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# Ecocide (Scotland) Bill

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The Ecocide (Scotland) Bill was introduced in the Scottish Parliament by Monica Lennon MSP on 29 May 2025. This Member's Bill seeks to create a criminal offence of ecocide.



18 September 2025  
SB 25-43

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# Summary and key Bill documents

The [Ecocide \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 29 May 2025.

It is a Member's Bill and was introduced by Monica Lennon MSP ('the Member in Charge of the Bill'). Information about Member's Bills, including how they are introduced and progress through the Scottish Parliament, [is set out on the Scottish Parliament website](#).

The Bill as introduced can be found on the Scottish Parliament website alongside its supporting documents which include:

- [A Policy Memorandum](#)
- [Explanatory Notes](#)
- [A Financial Memorandum](#)
- [A Delegated Powers Memorandum](#)

As a Member's Bill, the Bill and supporting documents were prepared by the Scottish Parliament's Non-Government Bills Unit (NGBU).

The lead committee for this Bill is the Net Zero, Energy and Transport (NZET) Committee. The NZET Committee [issued a Call for Views on the Bill which closed on 9 September 2025](#). Information about the Committee's scrutiny of the Bill can be found on [the Bill webpages of the Scottish Parliament](#).

Key aspects of the Bill:

- The Member's **policy objectives** in introducing the Bill are: 1) to ensure that environmental offences which meet the definition of ecocide are treated as criminal offences 2) to deter companies and individuals from acting in ways that may cause ecocide and 3) to maintain alignment with developments at EU level.
- The Bill creates a **new criminal offence of ecocide**, with maximum penalties of a custodial sentence of up to twenty years and an unlimited fine for individuals (and an unlimited fine in the case of an organisation).
- The Bill provides that **individuals and organisations** may be liable for the offence of ecocide, and sets out the circumstances where 'responsible individuals' of organisations may also be liable e.g. the director of a company.
- In addition to the penalties available, the Bill enables courts to impose **compensation orders** (to fund environmental remediation for example) and **publicity orders** (requiring a convicted person or organisation to publicise the details of the conviction).
- Scottish Ministers are required to publish a **report on the operation of the Act after five years** (after consulting with various bodies), including information on the number of offences, prosecutions and associated sentences.

# Background to the Bill

## Policy objectives of the Bill

The Policy Memorandum sets out that the Bill seeks to **prevent mass environmental damage and destruction** taking place in Scotland due to crimes of ecocide by putting in place strong punishments associated with this crime.

It goes on to set out **three main policy objectives** of the Bill:

- To ensure serious environmental offences are treated as criminal offences rather than 'regulatory' breaches.
- To act as a deterrent to individuals and companies from committing serious environmental offences, by establishing a specific, stand-alone offence with significant penalties.
- To ensure that domestic legislation maintains alignment with the EU, specifically referencing the EU Environmental Crime Directive (more information below).

The policy intent of the Bill is also described in terms of being part of a wider movement to encourage the recognition of ecocide as a crime at domestic and international levels. The Policy Memorandum states:

“ While legislating on international crime is outwith the competence of the Scottish Parliament, the Member believes that Scotland should "pave the way for the UK" by criminalising ecocide in domestic law, in line with the objectives of Stop Ecocide International...”

## Ecocide and the movement for an international crime

### What is ecocide?

Broadly speaking, the term 'ecocide' is a legal concept used to refer to the most serious environmental crimes. The [word ecocide](#) originates from combining the Greek 'oikos', meaning house/home (and later understood to mean habitat or environment), with the Latin 'cide', meaning to kill.

Early discussions in the 1970s about ecocide centred around whether there was a need for a distinct international crime tackling environmental destruction in warfare, for example caused by chemical or other weapons. This history is discussed in depth [in a 2024 report on ecocide commissioned by the Environmental Rights Centre for Scotland \(ERCS\)](#).

Over time, the 'ecocide debate' has evolved to encompass environmental harm outside of armed conflict, focusing more on the issue of serious environmental damage caused in the course of commercial or industrial operations. More recently, the debate is also commonly framed around the need to tackle the twin climate and nature crises and associated drivers of Greenhouse Gas emissions and biodiversity loss at domestic and global scales.

Central to this discussion is an ongoing campaign or 'movement' for ecocide to be adopted as an international crime via the Rome Statute of the International Criminal Court (an international treaty to which the UK is a signatory) - particularly spearheaded by [global NGO Stop Ecocide International](#).

In the [consultation on proposals for the Bill](#), the Member sets out that the Bill was inspired by the Stop Ecocide movement and by [the late Polly Higgins, a Scottish barrister and campaigner](#):

“ In the months leading up to COP26 hosted in Glasgow, I became increasingly inspired by the Stop Ecocide movement. Campaigning for ecocide law was the life’s work of Scottish lawyer and environmental activist Polly Higgins who died in 2019. Polly, who was a co-founder of Stop Ecocide International, understood that to protect nature, we need to change the rules. A motion that I lodged in the Scottish Parliament in 2021, which paid tribute to Polly and coincided with the publication of the legal definition of ecocide by an independent expert panel gained cross party support. Alongside the growing movement to make ecocide an international crime, in my view domestic law can also make a huge difference. While Scotland cannot propose an amendment to international law, we can take action to codify ecocide in domestic law.”

### **Ecocide as an international crime**

At present, [the Rome Statute of the International Criminal Court \(ICC\)](#) lists four crimes: Genocide, Crimes Against Humanity, War Crimes and the Crime of Aggression. Under the existing treaty, “long-term and severe damage to the natural environment” (which is excessive in relation to the military goal) already constitutes a crime prosecutable at the ICC as a potential war crime, but only when it occurs during wartime.

Proponents for an international crime of ecocide argue that a broader scope is needed in particular to tackle issues around corporate responsibility for their impacts on the environment (although notably the ICC only has jurisdiction over natural persons; it does not have jurisdiction to prosecute corporations).

[Stop Ecocide International](#) argue that adopting a new international crime of ecocide would "build on the existing crime of severe damage to the environment during armed conflict, whilst reflecting the fact that today, most severe environmental damage occurs during times of peace", and would offer State Parties to the Rome Statute the opportunity to meet current challenges.

### **Ecocide and environmental crime**

The Policy Memorandum states that the EU estimates that environmental crime is growing annually between 5 and 7% costing governments between 80 and 230 billion euros each year.

'Environmental crime' is a much broader term than ecocide and could involve a broad range of offences with environmental impacts - such as illegal pollution of air, water or soils, illegal dumping of chemicals or waste, illegal extraction of resources (e.g. mining, fishing or deforestation), illegal destruction of habitats or illegal trade and trafficking of wildlife.

At a global level, environmental crime is recognised as a driver of climate change, biodiversity loss, negative impacts on human health, and inequality, impacting on the ability of countries to [meet Sustainable Development Goals](#).

There has been significant work in recent years on tackling environmental crime at UN level:

- In 2017, [the UN General Assembly adopted a resolution](#), 'Preventing and combating crimes that affect the environment', which recognised environmental crime as part of transnational organised crime, aiming to raise awareness of "the growing threat that environmental crime poses to peace and security, sustainable development and environmental rule of law". [The resolution \(76/185\)](#) "calls upon Member States to make crimes that affect the environment, where appropriate, serious crimes".
- In 2016 UN Environment and INTERPOL [published a joint report titled 'A Convergence of Threats'](#) which set out that abuse of the environment is the fourth largest criminal activity in the world and is a growing threat to peace and security. Worth up to USD 258 billion, it is increasing by 5-7% per year and converging with other forms of international crime.

The [UN Office on Drugs and Crime stated in a 2024 report on environmental crime](#) that "The crime of ecocide cannot replace the consideration for criminalization of harms that affect the environment, but instead it may be a helpful complement in the most egregious or systemic cases".

### **Proposed definition for an international crime of ecocide**

Stop Ecocide International convened an Independent Expert Panel for the Legal Definition of Ecocide. This panel [put forward a proposed definition for ecocide in 2021](#), recommending it for inclusion in the Rome Statute:

“ Unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts. Where, for the purposes of the above: “Wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated; “Severe” means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources; “Widespread” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings; “Long-term” means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time; “Environment” means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space.”

In September 2024, Vanuatu (supported by Fiji and Samoa) [submitted a formal proposal to amend the Rome Statute to include the crime of ecocide to the ICC](#), for initial consideration by the ICC Working Group on Amendments, suggesting the definition proposed by the Independent Expert Panel. It suggested this definition as "[an appropriate starting point for consideration of ecocide law by States Parties](#)". A two-thirds majority is required to adopt amendments to the Rome Statute.

## **Ecocide in domestic laws and EU law**

As set out above, while the 'ecocide movement' is centred around a campaign to

recognise ecocide as an international crime, ecocide laws - or laws which may be described as comparable - have been adopted or are being developed in domestic and regional laws in a number of countries.

Regarding developments in domestic laws in other countries, the Policy Memorandum states that:

“ There are moves being made towards introducing legislation for the specific crime of ecocide across a large number of countries at present. France has already introduced legislation in 2021 to criminalise ecocide in domestic law, as has Belgium. Other EU states, including the Netherlands, are considering progressing similar legislation.”

The above-mentioned [report commissioned by ERCS in 2024](#) stated, regarding the adoption of ecocide laws at domestic and regional levels:

“ Several states are considering bills that mirror the Expert Panel’s 2021 definition. Others are pursuing their own paths, either adapting ecocide to suit their domestic context, or criminalising serious environmental harm in other forms. Following the EU’s adoption of the Directive on the protection of the environment through criminal law, we are likely to see more states introducing new serious environmental crimes, whether or not they explicitly use the term ‘ecocide.’ Our review also demonstrates that investigations to date are rare and successful cases non-existent. ***But this finding should be understood in its context: many states are in the very early stages of criminalisation.*** ”

The same [ERCS report](#) considered to what extent the definition recommended by Stop Ecocide International (which, as set out above, specifically set out to define ecocide as an international crime in the context of the Rome Statute) could be used in order to introduce a "workable domestic offence" in Scotland. It found that "there are reasons for Scotland to be cautious before simply integrating the Expert panel’s definition into domestic law", in particular suggesting consideration of:

- Creating a threshold that differentiates ecocide from existing crimes while "avoiding the Expert Panel’s overly restrictive definition of ‘wanton’" and,
- In the approach to mens rea, i.e. the level of criminal intent required for an offence to take place, considering negligence, superior responsibility (or in general, ways to ensure criminal liability of organisations sits at an appropriately senior level, avoiding the criminalisation of workers), and strict liability offences (where intent is not required, noting this is common in environmental legislation) for corporations.

### The EU context - the 2024 Environmental Crime Directive

The [2024 EU Environmental Crime Directive \(ECD\) \(2024/1203\)](#) has broadly been described as incorporating the EU’s approach to an ecocide law. The ECD came into force on 20 May 2024 (replacing the previous 2008 ECD) and Member States are required to implement the Directive in their domestic laws by 21 May 2026.

The broader aim of the ECD is to tackle environmental crime (pursuant to Article 191(2) of the Treaty on the Functioning of the EU to aim for a high level of protection for the environment) and requires Member States to ensure that certain conduct constitutes a criminal offence where it is unlawful and intentional.

The Directive further defines an offence as a "**qualified offence**" if the conduct in

question causes:

a) the destruction of, or widespread and substantial damage which is either irreversible or long-lasting to, an ecosystem of considerable size or environmental value or a habitat within a protected site, or

b) widespread and substantial damage which is either irreversible or long-lasting to the quality of air, soil or water.

Member States must ensure that qualified offences are punishable by a maximum term of imprisonment of at least eight years;

While the Articles of the ECD do not specifically refer to 'ecocide' or establish a standalone offence as such, [the preamble to the Directive states in relation to the approach of defining 'qualified offences'](#):

“ Those qualified criminal offences can encompass conduct comparable to ‘ecocide’, which is already covered by the law of certain Member States and which is being discussed in international fora.”

### **Ecocide laws in other countries (in place or under development)**

The [Ecocide Law website seeks to maintain a database](#) of existing and proposed ecocide laws in different countries and (as at 5 August 2025) lists 14 countries as having existing ecocide laws (of which EU countries include France and Belgium). Some examples of laws in place or under development are summarised here.

**Belgium:** A new criminal code passed by Belgium's federal parliament in February 2024 (entering into force in April 2026) became the first law in an EU country specifically establishing 'ecocide' as a crime, encompassing any intentional and illegal act (including by omission) which causes substantial, widespread and long-term damage to the environment with knowledge that the act causes such damage (as [translated by Freshfields](#)). Available penalties are up to 20 years for individuals convicted of the offence, and fines of up to €1.6 million for corporations. The scope of the law is limited to areas within the jurisdiction of the federal authority, including the North Sea and nuclear waste management (noting that further developments at regional governments may be forthcoming in order to implement the ECD by May 2026).

**Chile:** Chile modified its Penal Code in 2023 in relation to economic crimes, adding a new section on crimes against the environment, which, [according to Ecocide Law](#), incorporates aspects of the proposed legal definition of ecocide formulated by the Independent Expert Panel, convened by Stop Ecocide Foundation in 2021.

**France:** France's 'Climate & Resilience Act', passed in 2021, established an ecocide offence in domestic law providing for up to 10 years imprisonment for those committing offences which ([as translated by Ecocide Law](#)) "cause serious and lasting damage to health, flora, fauna or the quality of the air, soil or water." The law also required the French Government to report to the French Parliament its action taken to support the recognition of ecocide as an international crime.

### **Are other UK countries considering an ecocide law?**

There is no specific offence of ecocide in the rest of the UK.

A [UK Ecocide Bill](#) was introduced to the UK Parliament (a Private Members Bill sponsored by Baroness Boycott) on 30 November 2023, which would have established a criminal offence of ecocide in England and Wales. It did not progress past its first reading, and fell due to the dissolution of the UK Parliament before the UK general election in 2024.

Ecocide [was discussed in the UK Parliament in 2021](#) in the context of amendments to the UK Environment Bill (now UK Environment Act 2021). A proposed amendment (which was ultimately withdrawn), would, if passed, have required the UK Government to support the negotiation of an amendment to the Rome Statute to establish an international crime of ecocide (in its capacity representing the UK as party to the Rome Statute of the International Criminal Court).

The former UK Government's position, in response to the proposed amendment, was that this would detract from its other priorities at the time in relation to wider reform of the International Criminal Court and would be unlikely at that time to achieve sufficient support of state parties, whilst recognising the importance of tackling environmental crime.

The current UK Government answered a question in the UK Parliament to ask the Secretary of State for Foreign, Commonwealth and Development Affairs what discussions the UK Government has had with international counterparts on proposals for an ecocide law. Minister of State for Europe, North America and Overseas Territories, [Stephen Doughty MP responded on 19 May 2025](#):

“ Tackling the climate and nature emergency is a priority for this Government. The UK has strong regulations to protect the environment and contravention of many of these is a criminal offence. At the international level, we are aware of the proposal by Vanuatu to recognise ecocide as an international crime under the Rome Statute, in addition to the environmental protections the Statute already provides during armed conflict. We welcome the leadership shown by Pacific Island States on environmental issues and will consider this proposal in cooperation with all of our international partners.”

There have also been some recent discussions in the UK Parliament regarding whether acts of alleged environmental destruction during armed conflicts in other countries constitute ecocide - namely the [breaking of the Nova Kakhovka dam in Ukraine](#) and also [environmental destruction as a result of the war in Gaza](#).

## Existing law and enforcement of environmental legislation in Scotland

There is a large and complex body of environmental legislation in Scotland which seeks to protect the environment across a range of regulatory frameworks across e.g. the water environment, pollution prevention and control, habitat and species protection, chemicals and waste management regulation.

A **key interaction with existing law** in Scotland discussed in the Policy Memorandum is the relationship between a new offence of ecocide with [the Regulatory Reform \(Scotland\) Act 2014](#) (the 'RRA'), in particular [the existing section 40 offence](#) of causing "significant environmental harm" (see text box below for more detail).

The [Scottish Government set out that its rationale for creating this offence at the time was](#)

that other environmental offences are often focused on the breach of a regulatory requirement (e.g. operating without a licence etc) rather than on the level of actual environmental harm caused.

It is worth noting that under environmental legislation, harm to the environment is not always considered a criminal offence - a certain level of harm (or even, potentially, a significant level of harm) may be permitted or expected for example by a consented or permitted activity within a regulatory framework.

By creating a new offence focused on harm caused, with a wider range of sentencing options, the Scottish Government also aimed to allow such offences to be dealt with more effectively and proportionately, providing a deterrent and also enabling remediation in the case of significant environmental harm.

However, the Policy Memorandum for the Bill sets out the Member's view that there is a need for a further tier of criminalisation for the most serious offences:

“ The Member feels that, too often, those who commit environmental crime do not face criminal penalties or, as the Member says, that "criminal sanctions are often seen as the last resort". She also believes that environmental crimes on the scale of ecocide should not be seen as "regulatory matters" and that establishing a specific offence that firmly places the most serious environmental offences as criminal matters will send out an important signal to companies and individuals.”

It also states, regarding consideration of 'alternative approaches', such as improving enforcement of existing legislation:

“ As noted above, since 2014 there have been no convictions for causing serious harm as defined under section 40 of the RRA. The Member does not consider that simply improving enforcement of existing legislation, such as Section 40 of the RRA, would be sufficient to meet her policy objectives. Improving enforcement could not increase the penalties that could be imposed on offenders for the most serious environmental crimes under existing legislation.”

## Offence of causing significant environmental harm under the Regulatory Reform (Scotland) Act 2014

[Section 40 of the RRA](#) introduced a new offence to "act, or permit another person to act, in a way that causes or is likely to cause significant environmental harm" (or fail to act, or permit another person not to act, in a way such that the failure causes or is likely to cause significant environmental harm).

An offence under section 40 of the RRA can be committed whether or not the person intended the acts or failures to act to cause, or be likely to cause, significant environmental harm, or knew that, or was reckless or careless as to whether, the acts or failures to act would cause or be likely to cause such harm i.e. it is a strict liability offence.

Associated penalties are, on summary conviction, a fine not exceeding £40,000 and/or imprisonment for a term not exceeding 12 months, or on conviction on indictment to an unlimited fine, and/or imprisonment for a term not exceeding 5 years.

"Environmental harm" is defined in [section 17\(2\) of the RRA](#) as meaning where one or more of the following apply:

- (a) harm to the health of human beings or other living organisms
- (b) harm to the quality of the environment, including—(i) harm to the quality of the environment taken as a whole, (ii) harm to the quality of air, water or land, and (iii) other impairment of, or interference with, ecosystems
- (c) offence to the senses of human beings
- (d) damage to property, or
- (e) impairment of, or interference with, amenities or other legitimate uses of the environment.

Environmental harm is defined as "significant" if: (a) it has or may have serious adverse effects, whether locally, nationally or on a wider scale, or (b) it is caused or may be caused to an area designated in an order by the Scottish Ministers for the purposes of this section.

Section 40 (6) provides for a defence where the act or failure in question, causing environmental harm, was authorised by or carried out in accordance with certain regulatory frameworks e.g. covering certain activities regulated by SEPA.

Section 40(9) and (10) also give Scottish Ministers order-making powers to make different provision for different areas, or different types of significant environmental harm in relation to different areas. These powers have not been used to date.

Under [section 41 of the RRA](#), where a person has been convicted of an offence under section 40, the court can (in addition to, or instead of other penalties) impose a 'remediation order', ordering the person to take specified steps to remedy or mitigate the harm, if it appears to the court that it is within the power of the person to do so.

[Section 42 of the RRA](#) provides for corporate offending. Where a section 40 offence is committed by a "relevant organisation", and the commission of the offence involves the connivance or consent, or is attributable to the neglect, of a "responsible official" of the relevant organisation, the responsible official (as well as the relevant organisation) commits the offence. Section 42 goes on to define who is a "responsible official" in respect of each type of organisation e.g. in the case of a company, a director, secretary, manager or similar officer of the company.

The [Scottish Government confirmed on 12 May 2025 in response to a Parliamentary Question](#) that, based on the latest published Criminal Proceedings data (available to 2022-23) **there have been no prosecutions under section 40(1)** of the RRA (where this was the main crime).

Whilst not mentioned in the Policy Memorandum, another key aspect of the existing legal framework for environmental liability in Scotland is the [Environmental Liability \(Scotland\) Regulations 2009](#). These Regulations were introduced as a result of EU law, namely the Environmental Liability Directive (ELD). The ELD sought to reflect the 'polluter pays' principle<sup>i</sup> by making those that have caused environmental damage liable for remediation, and giving public authorities (in Scotland, Scottish Ministers, SEPA, or NatureScot depending on the type and location of environmental damage) both powers and duties to assess levels of damage and to recover funds from operators for remediation.

The Environmental Liability (Scotland) Regulations 2009 require an operator to:

- take preventive action where there is an imminent threat of environmental damage
- notify the relevant competent authority of the imminent threat of, or actual, environmental damage
- remedy any environmental damage that it has caused

It is unclear to what extent these Regulations have been 'triggered' e.g. requiring assessment of damage by public authorities or used to recover funds for environmental remediation. A [2016 review by the European Commission](#) of the effectiveness of the Environmental Liability Directive suggested a high degree of variability between Member States (however as part of this review, [UK-level data suggested](#) "environmental damage" had been confirmed under the terms of the Directive on 20 occasions in total).

## Enforcement of environmental law in Scotland

SEPA is Scotland's principal environmental regulator, [overseeing key regulatory regimes](#) in relation to water, waste, pollution and radioactive substances.

Regulation of activities impacting on the environment [is also spread across a number of other public bodies and parts of Government](#), for example:

- [NatureScot has responsibilities](#) in relation to protected areas and species;

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<sup>i</sup> The polluter pays principle is a key principle of EU law, which was brought into Scottish law following EU exit by [the UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021](#) as part of the 'guiding principles on the environment.

- [Scottish Forestry](#) in relation to regulating forestry activities;
- The [Marine Directorate of the Scottish Government](#) for various forms of marine licensing.

The Policy Memorandum and Member's consultation raise general concerns about the level of enforcement of environmental law by SEPA.

SEPA has a range of [enforcement tools \(including sanctions\) available to it in respect of environmental offences and regulatory breaches](#), underpinned by the [Regulatory Reform \(Scotland\) Act 2014](#). Civil enforcement options include issuing fixed monetary penalties, variable monetary penalties and enforcement undertakings, or alternatively, SEPA can opt to refer potential offences to the COPFS for criminal prosecution.

In practice, generally SEPA has significant discretion over the enforcement approach taken. It has a written [enforcement policy](#) which states that it will "normally seek to use a type of enforcement action that is proportionate to the significance of the offence, the level of environmental harm, the impact on communities or the level of financial benefit arising from the offending". [Specific guidance on the use of enforcement action](#) states that referring matters to the COPFS for consideration for prosecution will generally be considered for the "most serious" cases or where there is evidence of wider criminality.

SEPA and the COPFS have an agreed [Environmental Crime Protocol](#) with a view to dealing with cases consistently. [The Lord Advocate has also provided SEPA with guidance on its use of enforcement measures](#), under which the extent and significance of any environmental harm caused by the offence in question should be a "material factor" in SEPA's consideration of enforcement measures.

### **What is the risk or prevalence of ecocide in Scotland?**

[The Financial Memorandum for the Bill](#) sets out that there are very few examples of incidents in Scotland that have met the Bill's proposed definition of ecocide in recent years, and it is hoped incidents would be very rare. One reported example of significant, widespread environmental damage is set out - the MV Braer oil spill in Shetland in 1993.

However, the Member considers that "it is reasonable to assume that the likelihood of an ecocide event taking place in Scotland is increasing" in the context of ongoing depletion of the natural environment and natural resources, and "as concerns grow about a lack of corporate responsibility, where financial gain is prioritised over maintaining our environment".

For the purposes of estimating costs in the Financial Memorandum e.g. to public agencies and the courts etc, an assumption is made that an ecocide event may take place once every 10-20 years.

## **Scottish Government position on ecocide and EU alignment**

### **Memorandum from the Scottish Government on the Ecocide (Scotland) Bill**

The Scottish Government wrote to the NZET Committee (and the Finance and Public

Administration Committee) on 5 September 2025 with [a memorandum setting out its position on the Bill](#), outlining both policy and financial considerations.

The overall position of the Scottish Government on the Bill is:

“ The Scottish Government is supportive of the proposal to introduce an offence of ecocide, properly understood as being for the most extreme, wilful and reckless cases of harm. We will consider any amendments that could be needed at Stage 2 to make the Bill workable and consistent with other provisions, in addition to seeking to amend the provision on the burden of proof for the defence of necessity at section 2(3) and remove the reporting requirement at section 10. This consideration will be informed by the Committees’ consideration during Stage 1.”

Some key points set out in the Memorandum about the Bill include that the Scottish Government:

- Acknowledges "the strong support for this Member’s Bill in the public consultation and support for the introduction of the Bill across the Parliament" and agrees that the protection of our natural environment from threats of all scales is of great importance.
- Considers that it is important to recognise that there are already a wide range of criminal offences that cover activities that damage the natural environment, and a broad range of regulatory regimes for activities that can damage the environment, also highlighting the existing offence of causing significant environmental harm under section 40 of the Regulatory Reform (Scotland) Act for more serious harmful activities where specific legislation is not considered adequate for the behaviour that has caused harm.
- Considers it is "a matter of concern that there is such a degree of overlap between the proposed new offence and the existing offence in RRA" and that "it is important that the Parliament is clear about the particular circumstances that would merit the use of the proposed new offence".
- Considers "it is important to separate consideration of potential new offences from consideration of whether existing environmental law is implemented or applied effectively".

Specific points made by the Scottish Government about the provisions in the Bill are set out alongside the relevant sections below ('What the Bill does').

### **Alignment with EU law and the EU Environmental Crime Directive**

Since EU exit, the Scottish Government has had a policy commitment to maintain alignment with EU law where possible, and has also committed to considering alignment with the EU Environmental Crime Directive.

[The First Minister said on 29 May 2025](#) (in response to a question from Monica Lennon MSP in the Scottish Parliament) that the Scottish Government is "currently assessing the revised EU environmental crime directive, including its provision of higher penalties for serious environmental harm that is equivalent to ecocide".

The Policy Memorandum also touches on the inter-relationship between the Bill, alignment with the ECD and existing offences under the RRA. It sets out that the Member had met with the Scottish Government to discuss amending section 40 of the RRA as a potential

'alternative approach' to creating a new offence of ecocide and that:

“ The Scottish Government made clear during these meetings and in correspondence that it was considering the potential to modify the section 40 offence to give effect to changes similar to those in the ECD. The Scottish Government has not, at time of drafting this document, taken steps to progress this option.”

On [25 April 2024](#), Monica Lennon MSP asked the then First Minister, Humza Yousaf MSP, what the Scottish Government's response was to the ERCS report, 'Scoping a Domestic Legal Framework for Ecocide in Scotland', and he responded:

“ The Scottish Government is committed to protecting our natural environment to ensure that there are appropriate legal consequences for those who cause significant damage. I know that Monica Lennon is also committed to that objective. I welcome the report, which is a valuable contribution to the debate on how the law can best achieve the goal. The report demonstrates the complexity of considering a standalone criminal offence of ecocide, and it will take time to consider the recommendations. The Scottish Government's starting point will be to consider the new European environmental crime directive, which requires the introduction of new qualified offences where damage comparable to ecocide has been caused. It is our consistent aim to remain aligned, where appropriate, with developments in European Union law and EU environmental standards.”

On [30 November 2023](#), the (then) Cabinet Secretary for Transport, Net Zero and Just Transition, [Màiri McAllan MSP](#) similarly committed (in response to a question in the Scottish Parliament from Monica Lennon MSP) that the Scottish Government would "assess the final revised EU environmental crime directive against our own policy to seek to maintain alignment where we can with EU law".

The Scottish Government's memorandum on the Bill sets out the following on the relationship between the Bill and the EU Environmental Crime Directive:

“ The proposals can be seen as related to provisions in the revised EU Environmental Crime Directive, that we are considering under our alignment policy. The proposed offence in the Bill is somewhat different from the approach in the Directive. The Directive proposes the introduction of higher potential punishments for qualified offences covering a wide range of existing offences, with an enhanced level of punishment for more serious environmental damage. The qualified offences would apply where the offence causes "widespread and substantial damage which is either irreversible or long-lasting", which is a similar criteria as found for the offence in the Bill. However, the approach proposed in the Bill differs as it proposes to introduce a separate offence for the most serious cases, with a significantly higher level of maximum punishment than set out in the Directive.”

## Member consultation and key areas of discussion

A [consultation on a proposal for a Bill on ecocide was published on the Scottish Parliament website](#) and ran from 8 November 2023 to 9 February 2024 (at the time titled as 'Proposed Ecocide (Prevention) (Scotland) Bill: A proposal for a Bill to protect the environment in Scotland and deter environmental damage by introducing the crime of ecocide into Scots law').

A [summary of responses to the consultation has been published](#) which includes a list of respondents. It states that there were 3,379 responses (134 from organisations and 3,245 from individuals), of which: approximately 95% were fully supportive of the proposal, 3% were partially supportive, 1% fully opposed, and less than 0.5% were partially opposed (the remainder were neutral or did not express a view).

**Reasons for supporting the proposal in the consultation included:**

- it will strengthen protection of the environment and biodiversity;
- it will set an example for other countries to follow and keep Scotland at the forefront of international and European developments in environment legislation;
- it will help to preserve the planet for future generations and it will have a deterrent effect on potential offenders.

The Policy Memorandum highlights that **SEPA** responded to the consultation, taking an overall neutral position, but seeking more clarity on how the Bill would interact with the RRA, as the definition of ecocide in the Bill includes acts which would already be an offence under section 40 of the RRA.

Some **respondents who were not in favour** of the proposals for the Bill (as set out above, only 1% of respondents were 'fully opposed') considered that existing environmental law was sufficient, and there could be negative impacts on industry. Some respondents who were supportive of the proposals 'in part' or 'in principle', raised questions around to what extent a new offence of ecocide would have a significant impact on the key and complex drivers of environmental degradation. For example, issues raised include:

- The need for robust enforcement of the existing environmental law, and related issues of environmental 'governance' such as resourcing and capacity of key regulators, and
- The significance of the cumulative effects of human activity on the environment compared to single, major incidents (including by lawful or consented activities for example, or 'lower level' breaches of regulations)
- How a new offence would interact with or complement the existing law (such as section 40 of the RRA - see above) to avoid duplication or overlap and add value

The above-mentioned 2024 ERCS report on incorporating ecocide into domestic law similarly makes this link to the wider issue of enforcement of environmental law:

“ There is an argument that the main drawback to existing environmental regulation is not (only) the absence of serious environmental crimes, but the inability of environmental protection agencies and other state bodies to identify and respond to breaches of those regulations. If this is the case, introducing a new crime is unlikely to make a substantial difference to the risks of environmental harm, unless it is accompanied by renewed investment in making enforcement possible.”

# What the Bill does (with background)

The Bill is split into two Parts:

- Part 1 (sections 1-9) covers the offence of ecocide, defence of necessity, attribution of liability to individuals and through vicarious liability, and establishes penalties and enforcement powers.
- Part 2 (sections 10-13) provides for reporting on the operation of the Act, ancillary provisions and provisions for commencement and the short title of the Act.

## Offence of ecocide (section 1)

**Section 1** of the Bill establishes a **new statutory offence of ecocide**.

A person commits an offence if (under section 1(a)) the person **causes severe environmental harm**, and (under section 1(b) the person either (i) **intends to** cause environmental harm, or (ii) **is reckless** as to whether environmental harm is caused.

### What does 'severe environmental harm' mean?

Section 1(2) provides that for the purposes of section 1, "environmental harm" has the same meaning as in [section 17\(2\) of the Regulatory Reform \(Scotland\) Act 2014](#) (see below text box).

#### Meaning of "environmental harm"

Under [section 17\(2\) of the Regulatory Reform \(Scotland\) Act 2014](#), "environmental harm" means one or more of the following apply:

- (a) harm to the health of human beings or other living organisms
- (b) harm to the quality of the environment, including—(i) harm to the quality of the environment taken as a whole, (ii) harm to the quality of air, water or land, and (iii) other impairment of, or interference with, ecosystems
- (c) offence to the senses of human beings
- (d) damage to property, or
- (e) impairment of, or interference with, amenities or other legitimate uses of the environment.

Section 1(2)(b) of the Bill provides that that environmental harm is 'severe' if it (i) has **serious adverse effects** and (ii) is either (A) **widespread** or (B) **long-term**.

The Bill goes on to then define what is meant by 'widespread' or 'long-term':

- **'Widespread'** means the environmental harm "extends beyond a limited geographical area, to impact upon an ecosystem or species or a significant number of human beings, either directly or indirectly" (section 1(2)(c))

- **'Long-term'** means if environmental harm "is irreversible or is unlikely to be reversed through a process of natural recovery within 12 months of the environmental harm occurring" (section 1(2)(d).

## Background

The Policy Memorandum states regarding the definition of ecocide in the Bill that whilst the terms of the definition have been considered very carefully, further consideration of this is welcomed during Stage 1 scrutiny of the Bill, for example the extent to which terms such as 'limited geographic area' require to be defined.

A further key consideration was whether the offence should be a 'strict liability' offence, omitting the requirement for intent or recklessness, but it was felt it was essential that individuals should be required to have some degree of intent or recklessness. The Policy Memorandum states that the Member felt it was essential that the law "ensures individuals are treated in line with natural justice".

The consultation on proposals for the Bill had set out a proposed definition of ecocide which more closely mirrored the definition proposed by the Stop Ecocide International Expert Panel (see above), of "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the Scottish environment being caused by those acts". The Policy Memorandum notes that concerns were raised by respondents about the use of the terms "wanton" and "unlawful" e.g. around legal uncertainty around the meaning of the terms, and the definition was amended to reflect those concerns.

The exclusion of the term "wanton" by the Bill appears to accord with commentary on the proposed Stop Ecocide International definition in a [2024 UNODC international review of legislative approaches to environmental crime](#):

“ While adopting ecocide laws may help to reduce environmental harm, the definitional thresholds may be a barrier to prosecution when the crime of ecocide requires proving wanton or knowing mental states or the known likelihood of significant harm to the environment.”

## Scottish Government memorandum

The Scottish Government suggests the following issues should be taken into account in scrutiny of this provision at Stage 1:

- Consideration of what circumstances would make it more appropriate to prosecute under the proposed ecocide offence rather than the existing RRA s.40 offence.
- Consideration of the need to prove intention or recklessness and whether this would this make it more difficult to convict under the offence of ecocide than the offence in the RRA.

## Defence of necessity (section 2)

**Section 2** of the Bill provides for a statutory defence of necessity. Section 2(1) sets out that it is a defence for a person charged with ecocide to show that the behaviour which caused the harm:

(a) was carried out **in order to prevent greater harm**, and

(b) in order to prevent that harm, was (i) **necessary** and (ii) **reasonable**.

Section 2(2) provides that "harm" under section 2(1) above does not include financial loss. Section 2(3) provides that it is for the person charged with ecocide to establish, on the balance of probabilities, that the person has the defence.

## Background

The Policy Memorandum sets out that this was included because there may be "very rare" circumstances where a person could conceivably act in a way that may risk ecocide to prevent a greater harm, such as "avoiding significant loss of human life".

### Scottish Government memorandum (suggesting amendment to section 2)

The Scottish Government set out in its memorandum on the Bill that it "is concerned that section 2(3) of the Bill, that places a requirement for the accused to establish their defence of necessity on the balance of probabilities, is very likely to be incompatible with the Article 6(2) of the European Convention of Human Rights". It considers that this provision should be amended if the Bill proceeds beyond Stage 1.

The Scottish Government also suggests that Stage 1 scrutiny of section 2 should include "consideration of the appropriateness of the absence of other defences provided for in the RRA s.40 offence, and of the application of the offence to the Crown".

## Individual culpability i.e. who can be liable (section 3)

Under the Bill, the offence of ecocide can be committed by a natural person (not acting on behalf of an organisation) or it can be committed by an organisation, or both.

**Section 3** of the Bill provides for individual culpability where an organisation commits ecocide.

Section 3(1) provides that section 3 applies where (a) ecocide is committed by a **relevant organisation**, and (b) the commission of the offence of ecocide involves **consent or connivance** on the part of a **responsible individual**.

(NB/ There is a notable difference here to how individual culpability is framed for a section 40 offence under the RRA, where the commission of the offence must involve the connivance or consent, or be attributable to the neglect, of a responsible official).

Section 3(4) of the Bill goes on to provide a table (reproduced below) showing the meaning of "relevant organisation" (i.e. one of the types listed), and for each of those types of organisation, who the corresponding "relevant individual" may be.

Section 3(2) also sets out that the responsible individual, as well as the relevant organisation, commits ecocide.

Relevant organisation	Individual
Company as mentioned in section 1 of the Companies Act 2006	Director, secretary or other similar officer or, where the company's affairs are managed by its members, member
Limited liability partnership	Member
Other partnership	Partner
Any other body or association	Individual who is concerned in the management or control of its affairs

## Background

The Policy Memorandum sets out that the policy intention is to ensure that the Bill targets individuals at a sufficiently senior level of an organisation i.e. with sufficient control and oversight, whilst also not inadvertently excluding those who should be prosecuted through any 'loopholes'.

### Scottish Government memorandum

The Scottish Government suggests that at Stage 1, consideration is given to the "potential impact of this section on the functioning of public authorities, including local authorities".

## Vicarious liability (section 4)

Section 4 provides for vicarious liability in the instance where a person commits ecocide and, at the time of the offence, that person (person 'A') is acting as the employee or agent of another (person 'B'). In that instance, both persons are deemed to commit ecocide. Proceedings may be taken against person B regardless of whether or not proceedings are also taken against person A.

It is a defence for person B to show that a) they did not know that A was committing ecocide, b) no reasonable person could have suspected that A was committing ecocide, and c) they took all reasonable precautions and exercised all due diligence to prevent ecocide being committed.

### Background

[Vicarious liability in law](#), means the liability of a party for the actions or omissions of another party e.g. in cases of employer and employee relationships. For example, vicarious liability provisions are in place [for certain "relevant offences" in the Regulatory Reform \(Scotland\) Act 2014 \(section 38\)](#).

The Policy Memorandum for the Bill states that this provision "will assist to ensure that those who benefit from offending behaviour are held accountable".

It is worth noting therefore that a person could be held liable for ecocide under the Bill (in addition to under section 1 directly) as:

- The "responsible individual", where the relevant organisation has committed ecocide with the "consent or connivance" of that individual (section 3), where the onus would be on the prosecutor to show that "consent or connivance", or
- The employer of an individual who commits ecocide, where the onus is then on the employer to demonstrate that they did not know about the offence, could not reasonably have suspected it and took all reasonable precautions to prevent it

(section 4).

In other words, there are key differences between the provisions around corporate liability, which also potentially provide for alternative routes to prosecution.

## Penalties, compensation and publicity (sections 5-8)

### Penalties

**Section 5** of the Bill provides that an individual who commits ecocide is liable on conviction on indictment to a) imprisonment for a term not exceeding 20 years, or b) such imprisonment and an unlimited fine. In any other case (i.e. where an organisation commits the offence), the penalty on indictment is an unlimited fine.

**Section 6** of the Bill requires the court, when determining the amount of any fine imposed, to have regard to any financial benefit which has accrued or is likely to accrue in consequence of the offence.

### Compensation orders

**Section 7** of the Bill allows a court where a person is convicted of ecocide, instead of or in addition to other penalties or measures, to make a 'compensation order' requiring that person to pay compensation to another person for:

- a) any personal injury, loss or damage caused to the person or the person's property, whether directly or indirectly, by the offence
- b) costs incurred or to be incurred by the person in preventing, reducing, remediating or mitigating the effects of any harm (to the environment or otherwise), loss, damage or adverse impacts resulting from the offence.

### Publicity orders

**Section 8** of the Bill also allows a court (in addition to dealing with the person in any other way) to make a 'publicity order' requiring the person convicted to publicise that they have been convicted of ecocide, specifying the particulars of the offence and sentence passed.

The publicity order must specify a time period within which the order is to be complied with, and may require the convicted person to supply evidence of compliance to SEPA. Failure to comply with a publicity order is an offence, liable on summary conviction to a fine not exceeding £40,000 or, on conviction on indictment, to an unlimited fine.

### Background

The Policy Memorandum compares the penalties in section 5 of the Bill to the section 40 offence in the RRA, where maximum penalties (on indictment) are an unlimited fine, and/or imprisonment for a term not exceeding 5 years. It notes that the penalties in the Bill are significantly higher and states that this will strengthen the legal framework "for the most serious environmental crimes", ensuring that robust punishments are available to courts.

It also states regarding fines, that while the level of fine in any case would be for a court to

determine, it is envisaged that could constitute a percentage of the annual profit of an organisation "at a level that would have a notable impact on the organisation".

Similarly, the policy aims of sections 6, 7 and 8 broadly all relate to encouraging individual and corporate responsibility and seeking to provide a strong deterrent in law to causing serious environmental damage, as well as providing a route for compensation to remediate the effects of harm caused.

The approach in section 7 to compensation orders could also be compared (or contrasted) with the approach in the RRA, where under the existing law, offenders guilty of a section 40 RRA offence can be required to, rather than pay compensation to another person to carry out remediation, take steps themselves "in order to remedy or mitigate the harm". In other words, the Bill takes a different approach which assumes that the task of remedying or mitigating damage caused by an ecocide event falls externally to the offender.

The Policy Memorandum also sets out that the Member considered other measures which focus on reputational impact, such as restricting convicted persons from holding certain positions or holding public office, and may consider seeking to amend the Bill at Stage 2 subject to discussions at Stage 1.

## **Enforcement (section 9)**

Section 9 of the Bill amends section 108 of the Environment Act 1995 ('1995 Act') to allow the enforcement powers of a relevant "enforcing authority" under that section to be applied to investigating a potential offence of ecocide.

An "enforcing authority" under this section includes Scottish Ministers, SEPA and local authorities in relation to certain regulatory functions.

That section of the 1995 Act also empowers the enforcing authority to authorise, in writing, other persons who appear to be suitable to exercise certain enforcement powers.

Enforcement powers include, for example, to enter premises under certain circumstances, examine premises and take samples of substances or articles in order to investigate whether specified environmental offences have been committed.

### **Background**

As set out above, SEPA is the principal environmental regulator in Scotland and oversees key regulatory regimes. The Policy Memorandum sets out that the enforcement powers in the Bill are consistent with those already available to SEPA.

## **Reporting (section 10)**

**Section 10** of the Bill requires Scottish Ministers to prepare and publish a report on the operation of 'this Act' and lay a copy before the Scottish Parliament, not later than 6 months after the end of the "review period" (5 years after section 1 comes into force).

The report must include information on:

- The reported number of crimes of ecocide
- The number of cases in which criminal proceedings for ecocide are brought, number of convictions and associated sentences
- The amount of money recovered as a result of convictions
- An assessment of the overall damage caused by the acts resulting in convictions
- The cost to the public sector of the overall damage caused by acts resulting in convictions.

Scottish Ministers must consult and share a draft with SEPA, Environmental Standards Scotland (ESS), NatureScot, the Crown Office and Procurator Fiscal Service, the chief constable of the Police Service of Scotland, the Scottish Fire and Rescue Service, Scottish Courts and Tribunals Service, and such other persons as considered appropriate by Scottish Ministers. Scottish Ministers may also modify this list (of persons to be consulted) by regulations.

### **Scottish Government position (suggesting removal of this provision)**

The Scottish Government set out in its memorandum to the Bill that it believes that the reporting requirement "is inconsistent with the likely frequency of any ecocide offences" and although it is "not a particularly onerous requirement", it "risks misleading the public as to the likely frequency of any prosecutions". The Scottish Government suggests that the reporting requirement should be removed from the Bill through amendment.

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