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Edward Mountain MSP
Convener
Rural Economy and Connectivity Committee
c/o Clerk to the Committee
Scottish Parliament
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23 February 2018

Dear Edward,

On 5 February, I sent you a copy of our 'Forestry in Scotland' statement which sets out how the Scottish Government will manage and administer its forestry responsibilities when the devolution of forestry in Scotland is completed in April 2019.

I have been pleased with the welcome the statement has received: stakeholders seem to be broadly reassured by the further details that the statement provides on the organisational arrangements I announced in May last year. The breadth of positive response is, I believe, further evidence of the constructive, consensual, approach that I have sought to take as the Forestry and Land Management (Scotland) Bill has progressed through Parliament.

I have received a letter from Sir Harry Studholme, Chair of the Forestry Commission, who has expressed his support for the approach we are taking, including retaining the public corporation status of the agency which manages the National Forest Estate, establishing a division in the Scottish Government headed by a Chief Forester, and ensuring that strengthened cross-border arrangements are in place.

I thought that it would be helpful to share with your Committee a copy of his letter, together with others received and some published statements. Simon Hodge, Chief Executive of Forest Enterprise Scotland, has also written, setting out the very significant implications for the running of the agency, and for the availability of funding for forestry in Scotland, if the agency's current financial flexibilities were to be lost.

I hope that these will assist the Committee's preparations for Stage 3 of the Bill, which I am confident will be a positive debate that will send a strong signal of the Parliament's support for our arrangements to complete the devolution of forestry and for forestry's broad contribution to Scotland's economy, people and environment.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

I am copying this letter to Graeme Dey, Convener of the Environment, Climate Change and Land Reform Committee.

Yours sincerely,



FERGUS EWING

Letters and statements attached separately:

- Sir Harry Studholme, Chairman, Forestry Commissioners
- Simon Hodge, Chief Executive, Forest Enterprise Scotland
- BSW Timber
- Community Land Scotland
- Community Woodlands Association
- Confor
- Scottish Land and Estates
- UK Forest Products Association

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Chairman
Sir Henry Studholme, Bt.

19 February 2018



Dear Cabinet Secretary

Forestry Arrangements in Scotland

I am writing to let you know how much I appreciate your *efforts* on behalf of Forestry in Scotland, to thank you for your hard work in delivering new arrangements and to *offer* my support for the current proposals.

The setting up of the Scottish Government Agency, Forest and Land Scotland, including the retention of FES's Public Corporation status, will provide the opportunity to build on the legacy of hard work, over nearly a century, of the Forestry Commission in Scotland and its staff, in building an exemplary National Estate. This is to be welcomed. The identification of a dedicated forestry division, Scottish Forestry, within the Scottish Government headed by a Chief Forester is an important recognition of the value of Forestry within the rural economy of Scotland and the continuing need for such grounded expertise within government itself, especially with the duties placed on Ministers in relation to forestry.

New structures are of course only part of the story. The creation of an exciting future for forestry can only be made to happen by well-motivated staff. Effective cultures are important for effective government. I believe that recognition of this is implicit in the proposals. The exchange and cross-fertilization of ideas between the bodies handling forestry issues in Scotland will continue to be important. The tradition of wide consultation across all parts of the forestry world in Scotland, economic, social and environmental will remain essential to government. I believe that the new arrangements will allow for this. My colleagues and I will do what we can to support the passing on of a healthy forestry culture. It will be in the interest of future custodians of forestry in Scotland to continue these traditions. I have been reassured in my conversations with the Scottish Government and by the text of the announcement that this is intended.

Tree disease is of course blind to borders, England is a major market for Scottish timber and forestry expertise is not the exclusive preserve of any one country. Collaboration and the exchange of ideas have been one hallmark of the existing arrangements and this must continue for the benefit of all of us. In this I welcome your support for continuing cross border arrangements, including in plant health and forest standards. I look forward to building on the ongoing work with you and Scottish Government colleagues to create a stable and effective basis for future collaboration.

Change is an inherent, important and inevitable part of the political process. While we must be mindful of not losing the best aspects of the past, opportunity is only created, through change. There are no perfect solutions but I know that what is being proposed is a good and well thought through approach. It has been the subject of considerable scrutiny and a wide range of views and comments have been listened to and incorporated. This is an opportunity to be embraced. I very much look forward to continuing to work with you and the Scottish Government to help deliver a great future for the forests of Scotland.

Yours sincerely

**Sir Henry Studholme,
Chairman
Forestry Commission**

**Forest Enterprise Scotland
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Árd-Oifigear/Chief Executive
Simon Hodge FICFor

Fergus Ewing MSP
Cabinet Secretary for the Rural Economy and Connectivity
Scottish Government

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5 February 2018

Dear Cabinet Secretary,

Forest Enterprise Scotland (FES) is responsible for one third of all forestry activity and timber supply in Scotland. The agency is Scotland's most significant manager of open and agricultural land. The Estate sustains 1GW of renewable energy capacity and contributes £110M each year to Scotland's tourism economy.

FES is classed as a Public Corporation for national accounting purposes because the majority of our turnover is generated from trading income. This confers on us the flexibility to carry forward resources from one financial year to the next. This flexibility is essential to the effective running of the agency.

Our governance arrangements recognise four areas where this is critical:

- External and project related income tied to specific activity retained for investment. Recent examples of this are:
 - o Some £2M of bonds held for the restoration of opencast coal mines following the collapse of Scottish Coal.
 - o Future committed resources required to facilitate a public/private investment of £11.3M in a cabin development to create some 60 jobs in the Scottish Borders.
- Land sale and reinvestment. The agency is mandated to sell areas with low potential to deliver public benefits in order to provide resources for land acquisition and woodland creation, which would make a significant contribution to delivery of the Scottish Government's objectives. Last year we carried forward receipts of £7.1M to ensure that this is all reinvested in land acquisition and woodland creation. The end of year flexibility allows the agency to be flexible on the timing of selling assets, for example to respond to community interest. It also allows us to respond to acquisition opportunities as and when they arise, and to continue negotiations over the year end to secure better value for the tax payer.

- Short-term programming around the financial year end. Unfortunately the financial year-end falls in the middle of the tree planting season. Severe winter weather can have a major impact on planting programmes – frozen ground prevents plants being lifted at the nursery and planted in the forest. The agency invests some £18M each year in replanting and creating over 6,000ha of woodland. Weather delays can require deferral of millions of pounds of expenditure into the next financial year. This can also occur for other silvicultural and land management operations such as road building, silvicultural thinning and peatland restoration. Winter weather can also require emergency expenditure, such as to deal with the effects of a major storm; and can have a significant effect on income profile, for example where timber uplift or venison sales are seriously affected. These uncertainties are managed with carry forward reserves.
- Medium-term fluctuations in trading conditions. Trading income fluctuates over time in relation to market conditions. The agency's principal source of income is from timber sales which are notoriously cyclical in response to factors like exchange rates and housing markets. The agency is able to carry forward strategic reserves built up during times of strong trading to help sustain the agency through periods of lower income.

Last year the agency carried forward £31.5M across the four areas described above.

Because of the need to respond to market and weather conditions throughout and right up to the end of the year, it would not be practical to provide for the agency's financial flexibility through the public sector Spending Review process.

I have discussed the matter with senior SG Finance colleagues, who have provided the attached advice. It is clear that the loss of Public Corporation status and the financial flexibilities that come with it would seriously undermine the effective management of the National Forest Estate and the agency's ability to deliver forestry and land management benefits for Scotland. If that were to be the case, it seems inevitable that there would be a knock-on impact on the Scottish Government budget that currently funds a wide range of forestry activity.

Yours sincerely,

Simon Hodge
CEO, Forest Enterprise Scotland

Scottish Government Finance Advice

Classification of Bodies

The UK operates the system of National Accounts classification, based on the European System of Accounts, which enables the development of an integrated, complete system of accounts that can establish and compare significant economic activity and also allow for the production of public sector finances.

The Office for National Statistics (ONS) determines the classification of bodies: one such classification is that of a public corporation.

A body will be classified as a public corporation where:

- it is classified as a market body, i.e. the body derives more than 50% of its production cost from the sale of goods or services at economically significant prices;
- it is controlled by central government, local government or other public corporations; and
- it has substantial day to day operating independence so that it should be seen as an institutional unit separate from its parent departments.

There are a number of public corporations operating in the Scottish public sector including Scottish Water and Crown Estate Scotland (Interim Management).

Forestry Status

Forest Enterprise Scotland (FES) is currently classed as a public corporation, with approximately 80% of its funding emanating from commercial sources, largely via timber sales. Under the current programme to complete the devolution of forestry, the ONS will provide a classification determination for the new devolved body, Forestry and Land Scotland (FLS), when it takes on the FES functions.

During preparatory work for the establishment of Forestry and Land Scotland, HM Treasury and Scottish Government officials investigated the likely status of the new agency: as there is no change to the funding and therefore to the proportion of income derived from commercial sales, it is expected that the public corporation status will continue to apply when FLS takes on FES's functions. Any decision to include the functions of FCS within FLS would compromise that classification, with severe financial implications for the agency and for the Scottish Government budget.

Benefits of Public Corporation Status

The public corporation status allows bodies to utilise reserves over financial years. Reserves allow bodies to build up a working balance to help cushion the impact of uneven cash flows, provide contingency to cushion the impact of unexpected events and build up funds to meet known or predicted requirements.

The use of reserves for FES enables it to smooth out the peaks and troughs in timber sales and enables funding of fixed costs and consistent investment in key programmes

such as FES woodland creation activity and opencast restoration. Reserves have also been utilised to fund the completion of forestry devolution. Reserves also provide opportunities for multi-year management of the National Forest Estate and managing the vagaries of the weather towards the end of the financial year. Funding of £31.5M was carried forward from previous financial years to 17/18 to the spend categories identified above.

If Forestry and Land Scotland was not classified as a public corporation, it would lose the ability to carry forward such funds. Those bodies which do not have reserve powers are subject to Scottish Government budgeting whereby reserves cannot be built up and funding is allocated via the draft budget process. Although the Scottish Government has recently gained powers through the Fiscal Framework to establish a 'Scotland Reserve' this is capped at £700m, with drawdowns of £250M and £100M allowable annually for resource and capital spending respectively. Due to this reserve being utilised to manage tax revenue volatility as well as smooth spending, there is little scope to provide earmarking of funds across the board.

Fergus Ewing MSP
Cabinet Secretary for the Rural Economy and Connectivity
The Scottish Government
St. Andrew's House
Regent Road
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EH1 3DG

13th February 2018

Dear Fergus,

Forestry and Land Management Bill

As you know, BSW Timber, together with all other stakeholders in the forestry sector, has worked closely with the government throughout the Forestry and Land Management Bill procedure.

The bill-writing process was exemplary: you and your team regularly consulted with the industry and listened to all the views expressed, both positive and negative. As BSW Timber, we are happy with the Bill in its present form and with the clarifications you made in your statement published on 5th February. The concerns the industry expressed were addressed and suggestions, for example the establishment of the role of Chief Forester, were accepted and integrated into the Bill.

We do believe that the structure of the devolved forestry sector and the measures devised in the Bill will ensure that the forestry industry and government will be able to work together in a constructive way to tackle present and future challenges.

For these reasons, all Scotland-based sawmills and offices of BSW Timber and Tilhill Forestry will be writing to their local Members of the Scottish Parliament in the next few days to encourage them to support the Bill as it is, when it returns to Parliament in March. I enclose to this message an example of the letters that are being sent out to MSPs, for your information.

BSW Timber wishes you every success in the upcoming Bill debate and vote.

Yours sincerely

Martin F Gale CBE
Chairman

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Published statements welcoming the Scottish Government's 'Forestry in Scotland' statement

Community Woodlands Association

<http://www.communitywoods.org/news.php>

The Community Woodlands Association welcomes the Scottish Government's statement on how it will manage and administer its forestry responsibilities, which contains a number of commitments covering issues raised by CWA during the consultation process for the Forestry and Land Management (Scotland) Bill, notably:

- to notify the Scottish Parliament in the event that any significant changes are made to the proposed organisational arrangements,
- to designate the head of Scottish Forestry as Chief Forester, with responsibility for ensuring the development and maintenance of professional standards,
- to maintain and encourage staff movement and shared training between the division and the agency, and to retain the network of conservancies and district offices,
- and to build on the existing good national and local engagement with stakeholders.

The statement also confirms the previously announced arrangements for strong and effective cross-border working on plant health, research and common codes.

Community Land Scotland

<http://www.communitylandscotland.org.uk/2018/02/forestry-in-scotland-statement/>

This is a welcome Statement from Scottish Government on future forest management arrangements which largely meets Community Land Scotland objectives set out in our evidence to Parliament.

Fergus Ewing MSP
Cabinet Secretary for the Rural Economy and Connectivity
The Scottish Government
St Andrew's House
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8 February 2018

Dear Cabinet Secretary,

Statement on Scottish Government management and administration of forestry responsibilities

I refer to your letter of 5 February to Edward Mountain MSP enclosing the Scottish Government's statement setting out how it will manage and administer its forestry responsibilities when the devolution of forestry in Scotland is completed.

Firstly, can I welcome your publication of this statement, which addresses points and suggestions that Confor had raised as well as points raised by members of the Rural Economy and Connectivity Committee during consideration of the Forestry and Land Management (Scotland) Bill at stage 2. Confor has shared the statement with its members based in Scotland.

As you would expect, Confor has and will continue to take a particular interest in future organisational arrangements, in particular the future of Forestry Commission Scotland (FCS) and Forest Enterprise Scotland (FES), and how forestry policy can be better integrated into wider Government policies, while promoting forestry professionalism in these bodies.

The proposal for a new dedicated forestry division within the Scottish Government called Scottish Forestry, to be headed up by a Chief Forester with a remit to protect and promote professionalism is very welcome, as is the encouragement for movement between the division, the new agency called Forestry and Land Scotland, and the private sector.

The new arrangements also address the current, sometimes blurred, role of FCS as regulator of FES. While separate entities, there is a perception in the private forestry sector that FCS does not regulate FES in the same way as it does private forestry. This regulatory role should be clearer in future. As you know there was widespread agreement from stakeholders in the early stages of the Bill, that Scotland should not follow Wales' example with Natural Resources Wales (NRW). NRW contains both roles of regulator and national forest manager, and this has contributed to devastating results with the loss of huge areas of forest and virtually no new tree planting in recent years.

Your statement goes into some detail on the need for Forestry and Land Scotland to have public corporation status for the purposes of its accounts. We understand this is vital as the organisation is expected to rely heavily on trading timber for its income and needs to be able to build reserves and have flexibility across financial years. The information provided in your statement shows this carry-over was more than £30 million in the last financial year.

It is clear this public corporation status is key to the future success of the FES and to avoid 'forestry' money being lost to the sector. Confor hopes Forestry and Land Scotland continues to have the same flexibility in this respect. Your statement suggests that if FES and FCS were combined into a single agency, this carry-over funding would not be available - and a loss of £30 million to the forestry industry would clearly be a most unwelcome outcome for Confor and its members.

Confor has been pleased to contribute towards the parliamentary debate on the Forestry and Land Management (Scotland) Bill and will continue to do so ahead of the stage 3 debate, expected to take place on 1 March. The statement covers a number of different policy areas and we will be pleased to offer our views on these in the approach to the debate. However the prospect of such a great loss of funding to forestry is one that is so important to our industry that I wanted to write to you as soon as possible to make Confor's position clear.

I am copying this letter to the Conveners of the Rural Economy and Connectivity and Environment, Climate Change and Land Reform Committees, MSPs who are members of those committees and other interested stakeholder organisations.

Yours sincerely,

Stuart Goodall
Chief Executive

Our ref: SE
Your ref:

15 February 2018



Fergus Ewing MSP
Cabinet Secretary for the Rural Economy and Connectivity
The Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Cabinet Secretary,

I am writing to provide you with an update on Scottish Land & Estates' position on the organisational structures affecting the forestry sector post the passage of the Forestry Bill.

Firstly, I would like to firmly welcome the publication of the statement on how the Scottish Government will manage and administer its forestry responsibilities. We feel that the statement addresses many of the concerns we have raised in relation to the structure.

As you know, we were a signatory to a letter to you from a range of forestry interests in which we raised concerns about the proposed way forward, and requesting a meeting to discuss these concerns. Our main concern focused on the potential consequences of the change in organisational arrangements for land managers and perhaps could be linked more to cultural approach rather than specific governance/management structure. We were also seeking reassurance that forestry would retain both its skilled expertise and status following the structural change. We are grateful that these concerns were considered and addressed in the statement.

We are, therefore, sufficiently reassured by the statement and its emphasis on recruiting technically skilled staff and professional development that we do not intend to push this matter further.

Yours sincerely,

David Johnstone
Chairman

Landowners Working for the Countryside

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22 February 2018

Mr. Fergus Ewing MSP,
Cabinet Secretary for the Rural Economy & Connectivity,
St Andrew's House,
Edinburgh,
EH1 300.

Dear Mr. Ewing,

FORESTRY AND LAND MANAGEMENT (SCOTLAND) BILL

We have been watching with considerable interest the progress of the new Bill through its various stages and have also noted with interest the recently published Government statement on the arrangements for forestry in Scotland. We firmly believe that the proposed new arrangements for forestry in Scotland represent a historic development for forestry in Scotland, which will more accurately reflect the changing face of forestry and provide arrangements that are better suited to the needs of today and the foreseeable future. Furthermore, the proposed arrangements will play an important part in a renaissance of forestry in Scotland, thereby increasing the valuable economic, social and environmental benefits provided by trees, woodlands, forests and forest products. In addition, we believe that the new arrangements will usefully serve to boost business confidence in the forestry and forest products sector in Scotland, which is an essential ingredient for continued investment especially in the rural economy.

There continues to be much interest in the new arrangements across the forestry sector and there is also much enthusiasm too; there are considerable expectations and a desire to see implementation proceed apace. We hope that the Bill progresses successfully through Stage 3, it is a matter of considerable importance that the current momentum is maintained. It should be noted that if there were to be any delay in its implementation, or any uncertainty about the timetable, that this would have an adverse impact on business confidence and investment, which must be avoided. There is much work to be done and time is of the essence.

We look forward to hearing of further progress in this very important work.

Yours sincerely,

DJ Sulman
Executive Director.