

# Forestry and Land Management (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 75  
Long Title

Schedules 1 to 3

Amendments marked \* are new (including manuscript amendments) or have been altered.

### After section 1

#### Colin Smyth

29 After section 1, insert—

##### <Purpose of Act

The purpose of this Act is to—

- (a) promote the sustainable management of forest resources in Scotland to deliver social, economic and environmental benefits of forestry in Scotland, and
- (b) promote the management of land to further sustainable development.>

### Section 2

#### Colin Smyth

30 In section 2, page 1, line 19, at end insert—

<( ) A Scottish public authority must, in exercising any of its functions, promote sustainable forest management so far as is consistent with the proper exercise of those functions.>

### Section 3

#### Fergus Ewing

31 In section 3, page 2, line 1, at end insert—

<( ) must set out a vision for forestry in Scotland,>

#### John Finnie

3 In section 3, page 2, line 7, at end insert—

<( ) the creation of woodland,>

#### Peter Chapman

41 In section 3, page 2, line 8, at end insert—

<( ) targets for the planting of trees,>

**Graeme Dey**

4 In section 3, page 2, line 16, at end insert—

<( ) If the Scottish Ministers have not revised the forestry strategy under subsection (4)(b) within the period of 9 years beginning with the day on which the strategy was last published, they must revise the strategy.>

**Section 4**

**Fulton MacGregor**

32 In section 4, page 2, line 19, at beginning insert <publish a draft of the strategy and>

**Claudia Beamish**

33 In section 4, page 2, line 25, at end insert—

<( ) Article 2 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change.>

**Claudia Beamish**

34 In section 4, page 2, line 25, at end insert—

<( ) the code of practice on deer management (drawn up under section 5A of the Deer (Scotland) Act 1996).>

**Claudia Beamish**

35 In section 4, page 2, line 25, at end insert—

<( ) the Scottish Biodiversity Strategy (prepared under section 2 of the Nature Conservation (Scotland) Act 2004).>

**Fergus Ewing**

36 In section 4, page 2, line 25, at end insert—

<( ) The forestry strategy must be prepared and revised with a view to achieving consistency, so far as practicable, between the objectives, priorities and policies set out in the strategy and the Scottish Ministers' other functions.>

**Section 5**

**Fulton MacGregor**

37 In section 5, page 2, line 29, at end insert—

<(3) When complying with subsection (1), the Scottish Ministers must also publish a report setting out—

- (a) the consultation process undertaken in order to comply with section 4(a), and
- (b) the ways in which views expressed during that process have been taken account of in preparing or revising the forestry strategy.

(4) The Scottish Ministers must lay a copy of a report under subsection (3) before the Scottish Parliament.>

## Section 6A

### Graeme Dey

5 In section 6A, page 3, line 15, at end insert—

<( ) steps taken in the reporting period to keep the forestry strategy under review.>

### Fergus Ewing

6 In section 6A, page 3, leave out lines 19 to 22 and insert <the period of 3 years beginning with the day on which the forestry strategy was last published and each subsequent period of 3 years.>

## After Section 6A

### Peter Chapman

38 After section 6A, insert—

*<Duty to make arrangements for research*

#### **Duty to make arrangements for research in relation to the promotion of sustainable forest management**

The Scottish Ministers must make arrangements for the carrying out of research in relation to matters relevant to their duty to promote sustainable forest management.>

## After section 11

### Andy Wightman

7 After section 11, insert—

*<Forestry information*

#### **Duty to publish information on forestry**

- 5 (1) The Scottish Ministers must gather and publish in such manner as they consider appropriate information on forest holdings in Scotland that do not fall within forested land as defined in section 10.
- (2) The information to be gathered must include in particular information on the—
- 10 (a) extent,  
(b) natural characteristics,  
(c) ownership, and  
(d) management,  
of such forest holdings.
- (3) The Scottish Ministers may by regulations make further provision about the information to be gathered for the purposes of this section.
- 15 (4) Regulations under subsection (3) may in particular make provision about whether the information is to be in the form of a statistically representative sample of, or comprehensive information on, all such forest holdings.
- (5) Information under this section must be—
- (a) first published no later than 3 years after the day of Royal Assent,

- 20 (b) subsequently published no later than 5 years after the date of the previous such publication.>

**Fergus Ewing**

- 7A As an amendment to amendment 7, line 8, leave out <extent> and insert <area>

**Fergus Ewing**

- 7B As an amendment to amendment 7, leave out line 9

**Fergus Ewing**

- 7C As an amendment to amendment 7, line 10, leave out <ownership, and> and insert <proprietorship,>

**Fergus Ewing**

- 7D As an amendment to amendment 7, leave out line 11

**Fergus Ewing**

- 7E As an amendment to amendment 7, line 18, leave out subsection (5)

**Section 16**

**Edward Mountain**

- 1 In section 16, page 6, leave out line 5

**Section 17**

**Fergus Ewing**

- 8 In section 17, page 6, line 19, leave out from <for> to end of line 21

**Section 22**

**Fergus Ewing**

- 9 In section 22, page 7, line 22, at end insert—  
<“temporary stop notice” means a notice given under section (*Temporary stop notices*)(2).>

**After section 28**

**Fergus Ewing**

- 10 After section 28, insert—

**<Variation of felling permission**

- (1) The Scottish Ministers may vary a felling permission—
- (a) by agreement with the person to whom the felling permission was granted,
  - (b) if the Scottish Ministers have reason to believe that, to prevent or minimise harm to the environment or to any living thing—
    - (i) in a case where felling has not begun, felling should not begin,

- (ii) in a case where felling has begun, felling should stop immediately.
- (2) The Scottish Ministers must give a notice varying a felling permission under subsection (1)(b) to the person to whom the felling permission was granted.
- (3) The notice must—
  - (a) set out the Scottish Ministers’ reasons for making the variation,
  - (b) specify the effect of the variation on the felling permission, and
  - (c) specify the date on which the variation takes effect (which must not be earlier than the date on which the notice is given under subsection (2)).>

**Fergus Ewing**

**11** After section 28, insert—

**<Suspension of felling permission**

- (1) The Scottish Ministers may suspend a felling permission if subsection (2) or (3) applies.
- (2) This subsection applies if the Scottish Ministers have reason to believe—
  - (a) that a felling permission has not been complied with, is not being complied with or is likely not to be complied with,
  - (b) that that has resulted in, is resulting in, or is likely to result in, harm to the environment or to any living thing, and
  - (c) that, for the purpose of allowing the Scottish Ministers to investigate the circumstances mentioned in paragraphs (a) and (b)—
    - (i) in a case where felling has not begun, felling should not begin,
    - (ii) in a case where felling has begun, felling should stop immediately.
- (3) This subsection applies if the Scottish Ministers have reason to believe that, to prevent or minimise harm to the environment or to any living thing—
  - (a) in a case where felling has not begun, felling should not begin,
  - (b) in a case where felling has begun, felling should stop immediately.
- (4) The Scottish Ministers must give a notice suspending a felling permission to the person to whom the felling permission was granted.
- (5) The notice must—
  - (a) set out the Scottish Ministers’ reasons for making the suspension,
  - (b) specify the effect of the suspension on the felling permission,
  - (c) specify the date on which the suspension takes effect (which must not be earlier than the date on which the notice is given under subsection (4)), and
  - (d) specify the period for which the suspension is to have effect.>

**Fergus Ewing**

**12** After section 28, insert—

**<Revocation of felling permission**

- (1) The Scottish Ministers may revoke a felling permission if—

- (a) the Scottish Ministers have reason to believe that, to prevent or minimise harm to the environment or to any living thing—
    - (i) in a case where felling has not begun, felling should not begin,
    - (ii) in a case where felling has begun, felling should stop immediately, and
  - (b) they consider that the harm cannot be prevented or minimised by the variation or suspension of the felling permission.
- (2) The Scottish Ministers must give a notice revoking a felling permission to the person to whom the felling permission was granted.
- (3) The notice must—
- (a) set out the Scottish Ministers’ reasons for making the revocation, and
  - (b) specify the date on which the revocation takes effect (which must not be earlier than the date on which the notice is given under subsection (2)).>

**Before section 42**

**Fergus Ewing**

**13** Before section 42, insert—

*<Temporary stop notices*

**Temporary stop notices**

- (1) Subsection (2) applies if—
  - (a) the Scottish Ministers have reason to believe that a tree is being felled and—
    - (i) the felling is not exempt under section 24, and
    - (ii) the felling is not carried out in accordance with a felling permission, a felling direction, a restocking direction, a registered notice to comply, a remedial notice or a registered remedial notice, and
  - (b) the Scottish Ministers consider it expedient that the felling (or other activity related to the felling) should stop immediately.
- (2) The Scottish Ministers may give a notice (a “temporary stop notice”).
- (3) A temporary stop notice must—
  - (a) specify the activity which the Scottish Ministers believe is being carried out,
  - (b) prohibit the carrying out of that activity (or of so much of the activity as is specified in the notice),
  - (c) specify the land in relation to which that activity is prohibited,
  - (d) specify the period during which the notice has effect,
  - (e) contain a statement about the effect of section (*Temporary stop notices: offence*), and
  - (f) set out the Scottish Ministers’ reasons for giving the notice.
- (4) A temporary stop notice may impose conditions.
- (5) The Scottish Ministers may vary or revoke a temporary stop notice (including any condition imposed on it).

- (6) The Scottish Ministers must display on the land to which the temporary stop notice relates—
  - (a) a copy of the notice, and
  - (b) a statement about the effect of section (*Temporary stop notices: offence*).
- (7) A copy of a temporary stop notice may be given to—
  - (a) a person who the Scottish Ministers believe is carrying out the activity,
  - (b) the owner of the land to which the temporary stop notice relates (if the owner is not the person who is given the notice under paragraph (a)).
- (8) A temporary stop notice has effect from the time a copy of it is first displayed in accordance with subsection (6).
- (9) A temporary stop notice ceases to have effect—
  - (a) at the end of the period of 28 days beginning with the day on which a copy of the notice is first displayed,
  - (b) if a shorter period beginning with that day is specified in the notice, at the end of that shorter period, or
  - (c) if the notice is revoked by the Scottish Ministers before the end of the period mentioned in paragraph (a) or (b), when it is revoked.
- (10) A person may stop any activity specified in a temporary stop notice despite any provision in any agreement relating to the trees or the land to which the notice relates that would otherwise prevent the person from stopping the activity.
- (11) The Scottish Ministers may enter the land to which the temporary stop notice relates in order to monitor compliance with the notice.
- (12) When a temporary stop notice has effect, the Scottish Ministers must not—
  - (a) grant an application for felling permission in relation to a tree that is located on land to which the notice relates,
  - (b) give a felling direction in relation to a tree that is located on land to which the notice relates,
  - (c) give a restocking direction in relation to land to which the notice relates.>

### **Fergus Ewing**

**14** Before section 42, insert—

**<Temporary stop notices: offence**

- (1) A person commits an offence if the person fails, without reasonable excuse, to comply with a temporary stop notice (including any condition imposed on it)—
  - (a) a copy of which has been given to the person, or
  - (b) a copy of which has been displayed in accordance with section (*Temporary stop notices*)(6).
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.>

## **Fergus Ewing**

**15** Before section 42, insert—

### **<Temporary stop notices: compensation**

- (1) A person who—
- (a) on the date on which a temporary stop notice is first displayed under section *(Temporary stop notices)*(6), has a right or interest in or over the land to which the notice relates, and
  - (b) suffers loss directly attributable to the prohibition of felling (or other activity related to the felling) effected by the temporary stop notice,
- is entitled to compensation in accordance with provision made in regulations made by the Scottish Ministers.
- (2) But subsection (1) applies only if—
- (a) the felling (or other activity related to the felling) prohibited by the temporary stop notice—
    - (i) is exempt under section 24, or
    - (ii) is carried out in accordance with a felling permission, a felling direction, a restocking direction, a registered notice to comply, a remedial notice or a registered remedial notice, and
  - (b) the temporary stop notice has been revoked.
- (3) Regulations under subsection (1) may, in particular, include provision about—
- (a) the procedure for applying for compensation,
  - (b) the information to be provided in applications,
  - (c) the way in which the amount of compensation is to be determined,
  - (d) the way in which any disputes about compensation are to be determined,
  - (e) appeals about decisions relating to compensation.>

## **Section 52**

### **Fergus Ewing**

**16** In section 52, page 20, line 3, after <sections> insert <*(Temporary stop notices)*,>

### **Fergus Ewing**

**17** In section 52, page 20, line 10, after <section> insert <*(Temporary stop notices)*,>

## **Section 53**

### **Fergus Ewing**

**18** In section 53, page 20, line 27, after <section> insert <*(Temporary stop notices)*,>

## **Section 54**

### **Fergus Ewing**

**19** In section 54, page 20, line 34, after <sections> insert <*(Temporary stop notices)*,>



**Fergus Ewing**

- 20 In section 54, page 21, line 30, at end insert—  
<( ) section (*Temporary stop notices*)(11),>

**Section 59**

**Fergus Ewing**

- 21 In section 59, page 23, line 20, after <36,> insert <(Temporary stop notices: offence),>

**Section 60**

**Fergus Ewing**

- 22 In section 60, page 24, line 7, at end insert—  
<( ) a decision to vary, suspend or revoke a felling permission,>

**Section 64A**

**Fergus Ewing**

- 23 Leave out section 64A

**After section 64A**

**Claudia Beamish**

- 39 After section 64A, insert—

**<Arrangements for carrying out forestry and land management functions**

- 5 (1) The Scottish Ministers must, in making administrative arrangements for the purposes of carrying out their forestry and land management functions, establish a single agency or similar body comprising all members of staff of the Scottish Administration involved in carrying out such functions.
- (2) For the purposes of this section, “forestry and land management functions” means—
- 10 (a) the Scottish Ministers’ functions under this Act,
- (b) such other functions relating to or in connection with forestry and land management as the Scottish Ministers may determine.>

**Stewart Stevenson**

- 39A As an amendment to amendment 39, line 4, leave out from <a> to <carrying> in line 6 and insert <2 agencies to carry>

**Colin Smyth**

- 39B As an amendment to amendment 39, line 5, leave out <similar body> and insert <two agencies>

**Andy Wightman**

**39C** As an amendment to amendment 39, line 6, at end insert—

- <(1A) Further provision about the structure, governance and powers of the agency or similar body established under subsection (1) may be made only by Act of the Scottish Parliament.
- (1B) The Scottish Ministers must, within 2 years beginning with the day of Royal Assent, bring forward proposals for legislation under subsection (1A).
- (1C) In subsection (1B), "bring forward proposals for legislation" means introduce a Bill for an Act of the Scottish Parliament.>

**Stewart Stevenson**

**39D** As an amendment to amendment 39, line 8, leave out <this Act> and insert <Parts 2 to 4 and sections 61 to 64>

**Gail Ross**

**40** After section 64A, insert—

**<Report on operation of administrative arrangements**

- (1) The Scottish Ministers must, as soon as practicable after the end of the 5 year period, lay before the Scottish Parliament a report on the operation of the administrative arrangements for the carrying out of relevant functions during that period.
- (2) In this section—
  - “relevant functions” means the Scottish Ministers’ functions under Parts 2 to 4 and sections 61 to 64,
  - “the 5 year period” means the period of 5 years beginning with the day on which section 2 comes into force.
- (3) The report must, in particular, set out how the administrative arrangements have operated in relation to—
  - (a) the governance of any agency,
  - (b) the roles and responsibilities of senior officers of any such agency,
  - (c) the financial reporting and accountability of any such agency,
  - (d) the establishment of any advisory groups to assist the Scottish Ministers in carrying out relevant functions,
  - (e) the exercise of the powers in section 62.
- (4) The report must also contain information about any significant change to the administrative arrangements during the 5 year period.>

**Section 65**

**Andy Wightman**

**24** In section 65, page 25, line 31, at end insert—

<( ) section (*Duty to publish information on forestry*)(3),>

**Fergus Ewing**

- 25 In section 65, page 26, line 1, at end insert—  
<( ) section (*Temporary stop notices: compensation*)(1),>

**Fergus Ewing**

- 26 In section 65, page 26, leave out line 4

**Section 73**

**Fergus Ewing**

- 27 In section 73, page 27, line 21, after <section> insert <(Temporary stop notices),>

**Section 74**

**Claudia Beamish**

- 2 In section 74, page 28, line 30, at end insert—  
<(3A) Regulations bringing sections 68 and 70 into force must not be made until the Scottish Ministers have laid before the Scottish Parliament a report setting out the administrative arrangements they intend to make for the carrying out of their functions under this Act.  
5 (3B) The report under subsection (3A) must set out in particular the arrangements the Scottish Ministers intend to make for—  
(a) the establishment of any agency or similar body,  
(b) the governance of any such agency or body,  
(c) the roles and responsibilities of senior officers of any such agency or body,  
10 (d) the financial reporting and accountability of any such agency or body,  
(e) the establishment of any advisory groups to assist them in carrying out their functions,  
(f) the exercise of the powers in section 62 (power to form companies etc.).  
15 (3C) Before making any significant change to the arrangements set out in the report under subsection (3A), the Scottish Ministers must—  
(a) consult such persons as they consider appropriate,  
(b) notify the Scottish Parliament of any such change.>

**Gail Ross**

- 2A As an amendment to amendment 2, line 2, leave out from beginning to <laid> in line 3 and insert <The Scottish Ministers must, no later than 1 April 2019, lay>

**Schedule 3**

**Fergus Ewing**

- 28 In schedule 3, page 29, line 5, at end insert—  
<Temporary stop notice  
Section (*Temporary stop notices*)(2)>



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