relevant ecological, economic and social functions at local, national and global levels and that does not cause damage to other ecosystems.”

2. Sustainable Development
A definition should be included, such as the one suggested in the SPICe briefing on the forestry bill:
“Development that is planned with appropriate regard for its longer term consequences [...] and] requires an integrated approached to social, economic and environmental outcomes”.2

2. Woodland Expansion
What is the problem?
Sustainable Forest Management has nothing to say about woodland expansion. The current text has no ambition in it to guide future work.

The need for more tree planting is the biggest forestry-related issue facing Scotland. There is cross-party support for increased afforestation, and planting trees is at the heart of forestry’s contribution to help meeting Scotland’s world-leading climate change targets.

Due to historic deforestation, tree cover in Scotland is only 18%, barely half the European average of 36%.

A long-term commitment to woodland expansion will help fulfil climate obligations, meet future timber demands, and provide ecosystem resilience in the face of multiple environmental threats.

What is our suggested solution?
Derive the duty on ministers in section 2 from the current mission statement of Forestry Commission Scotland:

“To protect and expand Scotland’s forests and woodlands and increase their value to the economy, society, and the environment.”

Additionally, or instead, add a third duty in section 3 (2) along the lines of:

“The forestry strategy must include details of how tree planting will take place to help meet the Scottish Government climate change targets and tackle the projected shortfall in wood supply up to 2070.”

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3. Productive Capacity of the National Forest

**What is the problem?**
In Scotland, around one third of timber comes from the public National Forest Estate, with two thirds from private forests. Around Europe, 50-90% of timber comes from publicly-owned forests; 90% of Canadian forests are publicly owned.

Because of the long-term (and considerable - £40-95m per site) nature of investment in sawmilling and panel board production, it is vital that this key part of Scotland’s forest resource is available to ensure continuity of demand to sawmillers, other wood processors, and users of Scottish wood such as housebuilders.

The 1967 Act imposed a general duty to ‘have regard to the national interest in maintaining and expanding the forestry resources of Scotland’ (8A). It is unfortunate, at a time when there is a clear national and indeed international interest in expanding our forestry resource, that this duty is being removed.

**What is our suggested solution?**
A new section at the start of Part 3 should be inserted:

“Productive capacity of [forestry land]. The Scottish Ministers must maintain or increase the timber supply from, and productive capacity of [forestry land].” (although note that we suggest a change to the term ‘forestry land’ below).

4. Retention and Role of Professional Staff

**What is the problem?**
Forestry is a highly regulated sector, with extensive and detailed rules and guidance that are applied to forest creation and management. Confor believe it is vital that those regulating forestry activity, including assessing proposals to create new forest, have a high level of knowledge of forestry. There is concern that the proposed changes to bring the team within Forestry Commission Scotland that regulate forestry more fully into a Scottish Government department could see a loss of focus on professional expertise. Confor has similar concerns regarding the new Forestry and Land Scotland organisation.

There is also a concern that professional staff will be lost in the transition to a new structure, as trained foresters may feel that the new organisation does not share the current body’s forestry ‘culture’. The forestry group within the Environment and Forestry Directorate could retain a forestry organisational identity.

The principle of ensuring forestry expertise at top level is not new: the 1967 Act specified ‘persons who have special knowledge and experience of forestry […] scientific attainments and a technical knowledge of forestry; [and …] special knowledge and experience of the timber trade.’

Keeping knowledgeable, experienced and dedicated professional foresters in key leadership positions in the public sector, both in regulating the private sector and managing
public forestry land, will be vital for maintaining standards and retaining trust in public forestry.

What is our suggested solution?
The head of the Forestry Division should have the title of Chief Forester. There are various ‘chiefs’ in the Scottish Government with different types of role. Unlike the advisory roles of the Chief Scientific Advisor, Chief Medical Officer and Chief Economist, the Chief Forester would be an executive role, more akin to the executive Chief Nursing Officer. The most similar post is that of Chief Planner. The Chief Planner is head of the Planning and Architecture Division, part of Directorate for Local Government and Communities; similarly, the Chief Forester would be head of the Forestry Division, part of the Environment and Forestry Directorate.

Key staff in the Forestry Division including the Chief Forester, the heads of Forestry Division local offices, and Woodland Officers, should be required to have a professional forestry background.

Serious consideration should be given to creating a clear and identifiable brand and identity for the forestry division within the Scottish Government, similar to, for example, Science and Advice for Scottish Agriculture (SASA).

These provisions should be incorporated in the Scottish Government’s documentation about the new Forestry Structures, published alongside the Bill.

5. Compulsory Purchase

What is the problem?
This provision grants widespread powers to Scottish Ministers with few restrictions. No case has been made for the purchase of private land for forestry or sustainable development.

What is our suggested solution?
Section 16 should be amended to make it clear that compulsory purchase powers do not extend to privately owned land.

6. Forestry Land

What is the problem?
The definition of ‘forestry land’ in sections 10 and 11 of the bill designates the entire national forest estate as forestry land, to be managed under Sustainable Forest Management. However, around one third of the estate, 200,000 hectares, is open mountain, bog, or farmland outwith any forest unit. To include this in ‘forestry land’ will result in a loss of focus in the forestry strategy, the stretching of ‘sustainable forest management’ to have little meaning, and the misrepresentation of the scale of the national forest.

An additional problem is that the term ‘forestry land’ reinforces the misconception that all Scottish forestry is in public hands.
What is our suggested solution?
The term ‘forestry land’ should be replaced with ‘national forest’

Section 10 (a) should read ‘The afforested areas of the national forest estate’;

A new provision should be made for the non-forested areas of the national forest estate to be managed elsewhere, for example including it in section 13 (2).

7. Definition of Felling

What is the problem?
The definition in section 22 ‘felling means intentionally killing a tree’ is contrary to ordinary meaning (a felled broadleaf tree is not killed; a ring-barked tree is not felled). Also, this definition implies that the work of forestry is essentially destructive.

What is the solution?
“‘Felling’ includes both the ordinary meaning, of harvesting timber by cutting down a tree, and additionally any method of intentionally killing a tree.”


What is the problem?
The Bill removes all provisions on felling, including definitions of exempt persons, places or trees, to secondary legislation. This means they can be quickly and easily amended by ministers. However, in forestry, it is only be possible to make the considerable investments required to plant trees and make long-term forest plans in the security that the regulations on felling and management are unlikely to change over the decades of the forest’s lifetime. Having the regulations in primary legislation has not hitherto caused substantial difficulties in keeping them updated. There is therefore a strong argument to keep these regulations in primary legislation.

What is the solution?
Bring the existing felling provisions over into the new primary legislation.

9. Definition of Community Body

The definition of Community Body should be the same as the definition in the Land Reform (Scotland) Act 2016.

11. Registration

It is not clear whether the registration of notices in the Land Register will replace or duplicate the registration currently carried out by the Forestry Commission. We understand that the burden of registering notices in the Land Register will fall on the relevant public body. We would like formal assurance that this is the case and that no cost or administrative burden will fall on the private sector. We are also concerned that this will be an excessively bureaucratic process and that the volume of forestry notices will cause
problems within the Land Register. We are inclined to oppose this provision unless a clearer case for it can be made.

10. Woodland

The bill uses the word ‘forest’ throughout except in section 30(3)(b) where a group of trees is described as a woodland. It would be more consistent to replace this with forest.