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Scottish Parliament
Edinburgh
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Dear Convener

Ecocide (Scotland) Bill Oral Evidence 23 September 2025 – Follow Up

Thank you for the opportunity to assist the Committee in their deliberations over the Ecocide (Scotland) Bill by providing oral evidence.

During the session, I offered to follow up with the Committee in response to Deputy Convener, Michael Matheson MSP, who asked for a “practical example from the past 10 to 20 years of an offence that the existing regulatory framework in Scotland has been insufficient to deal with and regarding which this new criminal law would have enabled us to prosecute an individual or an organisation?”

Whilst we are not able to provide Scotland-specific examples during the time frame outlined by Mr Matheson, there are two instances – in England and the Republic of Ireland, referenced below – that we can cite as examples of situations which might have been prosecuted as alleged ecocide had the necessary legal framework existed:

i. 2003 Derrybrien landslide

In October 2003, a landslide caused by the construction of a windfarm dislodged a significant quantity of peat after a period of dry weather which, after stopping and starting, entered the Derrywee River, and eventually Lough Cutra (20kms away)¹.

¹ <https://www.agriland.ie/farming-news/derrybrien-wind-farm-how-it-all-went-wrong/>

The landslide disrupted drinking water to the local town, and an assessment on the impact of the lake's wildlife showed that more than 50% of the fish in the lake had been killed due to this pollution.

In 2004, the contractors involved in the wind farm development were convicted of being responsible for the pollution; though charges against the wind farm company itself were dismissed. However, in 2008, the European Court of Justice ruled against the Irish government, on the basis that an environmental impact assessment was not properly conducted or produced prior to development².

ii. 2025 North Sea ship collision

In March 2025, a container ship - MV Solong - collided with an anchored oil tanker off the coast of east Yorkshire, resulting in a fatality, significant fires on both vessels, and a release of aviation fuel into the sea³.

In addition, small plastic pellets, or nurdles, were washed ashore along the UK's east coast, which posed an environmental threat to coastline and marine wildlife.

The ship's captain has been charged with manslaughter and gross negligence.

These are two incidents that caused widespread environmental damage, and could arguably have been considered ecocide if they took place in Scotland in the future with the legislative framework proposed by the Bill in force. The Bill in its present form would be capable of addressing incidents like these and other instances of severe environmental harm such as oil spills, river pollution, habitat destruction and unauthorised deforestation.

Serving Court Papers for Non-Scotland based Individuals or Companies

Individuals

The criminal court processes in Scotland are primarily designed for individuals rather than companies. If, for example, someone who is abroad is to be prosecuted, papers can still be served i.e. they can be sent to them; but if they then fail to appear, the only realistic option is extradition.

Theoretically, prosecutions can take place in the individual's absence, but that is highly unusual.

² C-216/06

³ <https://www.sciencemediacentre.org/expert-reaction-to-collision-between-cargo-vessel-and-oil-tanker-in-the-north-sea/>

Companies

Prosecutions of companies are generally rare in Scotland, for reasons of establishing '*mens rea*' – the guilty mind – of the company. The *HM Advocate v Transco Plc* case⁴ in 2003 highlighted these difficulties. In practice, it is less complicated to proceed against the responsible individuals.

In vicarious liability cases, however, the position is more straightforward – the commission of the crime by the individual then establishes criminal liability of the company, unless it can demonstrate reasonable precautions etc.

Educational Materials

Within our [written response](#), we raise how this Bill, if enacted, could lead to positive behavioural change in Scotland. In order to assist compliance with the new legislation, we believe it would be prudent for the Scottish Government to launch a public awareness or educational campaign to ensure people in Scotland are aware of the new criminal act, and the penalties for any violation.

I hope this follow up written evidence assists the committee's deliberations over the Bill, and we are happy to assist further if required.

Yours sincerely

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⁴ 2004 SCCR 1