



The Scottish Parliament
Pàrlamaid na h-Alba

Edward Mountain MSP
Convener
Rural Economy and Connectivity
Committee

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
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By email only

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19 September 2017

Dear Edward,

Forestry and Land Management (Scotland) Bill – Stage 1 Consideration

The Environment, Climate Change and Land Reform (ECCLR) Committee appreciates the opportunity to send a reporter to the Rural Economy and Connectivity Committee in considering the Forestry and Land Management (Scotland) Bill. The views of the ECCLR Committee on Section 3 relating to the forestry strategy, Section 8 relating to the Plant Health Act 1967 and on Part 3 Sections 13 - 20 and Part 5 are set out below. We would be pleased to discuss these with you or to provide additional information.

Consultation on the Bill

The consultation on the Future of Forestry in Scotland published in August 2016 did not ask about Section 13 of the Bill - management of land to further sustainable development - and there appears to have been no consultation on the broader land management purpose. The Committee is concerned that the consultation that informed the Bill did not seek views on the broad land management purpose and we are unaware of any evidence base underpinning the need for the provisions in Section 13. It appears that Scottish Government officials were unable to set out why the powers in Section 13 are needed or under what circumstances it would be appropriate to use these powers. The Committee would welcome clarification from the Scottish Government on these points in advance of Stage 2.

Forestry functions - the relationship of the Bill to overarching policy objectives

The Committee is unclear as to what degree wider policy objectives, including those relating to biodiversity, deer management and climate change, are reflected in the Bill and in particular, are to be taken account of in the preparation of the Forestry Strategy. We consider effective forestry management should result in multiple environmental and land management benefits and this should underpin the Forestry Strategy. The Bill could be better integrated with Scottish Government policies on biodiversity, deer

management and climate change and we encourage the Scottish Government to improve policy alignment in the Bill at Stage 2. The Committee also considers there is merit in including the need to have regard to biodiversity and deer management requirements on the face of the Bill.

Tree Health

The Committee considers cross border co-operation on the issue of tree health in the future is essential and we seek assurance that this will be a focus for the new forestry agency.

The Purpose of Part 3

The Committee remains unclear as to what the issue or problem the Part 3 provisions in relation to sustainable development are intended to address and the need for these provisions; the circumstances in which the provisions are intended to be used; how they will result in the establishment of a 'land agency' and; how this relates to the Scottish Land Commission. We would welcome further clarity on this from the Scottish Government in advance of Stage 2.

Management of Land by Scottish Ministers - Other land

The Committee understands that "other land that the Scottish Ministers manage for the purpose of exercising their functions under Section 9" (set out in Section 10(b)) relates to any land that is not in the national forest estate. However there seems to be no map or list of "other land" that Scottish Ministers own and is relevant to this part of the Bill. There appears to be considerable confusion amongst stakeholders in relation to other land, particularly on the circumstances land is managed for sustainable forest management and for sustainable development. Other land could be land near to, or in, towns and cities which should be considered. The Committee can see no justification for a difference in approach and asks the Scottish Government to reflect on this in advance of Stage 2.

Definition of sustainable development

The Committee is aware of the debate as to whether there should be a definition of sustainable development on the face of the Bill. We consider that the definition of sustainable development is widely understood and it is unnecessary to include this in the Bill. This would be consistent with other legislation recently enacted, such as the Land Reform (Scotland) Act 2016.

Duty to promote sustainable development

The Committee considers the duties to promote sustainable forest management and sustainable development in Sections 9 and 13 should also be on every relevant public body and office-holder and not just Scottish Ministers. The Committee recommends the Bill is amended to reflect this.

Definition of community body

The Committee understands that the definition in Section 19 is the definition in the 1967 Forestry Act that was amended via the Community Empowerment (Scotland) Act 2015. However, in that Act this definition of community body was used for forestry land only. This Bill applies the definition to delegation of functions on "other land" for sustainable development, so the meaning of community body in the Bill seems to be much weaker than the definition which applies to non-forestry land and sustainable development land in the Community Empowerment (Scotland) Act 2015. The Committee remains

concerned that the definition of community body in this Bill differs from the definition in previous legislation dealing with similar issues. This is confusing and the reasons for using the definition in the Bill remain unclear. We are also concerned that Sections 18, 19 and 20 of the Bill may not be necessary as these may duplicate the provisions of the Community Empowerment (Scotland) Act 2015. The Committee also has significant concerns that the Bill allows the Scottish Government to dis-apply a number of the requirements specified as determining a community body. The Committee asks the Scottish Government to reflect on this and respond to the concerns in advance of Stage 2.

Delegation of Functions to Community Bodies

The provisions in relation to delegation of functions appear to be similar to those in the Forestry Act 1967, but have wider scope and the policy memorandum states that this is contributing to the community empowerment agenda. However the Committee is unclear how this Bill adds to the community empowerment agenda or adds to what is already provided for by the Community Empowerment Act. We would welcome further clarity on this.

Acquisition, compulsory purchase and disposal of land

The Committee recognises the importance of “backstop” powers to compulsorily purchase land and is supportive of this being included in the Bill. However, the Bill goes further than the provisions in existing related legislation and gives Scottish Ministers compulsory purchase powers in order to further the achievement of sustainable development for the first time. When questioned, the Scottish Government did not provide a rationale for the extension of these powers or examples of when and in what circumstances they might be used. We would welcome further information in relation to this and suggest that the Scottish Government consider the need to issue further guidance.

Consultation

The Committee understands that a National Committee is to be established and below this there will be a series of regional fora. We consider that these regional fora should be inclusive and ensure access to advice from economic, environmental and, importantly, community stakeholders. A similar approach has worked well in the past and the Committee is keen to see a consensual approach to forestry management continue in the new organisational arrangements.

I am copying this letter, for information, to the Cabinet Secretary for Environment, Climate Change and Land Reform.

Yours sincerely,



Graeme Dey MSP
Convener
Environment, Climate Change and Land Reform Committee