The Woodland Trust is the country’s leading woodland conservation charity with around 500,000 members and supporters. In Scotland we own and manage around 60 sites across more than 10,000 hectares which include the 5,000ha Glen Finglas estate in the Trossachs and 1,000ha of Loch Arkaig pinewood in the Western Highlands. The Woodland Trust also manage significant urban holdings in and around Glenrothes and Livingston. We combine the promotion of public access with forestry practice, sustainable farming, and the conservation of our natural and cultural heritage.

1. Does the Bill achieve its aims and are you in favour overall? Is there anything else that you feel should be included or excluded from the Bill?

We completely support the aims of this Bill: the full devolution of forestry governance and policy to Scottish Ministers and the urgent modernisation of the current legislative framework. We also share the ambition for greater transparency, accountability and policy alignment. However, we were very clear in our response to the consultation on the Bill that we did not support the creation of a new dedicated Forestry Division within the Scottish Government (a view shared by two thirds of respondents), preferring instead that the policy and regulatory functions of the existing Forestry Commission Scotland should sit with an Executive Agency similar to Transport Scotland, thereby preserving the current positive elements of Forestry Commission Scotland’s successful approach and culture. As this Bill does not directly create the new governance structures though, we shall not press the point here, but would direct Members to the comments from Scottish Environment LINK about the openness and accountability which could be lost under the new structure.

The inclusion of a duty to promote Sustainable Forest Management drags the old 1967 definition of forestry practice into line with current best practice, and away from a narrow focus on timber production. We are content that the definition quoted in the Policy Memorandum from the 1993 European Ministerial Conference on Forestry Protection is adequate to cover both commercial and environmental forestry objectives.

The 1967 Forestry Act contained explicit references to afforestation and new planting, but there are non-such in this Bill, although we assume that the Scottish Forestry Strategy would be very clear about the need for more trees – especially native trees - across Scotland.

The Bill places a duty to promote sustainable forestry management onto Ministers, but we feel that this could be usefully extended to all public bodies and office-holders as the 2004 Nature Conservation Act does with the duty to biodiversity. This duty might equally be usefully extended to all private landowners across the country – especially in the light of the current deer management debate.

Formally recognising the role of trained foresters within the civil service would help address the concern that professional expertise could be diluted when staff move to a division of the Scottish Government. Creating the role of a Chief Forestry Officer for Scotland would also ensure an independent expert champion for the sector within Government.
Finally, the Bill’s definition of “felling” is clearly wrong, as it excludes examples of felling which do not kill the tree (e.g. coppicing) and includes examples of killing trees which are not felling (e.g. ring barking). Confor’s suggestion that the definition of felling should be “the ordinary meaning of the term” in addition to “any method of intentionally killing a tree.”

2. What are your views on the Bill’s statutory requirement to produce a Scottish Government Forestry Strategy based on sustainable forest management?

The Scottish Forestry Strategy (SFS) is a vital policy document, guiding the commercial, environmental and social benefits of forestry in Scotland, and its new statutory status is to be welcomed. However further detail and assurance is required on the planned consultation process for drafting, and timescales for review and implementation. We would support a five yearly review because although forestry and woodland management is a long-term business, ten years is too long to leave policy and best-practice strategies unrevised. Just a quick look at the current Forestry Strategy (published 2006) shows how far thinking has moved on over the last decade.

We approve of the specific reference to the SFS’ relationship to the Land Use Strategy (LUS) and the land rights and responsibilities statement, although are concerned that section 4(a) states that the SFS should only “have regard to” the LUS and the rights and responsibilities statement, and does not require that these policies must be integrated and aligned. The LUS – and especially Regional Land Use Strategies – have to sit at the heart of the process of better integrating our land uses, agro-forestry and identifying sites for woodland expansions. Equally there is no mention of the statutory Biodiversity Strategy as required by the Nature Conservation Act of 2004, nor to the Scottish Economic Strategy, or Scottish Planning Policy, all of which need to be working together to achieve the national outcomes desired by the Scottish Government.

The current unadopted draft of the vision of the land rights and responsibilities statement states that ownership, management and use of land in Scotland should contribute to the collective benefit of the people of Scotland. The new Scottish Forestry Strategy should embed the seven principles for land ownership, use and management proposed under the rights and responsibilities statement.

3. The Bill will provide new powers to Scottish Ministers over subjects such as tree health and the ability to conduct research. What are your views on these powers?

We have no issue with the transfer of these Commissioners’ powers transferring to Scottish Ministers, as we expect them to continue to be utilised in the same way, and by the same staff, as they currently are within Forestry Commission Scotland, only now as part of the Forestry Division of the Scottish Government.

Again this is not covered directly in the Bill, but as part of the structural changes proposed by the Scottish Government a huge question mark still hangs over the future of the Forestry Commission’s current cross-border functions, Forest Research, shared standards such as the UK Forestry Standard, our contribution to the international forestry debate. We understand that all of this is currently subject to intra-Governmental negotiations through the Forestry Governance Project Board, but as the Bill’s own policy memorandum states shared standards and some tree health functions “are at risk of disintegrating because of the ongoing uncertainty.” We would urge the Rural Economy and Connectivity Committee
to press the Scottish Government to provide an update on the progress of these discussions as soon as possible.

Also, Section 61 only states that Ministers “may” conduct research, collect data, provide training etc… We understand that this allows for these activities to be outsourced to a third party at a future date, but we consider them so important that we urge that they “must” do so.

4. The Scottish Government’s intention is that the Bill should provide greater flexibility and wider powers in relation to land management, with a focus on sustainable development. The Bill also contains provisions regarding compulsory purchase. How do you feel this will work in practice?

Our response to the pre-Bill consultation explained that we were relaxed about the formation of a land management agency like “Forestry and Land Scotland” with a long-term view towards the integrated management of all publically owned land – although we continue to note the dissonance between the formation of a large new single management body and the Scottish Government's Land Reform agenda to promote a wider diversity of land ownership.

We will obviously have lots of questions about how a new agency like this will operate, and whether it will manage the national forest estate in the same way as Forest Enterprise Scotland (FES) currently does. For example will it continue FES’ outstanding work as an exemplar of deer management across Scotland? Or will there still be a programme of repositioning of the estate through something like the New Woodland Investment Programme? But we appreciate that these questions must be answered when further legislative and administrative measures are passed to set up these bodies. Section 17 gives the power to dispose of land, but a policy – or statutory requirement – will be needed to ensure that the proceeds are reinvested in new land acquisition or associated environmental projects.

Perhaps the most contentious (or confusing) element of the Bill lies in Part 3 and the confusion which it creates about the Government’s attempt to promote sustainable forest management on forestry land and sustainable development on non-forestry land.

Firstly section 10 attempts to define the meaning of “forestry land” then section 12 explains that “The Scottish Ministers must publish a description of forestry land.” It is unclear how a description is different from a definition.

Environmentalists also worry that this means that since about one third of the NFE is currently unforested (200,000ha or 3% of Scotland’s total land mass) and contains many important open-ground habitats they run the risk of inappropriate afforestation, or of not having inappropriate afforestation removed and original habitats restored.

We welcome provisions for community and charitable NGOs to manage land in the public interest, but question why section 19 redefines “a community” after the 2015 Community Empowerment Act has already done this, and set the bar lower at a minimum membership for a community body of 10, rather than 20 here. We are sure that a consistent definition would be very helpful.
Finally, on the compulsory purchase of land, we understand that this is a power which, although unused for generations Ministers are reluctant to give up. We would argue that since this power has not been exercised – to our knowledge for well over half a century – that it is not required, and Scottish Ministers should not take it on from the Forestry Commissioners for the sake of having it “just in case.”

5. The Bill will update the regulatory regime and enforcement powers for felling and restocking trees. Do you feel it is fit for purpose?
   We are aware that moving the detail of felling and restocking regulations into secondary legislation, is not universally endorsed, but we do appreciate the advantage of greater flexibility. We have personal experience of situations where loopholes in the 1967 Act would have required primary legislation in Westminster to alter, and there was little prospect of that. Provided that this secondary legislation is consulted on and scrutinised as widely as possible amongst stakeholders, we hope that fears of a “power grab” can be allayed and a modern efficient and open regulatory regime put in place.

6. Do you have any comments on the Bill in relation to human rights or equalities?
   No.

Woodland Trust
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