

Regulations on Felling and Restocking

Strategic Environmental Assessment Environmental Report

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List of Abbreviations

| | |
|--------------------|---|
| AQMA | Air Quality Management Area |
| AWI | Ancient Woodland Inventory |
| CA | Consultation Authority/ies |
| CAP | Common Agricultural Policy |
| CBD | Convention on Biological Diversity |
| CCC | Committee on Climate Change |
| CO ₂ | Carbon Dioxide |
| EC | European Commission |
| EIA | Environmental Impact Assessment |
| EU | European Union |
| EU ETS | European Union Emissions Trading Scheme |
| FCS | Forestry Commission Scotland |
| FLMA | Forestry and Land Management (Scotland) Act |
| FS | Forestry Strategy |
| FSC | Forest Stewardship Council |
| HES | Historic Environment Scotland |
| LRRS | The Land Rights and Responsibilities Statement |
| LUS | The Land Use Strategy |
| MtCO _{2e} | Metric tons carbon dioxide equivalent |
| NPF3 | National Planning Framework 3 |
| NWSS | Native Woodland Survey of Scotland |
| PEFC | Programme for the Endorsement of Forest Certification |
| PM ₁₀ | Particulate matter of diameter less than or equal to 10 micrometres |
| PPS | Plans, programmes, and strategies |
| RBMP | River Basin Management Plan |
| SAC | Special Area(s) of Conservation |
| SEA | Strategic Environmental Assessment |
| SEPA | Scottish Environment Protection Agency |
| SFM | Sustainable Forest Management |
| SG | Scottish Government |
| SNH | Scottish Natural Heritage |
| SPA | Special Protection Area(s) |
| SPP | Scottish Planning Policy |
| SRDP | Scottish Rural Development Programme |
| SSSI | Site(s) of Special Scientific Interest |
| The 2005 Act | The Environmental Assessment (Scotland) Act 2005 |
| UKWAS | UK Woodland Assurance Scheme |
| UNCED | United Nations Conference on Environment and Development |
| UNFCCC | United Nations Framework Convention on Climate Change |

Non-Technical Summary

Introduction

Following the passage of the Forestry and Land Management (Scotland) Act, the Scottish Government is proposing to bring forward secondary legislation to update the current provisions on felling and restocking, ensuring that statutory processes are proportionate to the activities they seek to regulate and to maintain the benefits of sustainable management of Scotland's forests.

What is Strategic Environmental Assessment (SEA)?

The development of proposals for the new Regulations on Felling and Restocking is considered to fall under Section 5(3) of the Environmental Assessment (Scotland) Act 2005 ('the 2005 Act'). The 2005 Act requires that public plans, programmes, and strategies (PPS) be assessed for their potential effects on the environment. Strategic Environmental Assessment (SEA) provides a means of identifying potentially significant environmental impacts at an early stage in the development of the PPS. SEA also considers how identified impacts can be avoided or minimised through appropriate mitigation measures and provides for engagement with stakeholders through public consultation on both the PPS as well as the findings of the SEA.

Approach taken to the SEA

The assessment methodology was initially developed to include an objective and question level approach. However, as the assessment progressed and in consideration of the Consultation Authorities' input at scoping stage it became clear that the changes proposed warranted a more broad-based assessment.

A range of alternatives were considered during the development of the proposals but for the reasons outlined within this Environmental Report - largely involving avoidance of disproportionate regulatory burden - these were deemed not to be reasonable inclusions for assessment. However, the opportunity to comment on the proposed exemptions is provided within the Consultation Paper.

Relevant related policies and environmental objectives

The SEA process took into account wider existing environmental objectives. These include established policies and strategies relating to protection and enhancement of the natural and built environment. Key objectives are summarised in the body of the report in relation to the environmental baseline below.

More specifically, the Forestry and Land Management (Scotland) Act 2018 was passed by the Scottish Parliament on 20th March 2018 and received Royal Assent on 1st May 2018. The Act was the first of three principal legislative activities required to complete the devolution of forestry. It provides the legislative framework to enable delivery of a package of other policy initiatives to increase forestry's contribution to the Scottish Ministers' economic, environmental, and social ambitions.

Following the passage of the Act, provisions are being made to wind up the Forestry Commissioners as a cross-border public authority and to help establish new collaborative cross-border arrangements with the UK and Welsh Governments. There will also be arrangements for transferring some of the Forestry Commissioners' property and liabilities to the Scottish Ministers.

The activities presently delivered by the Forestry Commissioners in Scotland through Forestry Commission Scotland (FCS) and Forest Enterprise Scotland (FES) will be transferred to the Scottish Government. Regulatory, policy, support and grant-giving functions will transfer to Scottish Forestry, a Scottish Government Agency. Management of the Scottish Ministers' National Forest Estate will transfer to Forestry and Land Scotland, an agency of the Scottish Government.

As part of this it is necessary to set out procedures for the permitting of felling, ensuring restocking and for the associated procedures for appeals and compensation. Separately, the exemptions to have permission to fell have been reviewed. This SEA is concerned with these proposed changes.

What is our environment like today and how is it changing?

As recently as a few thousand years ago, forests in Scotland were widespread, with woodland cover stretching all the way to Shetland and the Western Isles. The advent of early agriculture prompted deforestation to occur on an extensive scale in the centuries that followed. Continued human influence and a shift towards a cooler, wetter climate transformed much of this formerly forested land into peat.

The 17th and 18th centuries brought new pressures as demand for woodland products such as charcoal and timber began to rise in response to industrialisation. Forest cover fell to a historic low of about 5% in 1900, but, following a campaign of steady reforestation initiated after the First World War, has since rebounded to roughly 18% of Scotland's total land area. Even so, Scotland has significantly less forest cover than most other European countries.

Hundreds of years of human intervention and the impacts of climate change have altered Scotland's forests such that no woodlands in Scotland can be regarded as truly natural. However, examples of semi-natural woodlands have endured to the present day and these are considered a conservation priority due to the biodiversity that they support.

Native woodlands are those in which over 50% of the canopy is comprised of species that are native to the region and are commonly classified according to four main types: native pinewoods, upland birchwoods, upland oakwoods, and lowland mixed deciduous woodland. Many of these are protected through designations such as Sites of Special Scientific Interest (SSSI) and Special Areas of Conservation (SACs).

Scotland's oldest woodlands have existed in some capacity for at least 250 years. These are referred to as ancient woodlands and are recognised for their particularly high levels of biodiversity. Many also possess considerable heritage value. Much like native woodlands, ancient woodlands are often fragmented and so are vulnerable to further degradation.

Minor woodland varieties include aspen woodland, urban and amenity woodland, and individual and small groups of trees. Despite their relatively limited spatial extent, these types perform many vital functions such as providing green space in urban environments and serving as a “living record” of historic land uses.

The evolution of the environment without the Regulations

In developing the proposals, opinions were sought regarding what could be improved and the strong message was that broadly the current system works well. This is what has led to proposals that, for the most part, maintain the status quo. However opportunities have been identified to make adjustments that should lead to benefits. It is considered that without the implementation of the new Regulations on Felling and Restocking specific issues with respect to felling and restocking will continue, including:

- Use of the 5m³ per quarter exemption to gradually remove woodland, particularly broadleaves and native woodland.
- Uncertainty over the meaning of some terms e.g. public open space, potentially leading to inappropriate felling (without restocking).

It is considered that if the proposed changes are not implemented, these effects could continue with negative effects on habitats and species particularly in native woodland and gradual loss of native woodlands and their heritage value. In addition, if the current exemptions were removed (i.e. no Regulations are put in place and the current exemptions fall by virtue of the 2018 Act coming into force) this would lead to all activity being subject to permissions which is not proportionate.

What are the environmental effects of the draft proposals?

The changes to exemptions and guidance are predicted to have a mostly minor positive effect in the short term with a cumulatively major positive effect in the long term. It is expected that mitigation of environmental effects associated with tree felling and restocking will continue to be addressed primarily at a forest plan and site level.

There are a number of existing measures that serve to ensure that forestry-related operations in Scotland abide by the principles of sustainability and environmental protection. For example, the UK Forestry Standard describes the conditions that must be met when felling trees.

A wide range of existing programmes are in place to report on environmental status and assess performance against established environmental indicators. Given the general minor effect the Regulations are predicted to have in isolation and the range of indicators currently in use, it is recommended that existing indicators are utilised to monitor the Regulations’ cumulative effects with that of other PPS.

It is recommended that timing of felling and restocking is also monitored – perhaps making it a requirement to report once the activity has happened as part of the permission conditions.

1 Introduction

1.1 Background

- 1.1.1 Following the passage of the Forestry and Land Management (Scotland) Act, the Scottish Government is proposing to bring forward secondary legislation to update the current provisions on felling and restocking, ensuring that statutory processes are proportionate to the activities they seek to regulate and to maintain the benefits of sustainable management of Scotland's forests. Regulations are also being considered to bring forward straightforward and transparent applications, permissions, directions, appeals, and compensation processes.

1.2 Purpose of this Environmental Report

- 1.2.1 The development of proposals for the new Regulations on Felling and Restocking is considered to fall under Section 5(3) of the Environmental Assessment (Scotland) Act 2005 ('the 2005 Act'). The 2005 Act requires that public plans, programmes, and strategies (PPS) be assessed for their potential effects on the environment¹.
- 1.2.2 Undertaking a Strategic Environmental Assessment (SEA) provides a means of identifying potentially significant environmental impacts at an early stage in the development of the PPS. SEA also considers how identified impacts can be avoided or minimised through appropriate mitigation measures and provides for engagement with stakeholders through public consultation on both the PPS as well as the findings of the SEA. This feedback is used to inform the final iteration of the PPS. Following the adoption of the PPS a Post Adoption Statement will set out how the environmental considerations, and the results of the consultation have been taken into account.

1.3 Report structure

This Environmental Report sets out the findings of the SEA and is set out as follows:

Section 1 – Provides a brief introduction to the proposals for the new Regulations, and an overview of the SEA process.

Section 2 – Provides an overview of the wider policy context for the proposals. It also sets out the content and main objectives of the new Regulations.

Section 3 – Provides an overview of the consideration of reasonable alternatives in the development of the proposals.

Section 4 – Sets out the relevant aspects of the current state of the environment and the likely evolution thereof without the implementation of the Regulations. It also highlights any existing environmental problems/opportunities relevant to the Regulations.

Section 5 – Sets out the approach to the SEA.

Section 6 – Provides a narrative of the assessment findings.

¹ Environmental Assessment (Scotland) Act 2005, asp 15 [online] Available at: <https://www.legislation.gov.uk/asp/2005/15/introduction> (accessed 04/09/2017)

Section 7 – Sets out information relating to the identification of mitigation measures and opportunities for enhancement.

Section 8 – Sets out proposals for monitoring.

Section 9 – Sets out the proposed programme of works in the development of the Regulations and the SEA process and the instructions on how to respond to the consultation.

2 Policy context

- 2.1.1 The 2005 Act requires that the Environmental Report provides an outline of the contents and the main objectives of the PPS and that it defines the plan's broader policy context, highlighting any relevant environmental protection objectives at the international, European, or national level that may influence its development and implementation. In line with the 2005 Act this section provides an overview of the Regulations, the legislative basis for the development of the Regulations and their compatibility with national development and environmental strategies which is further expanded in Appendix C.
- 2.1.2 The Scottish Government recognises the multiple benefits already delivered by forestry in Scotland, and is committed to ensuring it can deliver more in the future. In achieving its ambitions for forestry, the Scottish Government wants to establish a modern statutory framework, with appropriate governance and operational arrangements, to support and protect this valuable and growing sector. This section incorporates the key facts relating to the Regulations on Felling and Restocking.

2.2 Basic Details

2.2.1 The Responsible Authority for the **Regulations on Felling and Restocking** in Scotland is the **Forestry Commission** but this responsibility will pass to Scottish Ministers in April 2019; **Forestry** is the subject of the plan and the plan covers **Scotland**. This is a **one off exercise** to establish a new regulatory regime. Any reviews of forestry related activities will happen via the future reviews of the Scottish Forestry Strategy (SFS).

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2.3 Objectives of the Regulations

- 2.3.1 The objectives of the Regulations are to support woodland management, maximise timber availability to the market, enable robust enforcement, where possible reducing the administrative burden without compromising sustainable forest management.
- 2.3.2 The Scottish Government wishes to allow for the continuation of the principle of domestic usage of an owner's resource, but looks to further protect ancient woodlands from the cumulative effects of felling. Therefore, the exemptions from permissions to fell set out in the Forestry Act 1967 form the basis for exemptions under the Regulations but several changes are proposed as set out in Table 1.

2.4 Requirement for the Regulations

- 2.4.1 The Forestry and Land Management (Scotland) Act 2018 was passed by the Scottish Parliament on 20th March 2018 and received Royal Assent on 1st May 2018.
- 2.4.2 The Act was the first of three principal legislative activities required to complete the devolution of forestry. It provides the legislative framework to enable delivery of a package of other policy initiatives to increase forestry's contribution to the Scottish Ministers' economic, environmental, and social ambitions.
- 2.4.3 Following the passage of the Act, provisions are being made to wind up the Forestry Commissioners as a cross-border public authority and to help establish new collaborative cross-border arrangements with the UK and Welsh Governments. There will also be arrangements for transferring some of the Forestry Commissioners' property and liabilities to the Scottish Ministers.
- 2.4.4 The activities presently delivered by the Forestry Commissioners in Scotland through Forestry Commission Scotland (FCS) and Forest Enterprise Scotland (FES) will be transferred to the Scottish Government. Regulatory, policy, support and grant-giving functions will transfer to Scottish Forestry, a Scottish Government Agency. Management of the Scottish Ministers' National Forest Estate will transfer to Forestry and Land Scotland, an agency of the Scottish Government.
- 2.4.5 As part of this it is necessary to set out procedures for the permitting of felling, ensuring restocking and for the associated procedures for appeals and compensation. Separately, the exemptions to have permission to fell will be reviewed. This SEA is concerned with these proposed changes.
- 2.4.6 The Forestry and Land Management (Scotland) Act sets out the requirement to obtain a felling permission in part 4, chapter 2, section 23 as follows: *Offence of unauthorised felling*
- (1) A person commits an offence if the person fells a tree unless—
- (a) the felling is exempt under section 24, or
 - (b) the felling is carried out in accordance with—
 - (i) a felling permission,
 - (ii) a felling direction,
 - (iii) a restocking direction,
 - (iv) a registered notice to comply,
 - (v) a remedial notice.
- Section 24. *Unauthorised Felling: Exemptions* sets out that Regulations may set out exemptions to the offence of unauthorised felling by reference to particular categories of person, particular places or activities, particular circumstances and trees of particular description.
- 2.4.7 The proposals are the situations, or types of felling, for which a permission from the Scottish Ministers would not be required and are primarily based on the current list of exemptions from felling licence requirements under the Forestry Act 1967.
- 2.4.8 The Scottish Government intends to provide for continuity as the change is made from the old regime to the new one, but also wishes look to further protect ancient woodlands from the cumulative effects of felling and provide more clarity on exemptions where possible.

2.4.9 The proposed changes are where discussions with stakeholders have indicated that improvements can be made, or where the way in which the 2018 Act is drafted requires some adjustments.

2.5 Summary of the proposed changes to the exemptions

2.5.1 Currently, statutory procedures for the licensing of felling and re-stocking, and associated provisions on enforcement and appeals, are contained in the Forestry Act 1967; in The Forestry (Felling of Trees) Regulations 1979²; and in the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017³. Additionally, exemptions to licensing requirements are set out in Section 9 of the Forestry Act 1967 and through The Forestry (Exceptions from Restriction of Felling) Regulations 1979⁴. The above mentioned procedures will remain in place in England and Wales but will no longer apply to Scotland.

2.5.2 Table 1 summarises the existing statutory provisions covering tree felling license exemptions, alongside a summary description of the regulatory changes that are anticipated. Appendices A and B detail the current exemptions within the Act and current Regulations.

2.5.3 Proposals are also being considered to update provisions for applications, permissions, directions, compensation and appeals.

2.6 Subject of the present assessment

2.6.1 Many aspects of the proposal focus solely on changes in procedure or guidance and the Regulations restate much current practice or statute and are therefore unlikely to lead to substantive changes in how felling or re-stocking is carried out in practice.

2.6.2 Therefore, during scoping, it was proposed that only those parts of the proposal with the potential to lead to significant environmental effects be subject to individual assessment, namely the exemptions (pertaining to changes to volume exemptions for ancient and semi-natural woodlands). The remaining aspects of the proposal are considered when assessing the potential for cumulative impacts to arise from the implementation of the entire suite of proposed Regulations.

2.6.3 These proposals are based on current exemptions and processes for giving consent for felling operations and requiring restocking. Changes are only proposed where

- opportunities to make improvements have been put forward by stakeholders;
or

² The Forestry (Felling of Trees) Regulations 1979, SI 791 [online] Available at: <http://www.legislation.gov.uk/uksi/1979/791/contents/made> (accessed 22/02/2018)

³ The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017, SI 113 [online] Available at: <http://www.legislation.gov.uk/ssi/2017/113/made> (accessed 22/02/2018)

⁴ The Forestry (Exceptions from Restriction of Felling) Regulations 1979, SI 792 (as amended) [online] Available at: <http://www.legislation.gov.uk/uksi/1979/792/made> (accessed 27/02/2018)

- they are required because of a fundamental change in the primary legislation (for example, because Scottish Ministers now have the ability to serve Temporary Stop Notices⁵ for illegal felling).

2.7 Current Exemptions

- 2.7.1 Current provision in section 9 of the Forestry Act 1967 is that a felling licence must be obtained from the Forestry Commission to fell growing trees. There are however a number of exemptions to this general requirement, some contained within the Act itself and others prescribed in Regulations (i.e. The Forestry (Exceptions from Restriction of Felling) Regulations 1979). These Regulations on Felling and Restocking do not deal with felling which is required under the Plant Health (Forestry) Order 2005.
- 2.7.2 The list of current exemptions can be broadly grouped into ‘classes’ where a felling licence is not required. These are based on:
- Felling of small trees, fruit trees and diseased/dying trees, including Elm affected by Dutch elm disease.
 - Felling of trees in gardens, church yards and public open spaces.
 - Felling trees on a small scale, with reference to the size of trees (diameter), volume of wood felled and a range of specific situations.
 - Felling of trees to prevent a danger or abate a nuisance.
 - Felling of trees by an electricity operator, water authority or under planning permission.
- 2.7.3 The above exemptions could be described as enabling:
- Felling to abate/prevent nuisances or danger, or to allow necessary operations.
 - Felling in areas/locations, which would not traditionally be defined as ‘woodland or forests’, i.e. orchards, gardens, parks.
 - Felling of timber from the land that an owner occupies (their own woodland resource) for domestic use (but realistically not sufficient for operating a business).
- 2.7.4 The thresholds set by the volume and diameter exemptions mean that most felling and thinning in forests and woodlands requires a licence. The current felling licence process ensures:
- The appropriate forestry authority has information as to where, when and how tree felling will occur.
 - The ability to assess any potential loss of woodland resource and ensure the restocking of land after felling.
- 2.7.5 However, whilst technical amendments have been made since the introduction of the 1967 Act, the objectives have not significantly changed and reflect a different era of forestry practice. The 1967 Act was a consolidation of older legislation, brought together at a time when the focus was firmly on timber supply and did not seek to address other aspects of forestry that are now so familiar, such as the protection of

⁵ Temporary Stop Notices (TSNs) are new as a result of the 2018 Act. They will allow the Scottish Ministers to require felling to stop on any site where they believe that felling is taking place unlawfully, allowing investigations to begin safely on site.

broadleaved woodlands. Although it has been modernised, it still does not completely reflect current practice.

2.8 Forest plans and felling permission

- 2.8.1 The Act does not dictate how permission to fell will be granted. However it is intended that the new regime will continue with a mix of one off permissions, and Long Term Forest Plans. This flexibility provides a strong framework for delivering sustainable forest management. It provides a proportionate process for simple applications but also avoids the need for multiple permissions for larger or more complex forestry operations. This ensures that the resources required to gain permission are proportionate to the operations being carried out. Long Term Forest Plans⁶ are also often used for gaining independent forest certification.
- 2.8.2 It is also intended to develop the use of management plans for smaller woodlands, such as farm woodlands, in order to cover thinning. The proposals for new Regulations largely maintain the status quo while offering flexibility for the development of new processes where there might be a need, such as the increased use of management plans.

⁶ Long Term Forest Plans are used to apply for licences to fell covering large, and often multi-phase and multi-site, forest management operations. They generally cover a period of twenty or more years but the licences that are granted are for a shorter period, the whole plan being reviewed at the point that the licences come to an end and the next phases require to be licensed. Management plans are much smaller scale, but are more detailed and long term than a simple one-off licence application.

Table 1: Proposed changes to existing exemptions

| Current exemptions | Proposed changes with rationale |
|--|--|
| Small trees / Diameter threshold | |
| <p>The 1967 Act exempts the felling of trees</p> <ul style="list-style-type: none"> • with a diameter not exceeding 8 cm; • in the case of coppice or underwood, with a diameter not exceeding 15 cm; or • a diameter not exceeding 10 cm and the felling is carried out in order to improve the growth of other trees. <p>It specifies that the diameter is measured over the bark at a point 1.3 m above the ground level.</p> | <p>The current minimum diameter threshold of 8 cm would continue to apply. However the other diameter thresholds in the Forestry Act of 10 cm for thinning and 15 cm for coppice would no longer apply. Felling of trees with a diameter of less than 8 cm at breast height would not require permission.</p> <p>This would continue to allow the felling, coppicing and thinning of small or young trees up to 8 cm in diameter without the need for a permission. Having only one diameter threshold simplifies understanding for all parties. The separate coppice threshold is not really relevant in Scottish conditions. The 8 cm overall threshold can be used to coppice.</p> <p>Adjustment to the way in which the height at which the diameter is measured is described. The proposal the diameter should be measured over the bark at 1.3 m above the base of the tree, where the base of a tree is ground level when the tree is standing.</p> |
| Volume threshold | |
| <p>The 1967 Act exempts felling where:</p> <p>(i) the aggregate cubic content of the trees which are felled does not exceed five cubic metres in any quarter; and</p> <p>(ii) the aggregate cubic content of the trees which are sold by that person does not exceed two cubic metres in any quarter.</p> <p>Section 9(6) of the 1967 Act defines a quarter as the period of three months beginning with the 1st January, 1st April, 1st July or 1st October in any year.</p> | <p>The proposal is to maintain the effect of (i) so that felling that does not exceed five cubic metres in any quarter be exempt. It is not proposed to maintain a separate limit, (ii), for the proportion of those felled trees can be sold as the restriction does not deliver a tangible benefit in terms of maintaining woodland cover.</p> <p>The 5 m³ per quarter⁷ exemption is intended to support felling and thinning for small scale domestic and/or personal use and should not be used as a vehicle to achieve woodland removal. The exemption would not apply to small native woodlands defined as woodlands that are between 0.1 ha and 0.5 ha and where 50% of the canopy is comprised of stated native species⁸</p> <p>This would mean that native woods, particularly ancient and semi natural woodlands would require permission to fell even small volumes of timber where trees are over 8 cm diameter and therefore ensure that felling is for woodland management purposes and that the cumulative effect of the felling can be managed.</p> <p>Remove the current “2m³ per quarter for sale” part of this exemption as it is of no clear policy benefit.</p> |
| Dead trees and Windblow | |
| <p>The 1967 Act requirement for a licence only extends to the felling of <i>growing trees</i>. This means that no licence is required to cover the felling of trees that have been uprooted or those that are dead. The 2018 Act relies on the ordinary meaning of felling (with the addition of intentionally killing a tree, for example by ringing or poisoning) which means that, if there is no exemption, cutting down dead trees will require a 2018 Act permission.</p> <p>Under the Forestry Act a licence is required only for felling growing trees therefore dead and windblow trees are not licenced or subject to restocking conditions (i.e. there is no requirement to restock), they are effectively treated as exempt.</p> <p>Under the new Bill, permission is required to fell all trees and so the position for dead and windblown trees needs to be clarified. As windblow typically contains a mixture of live, dead and dying trees this would not generally be exempt and would now require permission to fell and be subject to restocking conditions where appropriate.</p> | <p>The Scottish Government proposal is that an exemption is created for the felling of dead trees. This is new and a direct result of the way that the 2018 Act defines the felling offence. To ensure no inappropriate deforestation occurs, the clearance of trees that are seriously compromised but still alive would require a felling permission. This includes those that are partially uprooted or have suffered damage as a result of wind, those that are diseased but not yet dead, been damaged by fire, or been damaged by a person (for example by machinery being used in the area).</p> <p>Windblow, over 5m³, would require a felling permission (unless all trees were fully dead). Windblow within an approved forest plan or management plan would be covered by the tolerance table⁹, enabling speedy harvesting and replanting.</p> <p>Post storm clearance of windblow impacting on infrastructure outwith an approved forest/management plan would need to be covered by a permission (although the immediacy of the need would mean that there would be no consultation).</p> |
| Other exemptions | |
| <p>The 1967 Act exempts the felling of fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space.</p> <p>Trees growing in these situations do not, generally, constitute a woodland and therefore are removed</p> | <p>Other exemptions</p> <p>No significant changes, but some clarification:</p> <ul style="list-style-type: none"> • Place Exemption <ul style="list-style-type: none"> ○ Keep orchards, gardens, churchyards, ○ Add burial grounds, |

⁷ Per fixed calendar quarter (i.e. not rolling) (1 Jan to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December.)

⁸ *Alnus glutinosa* common alder, *Malus sylvestris* ssp *sylvestris* crab apple, *Fraxinus excelsior* ash, *Populus tremula* aspen, *Betula pubescens* downy birch, *Betula pendula* silver birch, *Prunus padus* bird cherry, *Prunus avium* gean (wild cherry) *Ulmus glabra* wych elm, *Quercus robur* pedunculate oak, *Quercus petraea* sessile oak, *Sorbus aucuparia* rowan, *Salix caprea* goat willow, *Prunus spinosa* blackthorn, *Sambucus nigra* elder, *Crataegus monogyna* common hawthorn, *Corylus avellana* hazel *Ilex aquifolium* holly, *Euonymus europaeus* spindle, *Taxus baccata* yew, *Juniperus communis* juniper, *Salix pentandra* bay willow, *Salix aurita* eared willow, *Salix cinerea* grey willow (sallow), *Salix phylicifolia* tea-leaved willow, *Salix myrsinifolia* dark-leaved willow, *Salix purpurea* purple willow.

⁹ An approved forest plan includes an approved tolerance table. The plan sets out felling boundaries, timescales and species for restocking. The tolerance table forms part of the approval and sets out the limits to which the felling boundaries, felling dates, re-stocking species, restocking dates can be amended from what is set out in an approved forest plan and maps.

| | |
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| <p>from the protection of the regime.</p> <p>Trees growing in these situations do not, generally, constitute a woodland. They may be subject to other protections, such as Tree Preservation Orders, and exempting them from felling regulation does not affect that protection.</p> | <ul style="list-style-type: none"> ○ Define public open space. <p>This essentially maintains the current exemption. It is proposed to clarify the term 'public open space' as stakeholders have identified that this would be helpful. It is proposed to include burial grounds specifically as they are currently only partially catered for by virtue of churchyards being listed.</p> |
| <p>Danger or nuisance - The 1967 Act exempts felling for the prevention of danger or the prevention or abatement of a nuisance.</p> <p>Aerodromes - The 1979 Regulations exempt felling where the Secretary of State for Defence or the Secretary of State for Trade has certified that the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of air navigational or aircraft landing installations. Aerodromes are defined as any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft.</p> | <p>Improved interpretation and guidance to aid regulators and owners as to when the exemptions would or would not apply.</p> <p>Danger or nuisance - Maintain prevention of danger but remove reference to nuisance – it is difficult to define what constitutes a nuisance and unlikely to be as urgent as, for example, the felling of a tree that is dangerous. The latter exemption would avoid delays in felling where there is an urgent need.</p> <p>Aerodromes - Remove the need (in the current legislation) to have the Secretary of State 'certify' that the tree(s) are interfering with an aerodrome etc. This would maintain the ability to fell without permission, but removes the need for the obstruction to be certified first.</p> |
| <p>Planning permission - The 1967 Act exempts felling which is immediately required for the purpose of carrying out development authorised by planning permission granted, or deemed to be granted, under the Town and Country Planning (Scotland) Act 1997. Scottish Planning Policy states that the planning system should protect and enhance ancient woodland as an important and irreplaceable resource together with other native or long established woods, hedgerows and individual trees.</p> <p>Dutch elm disease - The 1979 Regulations exempt felling of any tree of the genus <i>Ulmus</i> which is affected by the disease in elms caused by the fungus <i>Ceratocystis ulmi</i> and commonly known as Dutch elm disease to such an extent that the greater part of the crown of the tree is dead.</p> <p>The Electricity Act - The 1967 Act exempts felling which is carried out by, or at the request of, an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as:</p> <ul style="list-style-type: none"> • to obstruct or interfere with the installation, maintenance or working of the line or plant; or • to constitute an unacceptable source of danger (whether to children or to other persons). <p>Statutory undertakers - The 1979 Regulations exempt felling by 'statutory undertakers' of trees on land in their occupation which obstruct the construction of any works required for the purposes of the undertaking of those undertakers or of trees which interfere with the maintenance or operation of any works vested in those undertakers. Statutory undertakers are defined as persons authorised by any enactment to carry out any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, power or lighthouse undertaking, or any undertaking for the supply of hydraulic power or water, and public gas transporters within the meaning of Part I of the Gas Act 1986.</p> <p>Water Authorities / Drainage Boards - The 1979 Regulations also exempt felling by, or at the request of, a water authority established under the Water Act 1973, or an internal drainage board for the purposes of the Land Drainage Act 1976, where the tree interferes or would interfere with the exercise of any functions of that authority or board.</p> <p>Dedication agreements - A dedication agreement is an agreement, between a landowner and the Forestry Commissioners, that the land it applies to will be managed for forestry purposes. The 1979 Regulations exempt felling on land which is subject to a dedication agreement and:</p> <ul style="list-style-type: none"> • the agreement is registered in the Land Register or General Register of Sasines and binding on the owner of the land; or • the land is owned by the person who entered into the agreement. <p>The 2018 Act does not provide for new dedication agreements to be entered into, however under section 80 existing agreements will remain in place after the 1967 Act is repealed.</p> | <p>Maintain the status quo for felling under planning permission, dutch elm disease, the Electricity Act, statutory undertakers and water authorities or drainage boards and for dedication agreements.</p> <p>Specifically for Planning permission - The Scottish Government's policy on The Control of Woodland Removal, which places a strong presumption against the removal of any woodland including ancient woodland, is how these principles are articulated. It sets out that approval for woodland removal should be conditional on achieving significant net public benefits and this is reinforced in Scottish Planning Policy. Therefore in light of this the proposal is to maintain this exemption.</p> |

3 Consideration of reasonable alternatives

- 3.1.1 The 2005 Act states that 'The report shall identify, describe and evaluate the likely significant effects on the environment of implementing - (a) the plan or programme; and (b) reasonable alternatives to the plan or programme. SEA Guidance states that alternatives must be realistic, and that when considering whether or not an alternative is reasonable, potential restriction to its implementation, for example, parameters set by relevant legislation and any relevant policy commitments, will be fully considered.
- 3.1.2 Consideration of alternatives was undertaken during the preparation of the proposals and these were discounted as unreasonable with justification provided below. The alternatives were broken down by exemption and for some the only alternative was not carrying forward the exemption, essentially a 'do nothing' option. For some of the other exemptions several options were looked at and discounted.
- 3.1.3 A principal 'do nothing' option would be to have no exemptions and require all felling (no matter how insignificant or urgent) to require a permit (i.e. no Regulations are put in place and the current exemptions fall by virtue of the 2018 Act coming into force). However, this is not feasible as it would negate the objectives of the new Regulations which include reducing the administrative burden, maximising timber availability to market and making enforcement easier.
- 3.1.4 To illustrate the process behind discounting the alternatives, it is beneficial to consider two of the primary exemptions proposed by the new Regulations. This rationale is also set out in the consultation paper and views are being requested on the proposals via consultation.
- 3.1.5 In terms of the **diameter exemption**, the first alternative was not to carry forward any exemption for small trees. However, this was considered to be an unreasonable and an unjustified burden on woodland managers. However, a second alternative, maintaining current exemptions (listed below) is considered to be confusing and difficult to enforce:
- a. with a diameter not exceeding 8 centimetres;
 - b. in the case of coppice or underwood, with a diameter not exceeding 15 centimetres, or
 - c. a diameter not exceeding 10 centimetres and the felling is carried out in order to improve the growth of other trees.

A third alternative would be to create an exemption with a larger diameter (for example 15 cm rather than 8 cm). However, this is considered unreasonable based on the amount of woodland that would fall into the 15 cm or less category. A fourth alternative was to create an exemption that defines diameter at ground level. This was considered to be impractical since trees are not always straight all the way to the ground, and there may be a bulb, collar or bulge at the bottom of the tree. Basing the measurement here could constrain the amount of trees that could be felled without a permission for example, the diameter at ground level may be 12 cm but the majority of the rest of the trunk be 8 cm. Using the diameter at ground level as a measure would mean that that particular tree could not be felled.

- 3.1.6 For the **volume threshold**, the alternatives that were considered included not carrying forward any volume exemption. This was considered unreasonable as an unjustified burden on woodland managers/owners. The second alternative that was considered

was to maintain the current exemptions for felling and sale. Restricting the proportion of timber that can be sold, or the proportion of timber that is produced from felling using the volume exemption, delivers no tangible benefit. There is no reason to limit what can be sold, as the policy interest lies in what is felled in the first place as a means of maintaining woodland cover.

- 3.1.7 A third alternative to maintain only the current exemption for felling but dropping the sale volume would be a missed opportunity to protect small native woodlands. However, just simply creating a smaller volume exemption, for example 2 m² per quarter only or 10 m² per year is considered to be unreasonable constraint on woodland managers due to the disproportionate regulatory burden. Finally creating the volume exemption for non-native woodlands only is considered to be unreasonable based on the constraints it would put on all native woodland owners, regardless of the size of woodland.
- 3.1.8 It is considered that these justifications cascade to all of the alternatives that were considered for each exemption. For the reasons illustrated it is considered that the preferred options for the exemptions are the only options that are reasonable for assessment. Nevertheless, as mentioned above the consultation paper provides opportunity to comment on the proposed exemptions.

3.2 Potential limitations of the proposed approach

- 3.2.1 There are some uncertainties with respect to the assessment of the Regulations on felling and restocking. For example, some of the Consultation Authorities' comments on the scoping report (see Appendix E) pertain to the subject of restocking locations, such as, concerns with planting on areas of peat land, as well as activities associated with forestry operations, such as haulage routes, buildings and waste production. These are subjects that; will either not be affected by the implementation of the Regulations and on which the Regulations will have no or minimal effect, for example, the use of low Carbon technology. Or, in the case of planting locations this is a subject not dictated by the Regulations but rather one which is governed by the principles of sustainable forest management (SFM). In the new regime SFM forms the basis for all decisions taken by the regulator: Scottish Ministers will have a duty to promote SFM and in taking decisions and determining applications as a regulator will have to have regard to that duty. This is a new requirement placed on Scottish Ministers, in section 27 of the new Act, to *have regard to their duty to promote sustainable forest management* when making decisions); there is no equivalent link in the current regime. It is therefore considered that these issues are outside the scope of the assessment and further notes are provided in Appendix E.
- 3.2.2 Whilst the comments posed by the Consultation Authorities are not applicable to the Regulations on Felling and Restocking, it is considered that these will be considered within future reviews of other strategies, policies and the guidance that support the regulatory regime such as the Scottish Forestry Strategy¹⁰ and the Policy on control of woodland removal¹¹.

¹⁰ Forestry Commission (2006) The Scottish Forestry Strategy [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/scottish-forestry-strategy-2006.pdf> (accessed 29/03/2017)

¹¹ Scottish Government (2009) control of Woodland Removal [online] Available at: [https://www.forestry.gov.uk/PDF/fcfc125.pdf/\\$FILE/fcfc125.pdf](https://www.forestry.gov.uk/PDF/fcfc125.pdf/$FILE/fcfc125.pdf) (accessed 20/08/2018)

4 Environmental Baseline

4.1 Overview

- 4.1.1 It is a requirement of the 2005 Act that Responsible Authorities provide details of the character of the environment which may be affected, including any existing pressures and the likely evolution of the environment in the absence of the new plan or programme. The proposals are assessed against this baseline to provide an indication of the type and significance of any environmental impacts that could arise.
- 4.1.2 At scoping stage, it was considered that potentially significant impacts would likely focus on the following topics: biodiversity, flora and fauna; soil; water; cultural heritage and landscape. Climatic factors and material assets have also been included as topics following recommendations made by SEPA during the scoping consultation (Appendix E).
- 4.1.3 The Consultation Authorities also recommended that the information sources defined during scoping were supplemented by further data which has been included within this Environmental Report.
- 4.1.4 Relevant aspects of the current environmental baseline are discussed in this section. Further detail for each environmental topic area is presented in the Environmental Baseline set out in Appendix D.

4.2 Relevant aspects of the current environmental baseline

- 4.2.1 Scotland is a relatively small country of 77911 km² with a population of approximately 5.43 million people¹². Although the vast majority (98%) of Scotland is classified as rural land, there is a marked contrast in the number of people living in rural areas (18%) versus non-rural areas (82%)¹³. Further, the population is mainly concentrated in seven city-regions: Glasgow City (1 827 240), Edinburgh City (1 375 880), Perth and Kinross (787 500), Dundee City (787 500), Aberdeen City (490 600), and Inverness (Highland) (235 180)¹⁴. Since 1997, Scotland's population has grown by about 6%¹⁵ and future projections estimate Scotland's population will grow by an additional 6.1% by 2041, for a total of roughly 5.69 million¹⁶.
- 4.2.2 Scotland is internationally renowned for its varied and dramatic landscapes including impressive mountain ranges, broad plateaus, expansive lowlands, and striking coastal features¹⁷. Many of these are the result of ancient glacial and periglacial activity as well

¹² Scottish Enterprise (2018) Scottish key economic facts [online] Available at: <https://www.scottish-enterprise.com/knowledge-hub/articles/publication/scottish-key-facts> (accessed 11/05/2018)

¹³ Scottish Government (2015) Rural Scotland Key Facts 2015 – People and Communities, Services and Lifestyle, Economy and Enterprise [online] Available at: <http://www.gov.scot/Resource/0047/00473312.pdf> (accessed 14/05/2018)

¹⁴ Scottish Enterprise (2018) Scottish key economic facts [online] Available at: <https://www.scottish-enterprise.com/knowledge-hub/articles/publication/scottish-key-facts> (accessed 11/05/2018)

¹⁵ Scottish Government (2017) Summary: Age Demographics [online] Available at: <http://www.gov.scot/Topics/People/Equality/Equalities/DataGrid/Age/AgePopMig> (accessed 11/05/2018)

¹⁶ Scottish Government (2017) Scotland's population is projected to increase and age [online] Available at: <https://news.gov.scot/news/scotlands-population-is-projected-to-increase-and-age> (accessed 11/05/2018)

¹⁷ James Hutton Institute (2018) Regional Landscapes of Scotland [online] Available at: <http://www.hutton.ac.uk/learning/exploringscotland/regional-landscapes-scotland> (accessed 11/05/2018)

as changes in sea level¹⁸. The three primary landscape classifications are the Central Lowlands, the Highlands and Islands to the north and west, and the Southern Uplands¹⁹. Situated among these natural features are the many iconic manmade landmarks and townscapes that help give Scotland its reputation as a tourist destination²⁰.

- 4.2.3 As recently as a few thousand years ago, forests in Scotland were widespread, with woodland cover stretching all the way to Shetland and the Western Isles²¹. The advent of early agriculture prompted deforestation to occur on an extensive scale in the centuries that followed²². Continued human influence as well as a shift towards a cooler, wetter climate transformed much of this formerly forested land into peat²³. The 17th and 18th centuries brought new pressures as demand for woodland products such as charcoal and timber began to rise in response to industrialisation. Forest cover fell to a historic low of about 5% in 1900²⁴, but, following a campaign of steady reforestation initiated after the First World War, has since rebounded to roughly 18% of Scotland's total land area²⁵. Even so, Scotland has significantly less forest cover than most other European countries²⁶.
- 4.2.4 Hundreds of years of human intervention and the impacts of climate change have altered Scotland's forests such that no woodlands in Scotland can be regarded as truly natural²⁷. However, examples of semi-natural woodlands have endured to the present day and these are considered a conservation priority due to the extremely high levels of biodiversity that they support²⁸.
- 4.2.5 Native woodlands are those in which over 50% of the canopy is comprised of species that are native to the region and are commonly classified according to four main types: native pinewoods, upland birchwoods, upland oakwoods, and lowland mixed deciduous woodland²⁹. Many of these are protected through designations such as

¹⁸ SNH (2017) Landforms [online] Available at: <https://www.nature.scot/landforms-and-geology/scotlands-rocks-landforms-and-soils/landforms> (accessed 03/05/2018)

¹⁹ The James Hutton Institute (2018) Regional Landscapes of Scotland [online] Available at: <http://www.hutton.ac.uk/learning/exploring-scotland/regional-landscapes-scotland> (accessed 03/05/2018)

²⁰ Historic Environment Scotland (2016) Scotland's Historic Environment Audit 2016 – Summary [online] Available at: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=315b3f0d-631b-4a24-b12b-a6db00ba1696> (accessed 11/05/2018)

²¹ SNH (2017) History of Scotland's woodlands [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/history-scotlands-woodlands> (accessed 09/05/2018)

²² ibid

²³ ibid

²⁴ SNH (2017) Woodland expansion across Scotland [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/woodland-expansion-across-scotland> (accessed 04/05/2018)

²⁵ Forestry Commission (2017) Forestry Statistics 2017 – Chapter 1: Woodland Areas and Planting [online] Available at: <https://www.forestryresearch.gov.uk/tools-and-resources/statistics/forestry-statistics/forestry-statistics-2017/woodland-areas-and-planting/>

²⁶ SNH (2017) Woodland expansion across Scotland [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/woodland-expansion-across-scotland> (accessed 04/05/2018)

²⁷ Scotland's Environment (Available at: <https://www.environment.gov.scot/our-environment/habitats-and-species/woodland-and-forests/> (accessed 04/05/2018)

²⁸ Forestry Commission (2016) What are Scotland's native woodlands? [online] Available at: <https://scotland.forestry.gov.uk/supporting/strategy-policy-guidance/native-woodland-survey-of-scotland-nwss/scotlands-native-woodlands> (accessed 09/05/2018)

²⁹ ibid

Sites of Special Scientific Interest (SSSI) and Special Areas of Conservation (SACs) such as ashwoods, Caledonian pinewoods, alluvial forests, and bog woodland³⁰.

- 4.2.6 Scotland's oldest woodlands have existed in some capacity for at least 250 years. These are referred to as ancient woodlands and are recognised for their particularly high levels of biodiversity. Many also possess considerable heritage value³¹. Much like native woodlands, ancient woodlands are often fragmented³² and so are vulnerable to further degradation³³.
- 4.2.7 Scotland's forests have adapted to exist across a wide range of environmental conditions. For example, the oceanic climate of the west coast gives rise to "rainforests" of Atlantic hazel and upland oakwood while the drier east coast favours different species. Native pine woodlands colonise thin, infertile, mineral soils, whereas ecologically rich collections of ashwoods become established on richer soils. Wet woods are predominantly found in areas of poor drainage, such as depressions, whereas montane scrub thrive above the treeline along Scotland's hills and mountains³⁴.
- 4.2.8 Minor woodland varieties include aspen woodland, urban and amenity woodland, and individual and small groups of trees³⁵. Despite their relatively limited spatial extent, these types perform many vital functions such as providing green space in urban environments and serving as a "living record" of historic land uses.
- 4.2.9 Further baseline information relating to Scotland's forests is presented in Appendix D. In addition, baseline information for each SEA topic is presented, including descriptive statistics, current condition(s), and past and projected trends, if known. This is intended to give an account of the present state of Scotland's environment. The majority of the data has been derived from Scottish Government sources, Forestry Commission publications, Scotland's Environment web, and the websites of the statutory Consultation Authorities (SEPA, SNH, and Historic Environment Scotland), with additional sources consulted as necessary.

4.3 Environmental issues/opportunities relevant to forestry

- 4.3.1 Table 2 highlights the environmental issues and opportunities that relate to the Regulations preparation and scoped in topics.

³⁰ SNH (2017) Woodland habitats [online] Available at: <https://www.nature.scot/habitats-and-ecosystems/habitat-types/woodland-habitats> (accessed 11/05/2018)

³¹ Forestry Commission (2016) What are Scotland's native woodlands? [online] Available at: <https://scotland.forestry.gov.uk/supporting/strategy-policy-guidance/native-woodland-survey-of-scotland-nwss/scotlands-native-woodlands>

³² SNH (2017) History of Scotland's woodlands [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/history-scotlands-woodlands> (accessed 04/05/2018)

³³ Scotland's Environment (2014) Woodlands and forests [online] Available at: <https://www.environment.gov.scot/media/1202/land-woodlands-and-forests.pdf> (accessed 11/05/2018)

³⁴ SNH (2017) Woodland habitats [online] Available at: <https://www.nature.scot/habitats-and-ecosystems/habitat-types/woodland-habitats> (accessed 14/05/2018)

³⁵ SNH (2017) Minor woodland types [online] Available at: <https://www.nature.scot/habitats-and-ecosystems/habitat-types/woodland-habitats/minor-woodland-types> (accessed 11/05/2018)

³⁶ SPICe Information Centre (2016) Scottish Forestry [online] Available at: http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-93_Scottish_Forestry.pdf (accessed 18/07/2018)

Table 2: Environmental issues/opportunities associated with forestry

| Topic | Environmental Issue/Opportunity |
|---------------------------------------|---|
| Biodiversity, fauna and flora | Incidence and prevalence of tree diseases (e.g. ash dieback ³⁶); pests; deer grazing; decline of native species (e.g. decline in Caledonian pinewoods ³⁷); invasive non-native species (e.g. rhododendron ³⁸); fragmentation; neglect or lack of management ³⁹ ; mismanagement (e.g. “scrub” clearance ⁴⁰) |
| Soil | Loss of organic matter; erosion and landslides; compaction; soil sealing; contamination; leaching; alterations in soil biodiversity; emerging issues (e.g. genetically modified organisms) ⁴¹ |
| Water | Alterations to water levels and flows ⁴² ; high water consumption by trees ⁴³ ; reductions in water quality due to increased sedimentation and turbidity arising from forestry operations; diffuse pollution (e.g. phosphorous) originating from fertiliser application; changes in shore and bank morphology due to erosion; acidification of water bodies in areas with mature conifer forests and sensitive geology ⁴⁴ ; flooding ⁴⁵ |
| Climatic factors | Northward spread of species; spread of pests and pathogens and increases in their occurrence (e.g. red band needle blight); alterations in the timing of seasonal events (i.e. phenology) such as trees coming into leaf; release of greenhouse gases from the drying out/oxidisation of peatlands and carbon-rich soils ⁴⁶ ; improvement or decline in the fitness of certain species in response to changing environmental conditions (e.g. decline in Sitka spruce in areas of increased drought); flooding and extreme weather events; fires; wind throw ⁴⁷ |
| Historic and cultural heritage | Uncertainty regarding location and extent of buried archaeological remains in forests and woodlands; destruction to archaeological remains due to cultivation, desiccation, root damage, visitor erosion, burrowing animals, or chemical changes to the surrounding environment; changes in setting of historic and cultural features due to al- |

³⁶ SNH (2017) Woodland habitats [online] Available at: <https://www.nature.scot/habitats-and-ecosystems/habitat-types/woodland-habitats> (accessed 03/05/2018)

³⁷ ibid

³⁸ SNH (2017) Native versus non-native woodland [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/native-versus-non-native-woodland> (accessed 04/05/2018)

³⁹ SNH (2017) Woodland condition [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/woodland-condition> (accessed 11/05/2018)

⁴⁰ SNH (2017) Atlantic hazelwood [online] Available at: <https://www.nature.scot/habitats-and-ecosystems/habitat-types/woodland-habitats/atlantic-hazelwood> (accessed 11/05/2018)

⁴¹ Natural Scotland (2011) The State of Scotland’s Soil [online] Available at: <https://www.sepa.org.uk/media/138741/state-of-soil-report-final.pdf> (accessed 03/05/2018)

⁴² Forestry Commission (2011) Forests and water – UK Forestry Standard Guidelines [online] Available at: <http://www.confor.org.uk/media/246145/forest-and-water-guidelines.pdf> (accessed 11/05/2018)

⁴³ Forestry Commission (2005) Water Use by Trees – Information Note [online] Available at: [https://www.forestry.gov.uk/pdf/FCIN065.pdf;\\$FILE/FCIN065.pdf](https://www.forestry.gov.uk/pdf/FCIN065.pdf;$FILE/FCIN065.pdf)

⁴⁴ Forest Research (undated) Forestry and Diffuse Pollution [online] Available at: <https://www.forestry.gov.uk/fr/bee-h-a5ql8v> (accessed 11/05/2018)

⁴⁵ Forestry Commission (2011) Forests and water – UK Forestry Standard Guidelines [online] Available at: <http://www.confor.org.uk/media/246145/forest-and-water-guidelines.pdf> (accessed 11/05/2018)

⁴⁶ SNH (2017) Woodland and climate change [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/woodland-and-climate-change> (accessed 11/05/2018)

⁴⁷ ClimateXChange (2018) Suitability and productivity (forests) [online] Available at: <https://www.climatechange.org.uk/research/indicators-and-trends/natural-environment/suitability-and-productivity-forestry/> (accessed 11/05/2018)

| | |
|-------------------------|---|
| | terations in forest and woodland cover and composition; changes in historic land use due to afforestation/deforestation ⁴⁸ ; loss of native and ancient woodlands ⁴⁹ |
| Material as-sets | Unsustainable management of forest resources ⁵⁰ ; competing land uses (e.g. agriculture, landfills, energy infrastructure, etc.) ⁵¹ |
| Landscape | Altered landscape character and appearance due to woodland expansion, particularly in the uplands ⁵² ; visual removal of geological features (e.g. “landscape sculptures” ⁵³) due to afforestation |

4.4 Likely evolution of the environment without the Regulations

4.4.1 In developing the proposals, opinions were sought from a wide range of interest groups regarding what could be improved and the strong message was that broadly the current system works well. This is what has led to proposals that, for the most part, maintain the status quo. However opportunities have been identified to make adjustments that should lead to benefits. It is considered that without the implementation of the new Regulations on Felling and Restocking specific issues with respect to felling and restocking will continue, including:

- Use of the 5m³ per quarter exemption to gradually remove woodland, particularly broadleaves and native woodland.
- Uncertainty over the meaning of some terms e.g. public open space, potentially leading to inappropriate felling (without restocking).

It is considered that if the proposed changes are not implemented, these effects could continue with negative effects on habitats and species particularly in native woodland and gradual loss of native woodlands and their heritage value. In addition, if the current exemptions were removed (i.e. no Regulations are put in place and the current exemptions fall by virtue of the 2018 Act coming into force) this would lead to all activity being subject to permissions which is not proportionate.

⁴⁸ Crow, P. (2003) Managing the historic environment in woodland: the vital role of research (Forest Research Annual Report and Accounts 2002-2003) [online] Available at: <https://www.forestresearch.gov.uk/research/publications-on-the-historic-environment-archaeology> (accessed 11/05/2018)

⁴⁹ Forestry Commission (2013) Scotland’s Native Woodlands – Results from the Native Woodland Survey of Scotland [online] Available at: [https://www.forestry.gov.uk/PDF/FCMS126.pdf/\\$FILE/FCMS126.pdf](https://www.forestry.gov.uk/PDF/FCMS126.pdf/$FILE/FCMS126.pdf) (accessed 13/05/2018)

⁵⁰ Forestry Commission (2017) Forestry Statistics 2017- Sources [online] Available at: <https://www.forestresearch.gov.uk/tools-and-resources/statistics/forestry-statistics/forestry-statistics-2017/sources/> (accessed 11/05/2018)

⁵¹ Scotland’s Environment (2011) Land use and management [online] Available at: <https://www.environment.gov.scot/media/1211/land-land-use-and-management.pdf> (accessed 11/05/2018)

⁵² SNH (2017) Woodland expansion in the uplands [online] Available at: <https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/upland-and-moorland/woodland-expansion-uplands> (accessed 13/05/2018)

⁵³ SNH (2017) Pressures on landscape sculptures [online] Available at: <https://www.nature.scot/landforms-and-geology/pressures-geodiversity/pressures-landscape-sculptures> (accessed 11/05/2018)

5 The approach to the assessment

5.1 The SEA process to date

5.1.1 SEA consists of several distinct stages: screening, scoping, the environmental assessment and the production of an Environmental Report, and the publication of a Post-Adoption Statement. At each stage, there is a requirement to consult the statutory Consultation Authorities. These are Historic Environment Scotland (HES), Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA). The present SEA process began with the production of a Scoping Report submitted via the SEA Gateway to the consultation authorities in April 2018. This set out initial information on the likelihood of significant effects arising from the Regulations. It also provided an initial view on the proposed evidence base that would be used to inform the assessment. The representations of the Consultation Authorities (Appendix E) to the Scoping stage have helped to inform the content of the draft Regulations and the SEA process.

5.2 Approach to the assessment

5.2.1 This section describes the approach for predicting the environmental effects that could arise from the proposal, the consideration of mitigation and enhancement measures, and suggestions for implementing a monitoring programme.

5.2.2 A number of previous SEAs, particularly those pertaining to policies with implications for land use, set an appropriate framework for the present assessment. These assessments have already compiled a considerable amount of baseline data on forests and woodlands in Scotland, and have explored the possible environmental impacts that could result from changes to the sector. Recent examples include:

- ‘Getting the best from our land - A land use strategy for Scotland 2016-2021’⁵⁴;
- ‘Draft Climate Change Plan: The Draft Third Report on Policies and Proposals 2017-2032’ and ‘Draft Scottish Energy Strategy: The Future of Energy in Scotland’ (joint assessment)⁵⁵;
- ‘Proposals for a Draft Climate Change Bill’⁵⁶;
- ‘The Scottish Forestry Strategy 2006’⁵⁷

⁵⁴ Scottish Government (2015) Getting the best from our land, consultation on a draft Land Use Strategy for Scotland 2016-2021 – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Resource/0048/00489448.pdf> (accessed 22/02/2018)

⁵⁵ Scottish Government (2017) The Draft Climate Change Plan: The Draft Third Report on Policies and Proposals 2017-2032 and Draft Scottish Energy Strategy: The Future of Energy in Scotland – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Resource/0051/00513440.pdf> (accessed 22/02/2018)

⁵⁶ Scottish Government (2017) Proposals for a new Climate Change Bill – Strategic Environmental Assessment Environmental Report [online] Available at: https://consult.gov.scot/energy-and-climate-change-directorate/climate-change-bill/supporting_documents/SCT07175538641_environmental_%20Final_v2.pdf (accessed 22/02/2018)

⁵⁷ Forestry Commission (2006) Scottish Forestry Strategy SEA ER, SEA Database case number 00026 [online] available at: <https://www.gov.scot/Topics/Environment/environmental-assessment/sea/SEAG> (accessed 20/08/2018)

- SEA of Forest District Plans⁵⁸
- 5.2.3 Additional SEAs of relevance include those undertaken on National Planning Framework 3 and Scottish Planning Policy⁵⁹ (joint), ‘A Consultation on 2020 Challenge for Scotland’s Biodiversity’⁶⁰, and ‘Climate Ready Scotland: Draft Scottish Climate Change Adaptation Programme’⁶¹. The assessment of these policy areas has largely been undertaken by the Scottish Government SEA team, thereby providing the added benefit of good institutional knowledge of the broader policy area and a consistency of approach.
- 5.2.4 Relevant environmental baseline information and findings have been collated from these previous assessments and used to guide this assessment.
- 5.2.5 The Scoping Report set out SEA objectives and associated questions to help describe, analyse, and compare environmental effects. They cover all of the SEA topic areas that have been scoped into the assessment including climatic factors and material assets following comment from SEPA during the scoping consultation. The example objectives and their corresponding assessment questions were derived from the key environmental issues, baseline data, and environmental protection objectives of relevance to the proposal.
- 5.2.6 During the scoping stage the Consultation Authorities provided additional questions for inclusion in the assessment. However, it soon became evident that many of the questions were not applicable to the proposals – due to the level of the proposals; and that the original assessment methodology did not lend itself well to the relatively minor changes reflected in the proposals. Therefore, the assessment is presented as a narrative overview drawing more broadly on each of the topic areas.
- 5.2.7 The aim is to focus the assessment on the key issues and potential for significant environmental effects (short, medium and long-term⁶², permanent and temporary, positive and negative, secondary, cumulative and synergistic) associated with the proposals, ensuring this is framed in the context of current environmental obligations.

⁵⁸ Forestry Commission (2008) Forest Enterprise Scotland Forest District Strategic Plans SEA ER, SEA Database case number 00181 [online] available at: <https://www.gov.scot/Topics/Environment/environmental-assessment/sea/SEAG> (accessed 20/08/2018)

⁵⁹ Scottish Government (2013) National Planning Framework 3 and Scottish Planning Policy – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Publications/2013/04/3435> (accessed 23/02/2018)

⁶⁰ Scottish Government (2012) A Consultation on the 2020 Challenge for Scotland’s Biodiversity – Environmental Report and Non-Technical Summary [online] Available at: <http://www.gov.scot/Topics/Environment/environmental-assessment/sea/SEAG> (accessed 23/02/2018)

⁶¹ Scottish Government (2013) Climate Ready Scotland: Draft Scottish Climate Change Adaptation Programme – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Resource/0042/00426535.pdf> (accessed 23/02/2018)

6 Assessment findings and recommendations

6.1 Overview

6.1.1 This section sets out the significant environmental effects expected as a result of the changes to exemptions which it is proposed will be carried over from the existing legislation. The remaining aspects of the proposal are considered when assessing the potential for cumulative impacts to arise from the implementation of the entire suite of proposed Regulations.

6.2 Small trees / Diameter threshold

6.2.1 Using only the minimum diameter threshold for all circumstances provides clarity for felling of trees and associated enforcement. The effect of this change streamlines the exemptions and clarifies the position for owners and operators, still allowing for some management but limiting the potential reduction of woodland. This is considered to have a minor yet long-term positive direct effect on **biodiversity** in terms of maintaining and limiting disturbance to designated and non-designated species and habitats as well providing some protection to the **cultural heritage** value of native woodlands.

6.2.2 Ultimately the amended exemption is likely to help to retain the value of forests via a slightly more stringent control of felling.

6.2.3 Coppicing has limited application in Scotland and the current 10 cm threshold for thinning is also limited in application. Removing this may preserve some trees and afford additional protection to associated native species and habitats (**biodiversity, cultural heritage and material assets**) where the exemptions had previously been misunderstood or misused, but the benefits are considered to be minor in magnitude.

6.2.4 Young forests grow rapidly and soak up carbon more quickly than mature forests⁶³. The more stringent exemption may discourage some felling of young trees and therefore ultimately have a cumulative minor positive effect across all time frames in terms of reducing GHG emissions, thereby contributing to climate resilience (**climatic factors**).

6.2.5 Controlling felling via a more stringent diameter threshold will cumulatively have a minor positive effect in providing protection to **soil** and **water** by limiting uncontrolled felling. These are also considered to be minor positive effects.

6.3 Volume Threshold

6.3.1 The intention of the Regulations is to prevent woodland removal whilst allowing small scale domestic felling. Overall, limiting felling without a permission can have a minor positive effect across **all topics** by limiting disturbance to the environment via the requirement of a permission. However, it is recommended that clear guidelines regarding the exemption of specific native woodlands are provided; to allow identification and to prevent confusion regarding the areas to which this exemption applies.

⁶³ [https://www.forestry.gov.uk/PDF/fc_ForestsAndClimateChange.pdf/\\$FILE/fc_ForestsAndClimateChange.pdf](https://www.forestry.gov.uk/PDF/fc_ForestsAndClimateChange.pdf/$FILE/fc_ForestsAndClimateChange.pdf)

- 6.3.2 This proposed exemption would mean that native woodlands, particularly ancient and semi natural woodlands would require permission to fell even small volumes of timber where trees are over 8 cm in diameter and therefore ensure that felling is for woodland management purposes and that the cumulative effect of the felling can be managed. A resultant long term minor positive effect of a permanent nature is predicted on **biodiversity** (habitat creation and connectivity) and **cultural heritage** value of native woods.
- 6.3.3 In combination, where distinct areas of a woodland have different owners the risk remains that a woodland could be split to take advantage of the exemption and to enable deforestation. However, the likelihood of this occurring is considered to be quite low and adding any further limits to the exemption could affect the legitimate use of the exemption.
- 6.3.4 Removing the 2 m³ per quarter for sale exemption is unlikely to have any discernible effect across the topics.

6.4 Dead Trees and Windblow

- 6.4.1 The introduction of an exemption for the felling of dead trees and no requirement for consultation where windblow impacts on infrastructure provides protection to **material assets** as well as protecting from an health and safety standpoint.
- 6.4.2 The licensing of the felling of wind blow over 5m³ will allow the regulator, where appropriate, to require restocking, which would have a positive effect on availability of timber (**material assets**) as a resource as well as medium term positive effects as the trees grow and absorb more carbon (**climatic factors**). Assuming restocking is well managed in terms of location it will help to preserve the setting of **cultural heritage** and **landscape** into the future. Similarly the restocking sites and species need to be carefully managed. The UK Forestry Standard (UKFS) is the reference standard for sustainable forest management in the UK and provides a basis for regulation and monitoring. Also, the regulator controls opportunities to place conditions on a licence where these types of concerns would be considered.
- 6.4.3 Whilst the licence requirement for windblown trees will allow the regulator to control any necessary restocking of any site that has been compromised, the effects will also partly depend on whether the dead trees are removed or left in situ after felling has taken place, however, this is not within the remit of the Regulations.

6.5 Other Exemptions

- 6.5.1 Other exemptions include improving forestry guidance and clarifying what is meant by the term public open space. 'Public open space' is not currently defined and this introduces a risk that people will interpret this to their advantage. This exemption will specify practical requirements and hence potentially preserve the environment to a minor degree across several topics, for example, a minor positive cumulatively across Scotland in terms of **biodiversity** and **landscape** where woodland that was previously perceived as 'public open space' can no longer be defined as such and therefore is subject to felling permissions. Therefore more protection is afforded for habitats and species and the quality of the landscape. There may be circumstances where the delivery of this outcome will potentially reduce damage from felling to **cultural heritage**

features however, it is considered that this is a minor positive effect and would be dealt with at project level and via licence conditions.

- 6.5.2 It is uncertain the extent of felling which has been undertaken previously due to misinterpretation or use of perceived loopholes but clarification can only serve to better enforce the Regulations. For example, framing the exemption for removal of dangerous trees so it captures only felling that is necessary will help to prevent removal of entire trees where, for example, removing one dangerous branch would have removed the danger thus resulting in a minor positive effect across all topics for example, by affording protection to species and habitats that benefit from using the trees (**biodiversity**).

6.6 Cumulative Effects

- 6.6.1 Cumulatively the exemptions are predicted to have a major positive effect on both ancient and semi-natural woodlands in terms of controlling and limiting felling without a licence. This cascades to protection primarily across the topics of **biodiversity**, **cultural heritage** (in terms of the trees themselves) and to some extent, **material assets**.
- 6.6.2 It is also considered that these changes to the way the Regulations are implemented, supported by other PPS such as the UKFS will have a positive long term effect on the preservation of native woodlands and the value of forestry as a resource.

6.7 Summary of Conclusions

- 6.7.1 The proposals set out for the Regulations on Felling and Restocking are primarily to provide more protection for the forestry resource by seeking to improve clarity and enforcement around exemptions. After consideration of each of the topics, it is predicted that the effects of the new Regulations will largely be minor positive in nature extending to major positive when considering the cumulative effect over the long term.
- 6.7.2 The Consultation Authorities provided comment on the scoping report and these comments have been considered within the assessment (also see Appendix E). However, many of the comments are more appropriately dealt with via separate legislation. For example, controlling potential negative issues around the effect of restocking on the soil e.g. use of heavy machinery, would be more appropriately addressed via conditions provided by the regulator. Similarly, decisions about restocking are made on the basis of the evidence that is provided during the licence application process, including via site visits. This evidence is considered alongside the current body of knowledge about healthy forest systems, for example, current policy is to stage replanting so that there is a variety in the age of the trees in a specific area. These proposals do nothing to affect this approach.

7 Identifying mitigation measures and opportunities for enhancement

- 7.1.1 The 2005 Act requires information to be provided on measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the PPS.
- 7.1.2 There are a number of existing measures that serve to ensure that forestry-related operations in Scotland abide by the principles of sustainability and environmental protection. For example, the UKFS describes the conditions that must be met when felling trees⁶⁴.
- 7.1.3 The changes to exemptions and guidance are predicted to have a mostly minor positive effect but potentially with a cumulatively major positive effect in the long term. It is expected that mitigation of environmental effects associated with tree felling and restocking will continue to be addressed primarily at a forest plan and site level.
- 7.1.4 As noted by the Consultation Authorities in response to the scoping report consultation, the general operation of felling and restocking can have negative effects for example, root growth damage to archaeological remains and masonry, particularly with young trees, whose roots can grow rapidly and also effects on peaty soils. Consideration will be required at forest plan / project level to mitigate any negative effects such as appropriate siting and minimising ground disturbance.

⁶⁴ Forestry Commission Scotland (2017) Updated standard for forest management [online] Available at: <http://scotland.forestry.gov.uk/news-releases/1811-updated-standard-for-forest-management> (accessed 21/02/2018)

8 Proposals for monitoring

- 8.1.1 Section 19 of the 2005 Act requires that the responsible authority monitors the significant environmental effects of the implementation of the PPS in order to identify any unforeseen adverse effects at an early stage and undertake appropriate remedial action.
- 8.1.2 A wide range of existing programmes are in place at the national and local level to report on environmental status and assess performance against established environmental indicators. Since the publication of the second SFS, indicators have been developed which enable progress against the objectives of SFS to be judged⁶⁵. These include indicators that are probably of most relevance to the Regulations such as: area of native woodland, area of coniferous woodland and area of broadleaved woodland where timber production is a significant management objective. Given the minor effect the Regulations are predicted to have in isolation and given the range of indicators currently in use, it is recommended that existing indicators are utilised to monitor its cumulative effects with that of other PPS.
- 8.1.3 It is recommended that timing of felling and restocking is also monitored – perhaps making it a requirement to report once the activity has happened as part of the permission conditions.

⁶⁵ SPICe Information Centre (2016) Scottish Forestry [online] Available at: http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-93_Scottish_Forestry.pdf (accessed 18/07/2018)

9 Proposed programme of works and information on responding to the consultation

Table 3: Proposed programme of works

| Indicative timeline | Preparation of Secondary Legislation | Stage of the SEA |
|---------------------------------|--|---|
| January - April 2018 | Development of proposals (phase 3) following informal consultation | Scoping: Setting scope of assessment and submission of Scoping Report to Consultation Authorities |
| April - May 2018 | Further development of proposals | Environmental assessment: Undertake assessment and produce SEA Environmental Report |
| August - October 2018 | Public consultation on 'package' of draft proposals or draft 'policy document' | Environmental Report: Out to consultation (8 weeks) |
| October - December 2018 | Consultation analysis of all responses received and drafting of Regulations | |
| 1 st Quarter of 2019 | Regulations laid in Parliament | |
| April 2019 | Regulations in force | Post- Adoption: Draft and finalise the Post-Adoption Statement. Advertise and publish the Post Adoption Statement |

Table 4: Responding to the consultation

When can I respond?

Respondents are asked to submit responses to this Environmental Report directly to the Scottish Government by closing date of Sunday 14 October 2018.

How can I respond?

- **Online:** You can respond online using the Scottish Government's consultation platform, Consultation Hub, at: <https://consult.gov.scot/forestry/fellingandrestocking>. Consultation Hub allows you to save and return to your responses while the consultation is still open. A copy of your final response will be emailed to you.
- **By Email or Post:** Responses can be submitted by email, with the Respondent Information Form (see Appendix F), to FutureForestry@gov.scot by mail to Catherine Murdoch, Natural Resources Division, Directorate for Environment and Forestry, 3-G South, The Scottish Government, Victoria Quay, Edinburgh EH6 6QQ

How will responses be considered?

Following the consultation, a Post-Adoption Statement will be prepared. The Statement will reflect on the views provided on the findings of the assessment and the proposals in the Consultation Paper and will explain how the issues raised have been taken into account in the proposals for the new Regulations on Felling and Restocking.

This Post-Adoption Statement will be prepared and published alongside, or as soon as practicable following the enactment of the Regulations on Felling and Restocking.

Suggested questions for responses to this Environmental Report

Respondents may find the following questions helpful to provide a focus for their responses to this Environmental Report. Please note that responses do not need to be limited to these questions, and more general comments on this Environmental Report and the proposals set out in the Consultation Paper are also invited.

1. What are your views on the evidence set out in the Environmental Report that has been used to inform the assessment process? (Please give details of any additional relevant sources).
2. What are your views on the predicted environmental effects as set out in the Environmental Report?
3. Do you agree with the conclusions and recommendations set out in the Environmental Report?
4. Please provide any other further comments you have on the Environmental Report.

Appendices

Appendix A: Current exemptions under the 1967 Forestry Act

Section 9.— Requirement of licence for felling.

(1) A felling licence granted by the Commissioners shall be required for the felling of growing trees, except in a case whereby or under the following provisions of this Part of this Act this subsection is expressed not to apply.

(2) Subsection (1) above does not apply—

- (a) to the felling of trees with a diameter not exceeding 8 centimetres or, in the case of coppice or underwood, with a diameter not exceeding 15 centimetres; or
- (b) to the felling of fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space; or
- (c) to the topping or lopping of trees or the trimming or laying of hedges.

(3) Subsection (1) above does not apply to the felling by any person of trees on land in his occupation or occupied by a tenant of his—

- (a) where the trees have a diameter not exceeding 10 centimetres and the felling is carried out in order to improve the growth of other trees; or
- (b) where the following conditions are satisfied, that is to say—
 - (i) the aggregate cubic content of the trees which are felled by that person without a licence (exclusive of trees to whose felling subsection (1) above does not apply) does not exceed 5 cubic metres in any quarter; and
 - (ii) the aggregate cubic content of the trees so felled which are sold by that person whether before or after the felling (exclusive as aforesaid) does not exceed 2 cubic metres in any quarter, or such larger quantity as the Commissioners may in a particular case allow.

(4) Subsection (1) above does not apply to any felling which—

- (a) is for the prevention of danger or the prevention or abatement of a nuisance;
- (b) is in compliance with any obligation imposed by or under an Act of Parliament, including this Act;
- (c) is carried out by, or at the request of, an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as to have the effect mentioned in paragraph 9(1)(a) or (b) of Schedule 4 to the Electricity Act 1989;
- (d) is immediately required for the purpose of carrying out development authorised by planning permission granted or deemed to be granted under the Town and Country Planning Act 1990 or the enactments replaced by that Act, or under the Town and Country Planning (Scotland) Act 1997.

(5) Regulations made by the Commissioners under this Part of this Act may modify subsections (2) to (4) above as follows, that is to say—

(a) they may provide for additional exceptions from the application of subsection (1) above and may in particular substitute—

- (i) in subsection (2)(a), for the reference to 8 centimetres a reference to a larger diameter;
- (ii) in subsection (3)(a), for the reference to 10 centimetres a reference to a larger diameter;
- (iii) in subsection (3)(b) for the reference to 30 cubic metres or the reference to 5.5 cubic metres in either case a reference to a larger quantity;

(b) they may substitute in subsection (2)(a) for the reference to 15 centimetres a reference to a smaller diameter; and

(c) they may restrict or suspend the exception in subsection (3)(b) and may in particular substitute, for the reference in sub-paragraph (i) to 30 cubic metres, or for the reference in subparagraph (ii) to 5.5 cubic metres, in either case a reference to a smaller quantity; and the said subsections shall have effect with any modification made by regulations under this subsection.

(6) In this section—

“electricity operator” means a licence holder within the meaning of Part I of the Electricity Act 1989 by whom the powers conferred by paragraph 9 (tree lopping) of Schedule 4 to that Act are exercisable;

“electric line” and “electrical plant” have the same meanings as in Part I of the Electricity Act 1989;

“public open space” means land laid out as a public garden or used (otherwise than in pursuance of section 193 of the Law of Property Act 1925 or of Part V of the National Parks and Access to the Countryside Act 1949 or Part I of the Countryside and Rights of Way Act 2000) for the purpose of public recreation, or land being a disused burial ground;

“quarter” means the period of three months beginning with the 1st January, 1st April, 1st July or 1st October in any year;

[“relevant territory” means—

(a) England and Scotland where the felling is carried out in England or Scotland;

(b) Wales where the felling is carried out in Wales;] and references to the diameter of trees shall be construed as references to the diameter, measured over the bark, at a point 1.3 metres above the ground level.]

Appendix B: The Forestry (Exceptions from Restriction of Felling) Regulations 1979 SI 1979/792

4. Exceptions from restriction of felling

The following shall be exceptions from the application of section 9(1) of the Act (which prohibits the felling of growing trees unless a licence is in force authorising the felling) additional to the exceptions specified in section 9(2), (3) and (4) of the Act and accordingly no licence shall be required in respect of—

(1) the felling of any tree where the Secretary of State for Defence or the Secretary of State for Trade has certified that the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of air navigational or aircraft landing installations;

(2) the felling by statutory undertakers of trees on land in their occupation which obstruct the construction of any works required for the purposes of the undertaking of those undertakers or of trees which interfere with the maintenance or operation of any works vested in those undertakers;

(3) the felling of any tree by, or at the request of, a water authority established under the Water Act 1973, or an internal drainage board for the purposes of the Land Drainage Act 1976, where the tree interferes or would interfere with the exercise of any functions of that authority or board;

(4) the felling of any tree of the genus *Ulmus* which is affected by the disease in elms caused by the fungus *Ceratocystis ulmi* and commonly known as Dutch elm disease to such an extent that the greater part of the crown of the tree is dead;

(5) the felling of trees on land which is subject to an agreement entered into with the Commissioners, being an agreement to which section 5(1) of the Act refers, namely an agreement to the effect that the land shall not, except with the previous consent in writing of the Commissioners or, in the case of dispute, under direction of the Minister, be used otherwise than for the growing of timber or other forest products in accordance with the rules or practice of good forestry or for purposes connected therewith: provided that this exception shall not apply unless—

(a) the agreement is a forestry dedication covenant or a forestry dedication agreement registered in the General Register of Sasines, and the following conditions are fulfilled, that is to say—

(i) any positive covenants or terms on the part of the owner of the land contained in the same document as the said forestry dedication covenant or agreement are at the time of the felling binding on the person who is then the owner of the land; and

(ii) the felling is in accordance with a plan of operations approved by the Forestry Commissioners under such document;

or

(b) the agreement, being an agreement relating to land situate in England or Wales, is not made under seal or, being an agreement relating to land situate in Scotland, is a forestry dedication agreement not registered in the General Register of Sasines, and the following conditions are fulfilled, that is to say—

(i) the land is at the time of the felling owned by the person or persons who entered into the agreement with the Commissioners or by the survivor or survivors of such persons; and

(ii) the felling is in accordance with a plan of operations approved by the Commissioners under the agreement.

Appendix C: Other Plans, Programmes and Strategies

| PPS/Legislation Context and Name | Main requirements of the PPS or Legislation |
|---|---|
| International Forestry Policy | |
| United Nations | <p>United Nations Strategic Plan for Forests 2017-2030 (UNSPF⁶⁶)</p> <p>The UNSPF provides a global framework to sustainably manage all types of forests and trees outside forests, and halt deforestation and forest degradation.</p> <ul style="list-style-type: none"> • Also provides a framework for forest-related contributions to the implementation of the 2030 Agenda for Sustainable Development, the Paris Agreement adopted under the UN Framework Convention on Climate Change, the Convention on Biological Diversity, the UN Convention to Combat Desertification, the United Nations Forest Instrument (UNFI) and other international forest-related instruments, processes, commitments and goals. • Serves as a reference for the forest-related work of the UN system and for fostering enhanced coherence, collaboration and synergies among UN bodies and partners towards the following vision and mission, as well as a framework to enhance the coherence of and guide and focus the work of the International Arrangement on Forests (IAF) and its components. • At the heart of the UNSPF are 6 Global Forest Goals and 26 associated targets to be achieved by 2030. The Global Forest Goals and targets are voluntary and universal. They support the objectives of the IAF and aim to contribute to progress on the Sustainable Development Goals, the Aichi Biodiversity Targets, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change and other international forest-related instruments, processes, commitments and goals. The vision, principles and commitments set out in the 2030 Agenda for Sustainable Development provide the context for the Global Forest Goals and targets, which are interconnected and integrate the economic, social and environmental dimensions of SFM and sustainable development. |
| European Union | Although there is no provision for a common forestry policy at the EU level, forests are influenced by a wide range of community policies, regulations and initiatives, particularly those relating to protecting biodiversity and addressing climate change ⁶⁷ . Additionally, the EU Forestry Strategy provides a non-legislative framework to guide the development of policies having an impact on forests ⁶⁸ . |
| Europe | Forest Europe (previously the Ministerial Conference on the Protection of Forests in Europe), is the principal regional fora which develops the principles and definitions of sustainable forest management. The UK is a signatory of all Forest Europe commitments and resolutions ⁶⁹ for the sustainable management of forests that reflect the objectives of the Forest Principles and other agreements of the 1992 Earth Summit ⁷⁰ as well as its own vision of a European forest resource which supports 'a green economy, livelihoods, climate change mitigation [and] biodiversity conservation' and improves water quality and combats desertification ⁷¹ . The UK Forestry Standard is the mechanism by which these commitments are carried out domestically ⁷² . |
| UK | The UK Forestry Standard (UKFS) , revised in 2017, acts as the reference standard for sustainable forest management in the UK, applying to all woodland regardless of ownership ⁷³ . It also serves as a vehicle for meeting the requirements of, and monitoring for international agreements on sustainable forest management of which the UK is a part ⁷⁴ . The UKFS is regulated and monitored in Scotland by Forestry Commission Scotland (FCS) ⁷⁵ . The UKFS and its associated guidelines captures all international, EU and domestic legislation relevant to forestry practices in the UK. |
| Scotland | The Forestry Act 1967 ⁷⁶ and its subsequent amendments is the principal legislation relating to the forestry sector in Scotland. It specifies the statutory duties and powers of the Forestry Commissioners as promoting the interests of forestry, the development of afforestation, and the production and supply of timber and other forest products ⁷⁷ . The Act will be repealed by the Forestry and Land Management (Scotland) Act 2018 and that Act, once commenced, will introduce new provision about Scottish Ministers' functions in relation to forestry, in relation to the management of forestry land, and other land. |
| | Forestry Commission Scotland (FCS) deliver, advise upon, and implement forest policy in line with Scottish Government's National Performance Framework and other relevant priorities and policies. The current Scottish Government vision for forestry is provided by the 2006 Scottish Forestry Strategy ⁷⁸ . However, under the Forestry and Land Management (Scotland) Act 2018 Scottish Ministers will have a duty to prepare, publish and report on a new strategy. The new strategy will be in place by 1 April 2019. The Strategy describes a forest resource that is diverse and robust, environmentally sensitive, and enhances human wellbeing in a number of ways ⁷⁹ . |
| Scotland – Policies covering tree and woodland removal - The removal of trees and woodlands is controlled by a number of legislative and policy measures, depending upon the circumstances and scale of the removal. Statutory procedures for the licensing of felling and restocking, and associated provisions on enforcement, appeals, and exemptions, are discussed in Section 2 of this report. | |

⁶⁶ <http://www.un.org/esa/forests/documents/un-strategic-plan-for-forests-2030/index.html>

⁶⁷ European Commission (2016) EU Forest policies [online] Available at: <http://ec.europa.eu/environment/forests/fpolicies.htm> (accessed 21/02/2018)

⁶⁸ European Commission (2017) The new EU Forest Strategy [online] Available at: https://ec.europa.eu/agriculture/forest/strategy_en (accessed 21/02/2018)

⁶⁹ Forest Europe (undated) What is Forest Europe? [online] Available at: <http://foresteurope.org/foresteurope/> (accessed 21/02/2018)

⁷⁰ Forestry Commission (2017) The UK Forestry Standard – The governments' approach to sustainable forestry [online] Available at: [https://www.forestry.gov.uk/pdf/FCFC001.pdf/\\$FILE/FCFC001.pdf](https://www.forestry.gov.uk/pdf/FCFC001.pdf/$FILE/FCFC001.pdf) (accessed 21/02/2018)

⁷¹ Forest Europe (undated) Vision and Mission [online] Available at: <http://foresteurope.org/foresteurope/#1470741557748-134fb529-3b91> (accessed 23/02/2018)

⁷² Forestry Commission (2017) The UK Forestry Standard – The governments' approach to sustainable forestry [online] Available at: [https://www.forestry.gov.uk/pdf/FCFC001.pdf/\\$FILE/FCFC001.pdf](https://www.forestry.gov.uk/pdf/FCFC001.pdf/$FILE/FCFC001.pdf) (accessed 21/02/2018)

⁷³ Forestry Commission Scotland (2017) Updated standard for forest management [online] Available at: <http://scotland.forestry.gov.uk/news-releases/1811-updated-standard-for-forest-management> (accessed 21/02/2018)

⁷⁴ SPICe (2016) SPICe Briefing: Scottish Forestry [online] Available at: http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-93_Scottish_Forestry.pdf (accessed 21/02/2018)

⁷⁵ ibid

⁷⁶ Forestry Act 1967, Chapter 10 [online] Available at: <https://www.legislation.gov.uk/ukpga/1967/10/introduction> (accessed 21/02/2018)

⁷⁷ Forestry Commission (2017) Ministers and Commissioners [online] Available at: <https://www.forestry.gov.uk/commissioners> (accessed 21/02/2018)

⁷⁸ Scottish Government (2018) Forestry [online] Available at: <http://www.gov.scot/Topics/farmingrural/Forestry> (accessed 23/02/2018)

⁷⁹ Forestry Commission (2006) The Scottish Forestry Strategy [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/scottish-forestry-strategy-2006.pdf> (accessed 29/03/2017)

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| Town and Country Planning (Scotland) Act 1997 | Requires planning authorities to provide for the preservation or planting of trees when granting planning permission ⁸⁰ . It also confers on Scottish planning authorities powers to make TPO for individual or groups of trees in the interests of amenity and cultural or historical significance, and sets out provisions on protection for trees in conservation areas . The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 updated the procedure for making, varying, and revoking TPOs under the Act ⁸¹ . |
| Scottish Government policy on the control of woodland removal | Provides a strategic framework for appropriate woodland removal, covering the maintenance and expansion of forest cover and the achievement of an appropriate balance between forested and non-forested land ⁸² . |
| National Peatland Plan | Guidance around felling in afforested peatland sites is provided by the National Peatland Plan , which permits felling without restocking in certain cases ⁸³ . |
| Nature Conservation (Scotland) Act 2004 | Amended the Forestry Act 1967, enabling Forestry Commissioners to refuse felling licenses in instances where biodiversity or the visual quality of the land could be at risk ⁸⁴ . |
| Scotland – Policies covering woodland expansion and reforestation | |
| In general, woodland expansion is promoted by several national PPS such as the Land Use Strategy , the Climate Change Plan, and Scotland's Rural Development Programme ⁸⁵ . The Rationale for Woodland Expansion lays out the Scottish Government's thinking on how woodland expansion can best increase the delivery of public benefits from Scotland's land ⁸⁶ . The FCS publication ' The creation of small woodlands on farms ' advises on opportunities for creating new small woodlands in three different types of agricultural settings: arable land, permanent grassland, and hill land and unimproved grazing ⁸⁷ . | |
| Wider Policy Objectives related to the scoped in topics | |
| Biodiversity, Flora, and Fauna policy | International policies provide a framework for the conservation, protection, and sustainable use of biodiversity, flora, and fauna. |
| <ul style="list-style-type: none"> • The Convention on Biological Diversity (CBD) was opened for signature at the 1992 Earth Summit, which also gave rise to the Forest Principles⁸⁸. It functions as an internationally legally-binding treaty founded upon three primary goals: the conservation of biological diversity, the sustainable use of natural resources, and the fair and equitable use of biological and natural resources, including forests⁸⁹. It is often regarded as the key international instrument guiding sustainable development⁹⁰. • This progress towards an international commitment to halting biodiversity loss continued with the development of the Aichi Targets for 2020⁹¹. The 2020 Challenge for Scotland's Biodiversity⁹² is Scotland's response to the Aichi Targets as well as the EU Biodiversity Strategy to 2020⁹³. The 2020 Challenge supplements the 2004 Scottish Biodiversity Strategy⁹⁴ and together they comprise the overall Scottish Biodiversity Strategy. Scotland's Biodiversity – a Route Map to 2020 sets out the priority work needed to meet the Aichi targets and improve the state of nature in Scotland⁹⁵. In terms of woodland, it specifies targets relating to bringing native woodland to good condition as well as for woodland creation and restoration. • At the European level, Scotland abides by the EC Habitats (92/43/EEC)⁹⁶ and Birds (2009/147/EC)⁹⁷ Directives. The Natura 2000 network is the primary vehicle for meeting collective aims of these Directives⁹⁸, which largely centre on the protection of rare and endangered natural habitats and wild species of European significance. The Natura 2000 network comprises terrestrial and marine Special Protection Areas (SPAs) and Special Areas of Conservation (SACs). Many of these sites are also underpinned by Sites of Special Scientific Interest (SSSI)⁹⁹, which are designated under the Nature Conservation (Scotland) Act 2004¹⁰⁰. | |

⁸⁰ Town and Country Planning (Scotland) Act 1997, Chapter 8 [online] Available at: <https://www.legislation.gov.uk/ukpga/1997/8/introduction> (accessed 21/02/2018)

⁸¹ The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010, No. 434 [online] Available at: <http://www.legislation.gov.uk/ssi/2010/434/introduction/made> (accessed 29/03/2017)

⁸² Forestry Commission Scotland (2009) The Scottish Government's Policy on Control of Woodland Removal [online] Available at: [https://www.forestry.gov.uk/pdf/fcfc125.pdf/\\$file/fcfc125.pdf](https://www.forestry.gov.uk/pdf/fcfc125.pdf/$file/fcfc125.pdf) (accessed 26/02/2018)

⁸³ SNH (2015) Scotland's National Peatland Plan – Working for our future [online] Available at: https://www.nature.scot/sites/default/files/2017-07/A1697542%20-%20150730%20-%20peatland_plan.pdf (accessed 26/02/2018)

⁸⁴ Nature Conservation (Scotland) Act 2004, asp 6 [online] Available at: <http://www.legislation.gov.uk/asp/2004/6/introduction> (accessed 26/02/2018)

⁸⁵ Scottish Government (2018) Scottish Rural Development Programme (SRDP) 2014-2020 [online] Available at: <http://www.gov.scot/Topics/farmingrural/SRDP> (accessed 27/02/2018)

⁸⁶ Forestry Commission (2009) The Scottish Government's Rationale for Woodland Expansion [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/ForestExpansion.pdf> (accessed 26/02/2018)

⁸⁷ FCS (2006) The creation of small woodlands on farms [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/small-woodlands-on-farms.pdf> (accessed 26/02/2018)

⁸⁸ United Nations (undated) Convention on Biodiversity [online] Available at: <http://www.un.org/en/events/biodiversityday/convention.shtml> (accessed 26/02/2018)

⁸⁹ Convention on Biological Diversity (1992) Text of the Convention [online] Available at: <https://www.cbd.int/convention/text/> (accessed 26/02/2018)

⁹⁰ United Nations (undated) Convention on Biodiversity [online] Available at: <http://www.un.org/en/events/biodiversityday/convention.shtml> (accessed 26/02/2018)

⁹¹ Convention on Biological Diversity (2010) Aichi Biodiversity Targets [online] Available at: <https://www.cbd.int/sp/targets/default.shtml> (accessed 29/03/2017)

⁹² Scottish Government (2013) 2020 Challenge for Scotland's Biodiversity: A Strategy for the conservation and enhancement of biodiversity in Scotland [online] Available at: <http://www.gov.scot/Resource/0042/00425276.pdf> (accessed 29/03/2017)

⁹³ European Commission (2011) The European Biodiversity Strategy to 2020 [online] Available at: <http://ec.europa.eu/environment/nature/info/pubs/docs/brochures/2020%20Biod%20brochure%20final%20lowres.pdf> (accessed 29/03/2017)

⁹⁴ Scottish Government (2004) Scotland's Biodiversity Strategy: It's in Your Hands – A strategy for the conservation and enhancement of biodiversity in Scotland [online] Available at: <http://www.scotland.gov.uk/Publications/2004/05/19366/37239> (accessed 26/10/2015)

⁹⁵ Scottish Government (2015) Scotland's Biodiversity – a route map to 2020 [online] Available at: <http://www.gov.scot/Publications/2015/06/8630> (accessed 26/02/2018)

⁹⁶ European Commission (1992) The Habitats Directive [online] Available at: http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm (accessed 29/03/2017)

⁹⁷ European Commission (2009) The Birds Directive [online] Available at: http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm (accessed 29/03/2017)

⁹⁸ Scottish Government (2016) Natura 2000 [online] Available at: <http://www.gov.scot/Topics/Environment/Wildlife-Habitats/protectedareas/NATURA> (accessed 29/03/2017)

⁹⁹ Scottish Natural Heritage (2016) Sites of Special Scientific Interest [online] Available at: <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/national-designations/sssis/> (accessed 29/03/2017)

¹⁰⁰ Nature Conservation (Scotland) Act 2004, asp 6 [online] Available at: <http://www.legislation.gov.uk/asp/2004/6/introduction> (accessed 26/02/2018)

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| <ul style="list-style-type: none"> The Wildlife and Countryside Act promotes the protection of wildlife, the countryside, National Parks, and the designation of protected areas and public rights of way¹⁰¹. It requires tree work and work in woodland are carefully assessed for their potential risks to wildlife. | |
| Soil policy | <ul style="list-style-type: none"> The importance of soil protection has been recognised at the European level in the form of the European Commission's Thematic Strategy for Soil Protection¹⁰². The Strategy is founded on the principles of preventing further soil degradation and safeguarding its functions, ensuring responsible soil use and management patterns, mitigating the effects of human activities and environmental phenomena on soil condition, as well as restoring degraded soils to an acceptable level. Many of these aims are shared by the Scottish Soil Framework, which places the sustainable management of soils within the context of the economic, social, and environmental needs of Scotland¹⁰³. The Framework identifies 13 key soil outcomes such as protecting soil biodiversity, reducing and remediating soil erosion, and tackling greenhouse gas emissions. Peatland receives particular consideration under the National Peatland Plan, which aims to secure the sustainable use, management, and restoration of peatlands, including priority habitat bog woodland¹⁰⁴. At present, there is no legislative or policy tool developed specifically for the protection of soil in Scotland¹⁰⁵. However, designations and their associated management agreements and operations often extend protection to soil as a means of enhancing the biodiversity, geodiversity, landform value, and cultural resources of the site¹⁰⁶. For example, SSSI are notified to protect areas of land and water that best represent Scotland's natural heritage in terms of its flora, fauna, geology, geomorphology, and/or a mixture of these natural features¹⁰⁷. |
| Water policy | <ul style="list-style-type: none"> The EU's Water Framework Directive (2000/60/EC) (WFD) was introduced as a more comprehensive approach to managing and protecting Europe's water bodies including rivers, lochs, transitional waters, coastal waters, and groundwater resources¹⁰⁸. The WFD sets out a requirement for an assessment of both chemical and ecological criteria and has a goal of bringing all European waters to 'Good' status. Scotland fulfils its water protection obligations under the WFD primarily through the Water Environment and Water Services (Scotland) Act 2003¹⁰⁹ (The WEWS Act) which defines the establishment of River Basin Management Plans¹¹⁰, and the Water Environment (Controlled Activities) (Scotland) Regulations 2011¹¹¹. The WEWS Act established river basin planning in Scotland, except for the Solway Tweed area which is covered by separate legislation, Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 due to its cross-border nature. Other relevant legislation includes the Pollution Prevention and Control (Scotland) Regulations 2012, which applies specifically to pollution originating from industry discharges¹¹². The EU Floods Directive (2007/60/EC)¹¹³ is implemented at the national level through the Flood Risk Management (Scotland) Act 2009¹¹⁴. The Directive mandates the creation of flood risk management plans for all inland and coastal areas at risk of flooding, integrating their development and employment with existing River Basin Management Plans. Flood risk management plans are designed to minimise negative impacts due to flooding on a range of receptors, including human health, the environment, and cultural heritage. |
| Cultural Heritage policy | <ul style="list-style-type: none"> National cultural heritage objectives are set out in legislation including the Historic Environment (Amendment) (Scotland) Act (2011)¹¹⁵. The Act builds upon existing legislation pertaining to ancient monuments and listed buildings as well as providing for the creation of inventories of gardens and designed landscapes, as well as of battlefields. Specifically, the 2011 Act amends the Historic Buildings and Ancient Monuments Act 1953¹¹⁶ and modifies the Ancient Monuments and Archaeological Areas Act 1979¹¹⁷ as well as the Planning (Listed Buildings and Conservation) (Scotland) Act 1997¹¹⁸. Our Place in Time – The Historic Environment Strategy for Scotland, published in 2014, lays out a 10 year vision for Scotland's historic environment¹¹⁹. The vision is founded upon the fundamental aims of understanding, protecting, and valuing our historic environment, ensuring it continues to benefit Scotland's wellbeing through its cultural, social, environmental, and economic contributions. The Strategy and the Historic Environment Scotland Policy Statement¹²⁰ set out an overarching framework for historic environment policy in Scotland. Other relevant policies include National Planning Framework 3¹²¹ and Scottish Planning Policy, Historic Environment Circular 1¹²², and Historic Environment Scotland's Managing Change in |

¹⁰¹ Wildlife and Countryside Act 1981, Chapter 69 [online] Available at: <https://www.legislation.gov.uk/ukpga/1981/69> (accessed 26/02/2018)

¹⁰² European Commission (2006) Thematic Strategy for Soil Protection [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52006DC0231> (accessed 29/03/2017)

¹⁰³ Scottish Government (2009) The Scottish Soil Framework [online] Available at: <http://www.gov.scot/Publications/2009/05/20145602/0> (accessed 29/03/2017)

¹⁰⁴ SNH (2015) Scotland's National Peatland Plan – Working for our future [online] Available at: https://www.nature.scot/sites/default/files/2017-07/A1697542%20-%20150730%20-%20peatland_plan.pdf (accessed 26/02/2018)

¹⁰⁵ Scottish Government (2009) The Scottish Soil Framework [online] Available at: <http://www.gov.scot/Publications/2009/05/20145602/0> (accessed 21/11/2017)

¹⁰⁶ ibid

¹⁰⁷ SNH (2017) Sites of Special Scientific Interest [online] Available at: <https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-areas/national-designations/sites-special-scientific-interest> (accessed 24/01/2017)

¹⁰⁸ European Commission (2000) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0060> (accessed 27/11/2017)

¹⁰⁹ Water Environment and Water Services (Scotland) Act 2003, asp 3 [online] Available at: http://www.legislation.gov.uk/asp/2003/3/pdfs/asp_20030003_en.pdf (accessed 21/11/2017)

¹¹⁰ SEPA (2016) River Basin Management Planning [online] Available at: <http://www.sepa.org.uk/environment/water/river-basin-management-planning/> (accessed 21/11/2017)

¹¹¹ The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended), SSI No. 206 [online] Available at: http://www.legislation.gov.uk/ssi/2011/209/pdfs/ssi_20110209_en.pdf (accessed 21/11/2017)

¹¹² The Pollution Prevention and Control (Scotland) Regulations 2012, SSI No. 306 [online] Available at: <http://www.legislation.gov.uk/ssi/2012/360/introduction/made> (accessed 21/11/2017)

¹¹³ European Commission (2007) The EU Floods Directive [online] Available at: http://ec.europa.eu/environment/water/flood_risk/ (accessed 21/06/2017)

¹¹⁴ Flood Risk Management (Scotland) Act 2009, asp 6 [online] Available at: http://www.legislation.gov.uk/asp/2009/6/pdfs/asp_20090006_en.pdf (accessed 21/06/2017)

¹¹⁵ Historic Environment (Amendment) (Scotland) Act (2011), asp 3 [online] Available at: <http://www.legislation.gov.uk/asp/2011/3> (accessed 29/03/2017)

¹¹⁶ Historic Buildings and Ancient Monuments Act 1953, Chapter 49 [online] Available at: http://www.legislation.gov.uk/ukpga/1953/49/pdfs/ukpga_19530049_en.pdf (accessed 29/03/2017)

¹¹⁷ Ancient Monuments and Archaeological Areas Act 1979, Chapter 46 [online] Available at: <http://www.legislation.gov.uk/ukpga/1979/46> (accessed 29/03/2017)

¹¹⁸ Planning (Listed Buildings and Conservation) (Scotland) Act 1997, Chapter 9 [online] Available at: <http://www.legislation.gov.uk/ukpga/1997/9/introduction> (accessed 29/03/2017)

¹¹⁹ Scottish Government (2014) Our Place in Time – The Historic Environment Strategy for Scotland [online] Available at: <http://www.gov.scot/Publications/2014/03/8522/0> (accessed 03/07/2017)

¹²⁰ Historic Environment Scotland (2016) Historic Environment Scotland Policy Statement June 2016 [online] Available at: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=f413711b-bb7b-4a8d-a3e8-a619008ca8b5> (accessed 29/03/2017)

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| | <p>the Historic Environment guidance note series¹²³.</p> <ul style="list-style-type: none"> • Scotland's Woodlands and the Historic Environment communicates the forestry sector's shared understanding of how forests and woodlands contribute towards Scotland's historic environment and cultural heritage¹²⁴. It outlines the practical measures the forestry sector can take to ensure its activities enhance the stewardship of the historic environment. |
| Landscape policy | <ul style="list-style-type: none"> • The European Landscape Convention strives to promote landscape protection, management, and planning as well as achieve a more concerted approach to addressing landscape issues at the European scale¹²⁵. The Convention presents a highly inclusive definition of landscape, specifying that protection and enhancement activities should apply equally to both 'outstanding' as well as less remarkable or degraded landscapes. This definition encompasses natural, rural, urban, and peri-urban landscapes across land, marine, and inland water environments. • At a national level, the role of Scotland's natural heritage and landscapes in informing land use planning is set out in Scottish Planning Policy¹²⁶. Additionally, the National Planning Framework 3 acknowledges the multiple benefits we derive from landscapes, such as improved human health and wellbeing as well as contributions to our quality of life¹²⁷. Both Scottish Planning Policy and National Planning Framework 3 also give significant protection to wild land areas¹²⁸. • SNH's Landscape Policy Framework strives to 'safeguard and enhance the distinct identity, the diverse character, and the special qualities of Scotland's landscapes as a whole'¹²⁹. • 'The right tree in the right place – Planning for forestry and woodlands' provides Scottish Government advice to planning authorities on planning for forestry and woodlands¹³⁰. Development should consider how existing woodlands factor into local landscape character and value, while also recognising the potential contribution of future woodland creation, restructuring, and in exceptional cases removal, to landscape¹³¹. The Scottish Government has a number of measures designed to protect woodland. This is principally articulated through the Scottish Government's policy on the control of woodland removal, which places a strong presumption against the removal of any woodland. • Scottish Planning Policy states that the planning system should protect and enhance ancient woodland as an important and irreplaceable resource together with other native or long established woods, hedgerows and individual trees. Tree Preservation Orders can be used to protect individual trees and groups of trees considered important for amenity or their cultural or historic interest. Development Plans should identify woodlands of high nature conservation value and include policies for protecting them and enhancing their condition and resilience to climate change. • Under the forthcoming Planning Bill, Scottish Planning Policy will be given new statutory status as part of the Development Plan. Scottish Planning Policy is expected to be reviewed in parallel with preparation for National Planning Framework 4, which is expected to commence in 2018 with a view to adoption in 2020. • In addition The Scottish Plant Health Strategy¹³² sets out the Scottish Government's approach to the protection of the health of plants (agricultural and horticultural crops, plants in parks and gardens, forestry and the natural environment) in Scotland. |

¹²¹ Scottish Government (2014) National Planning Framework 3: A Plan for Scotland: Ambition, Opportunity, Place and Scottish Planning Policy [online] Available at: <http://www.gov.scot/Topics/Built-Environment/planning/NPF3-SPP-Review/NPF3> (accessed 29/03/2017)

¹²² Historic Environment Scotland (2016) Historic Environment Circular 1 [online] Available at: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=ec209755-9bf8-4840-a1d8-a61800a9230d> (accessed 29/03/2017)

¹²³ Historic Environment Scotland (undated) Managing Change in the Historic Environment: Guidance notes [online] Available at: <https://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/> (accessed 29/03/2017)

¹²⁴ Forestry Commission Scotland (2008) Scotland's Woodlands and the Historic Environment [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/fcfc123.pdf> (accessed 26/02/2018)

¹²⁵ European Landscape Convention (2000) Text of the ELC [online] Available at: <https://rm.coe.int/1680080621> (accessed 21/11/2017)

¹²⁶ Scottish Government (2014) Scottish Planning Policy [online] Available at: <http://www.gov.scot/Publications/2014/06/5823> (accessed 03/07/2017)

¹²⁷ Scottish Government (2014) National Planning Framework 3: A Plan for Scotland: Ambition, Opportunity, Place and Scottish Planning Policy [online] Available at: <http://www.gov.scot/Publications/2014/06/3539> (accessed 03/07/2017)

¹²⁸ SNH (2012) Landscape policy: wild land [online] Available at: <https://www.nature.scot/professional-advice/landscape-change/landscape-policy-and-guidance/landscape-policy-wild-land> (accessed 21/11/2017)

¹²⁹ SNH (2005) Statement: SNH's Landscape Policy Framework [online] Available at: <https://www.nature.scot/professional-advice/landscape-change/framework-landscape-policy/snh-landscape-policy-framework> (accessed 21/11/2017)

¹³⁰ Forestry Commission Scotland (2010) The right tree in the right place – Planning for forestry and woodlands [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/fcfc129.pdf> (accessed 26/02/2018)

¹³¹ ibid

¹³² <http://www.gov.scot/Publications/2016/03/7136>

Appendix D: Relevant Baseline Information

| Environmental Topic | Baseline Information | Key Data | Trends | Source | |
|--|--|--|--|---|-----------|
| Biodiversity, flora, and fauna | Forest and woodland cover (2017) | 1 440 000ha (18% of Scotland's land area) | forest and woodland cover has increased over the 20 th century from 351 000ha in 1905 to 656 000ha in 1965 to 1 281 000ha in 1995-99 | Forestry Commission - Forestry Statistics 2017 | |
| | New planting (2016-2017) | 4 800ha planted (73% of UK total amount) | new planting has decreased since 2012-2013 (7 000ha) | see above | |
| | New planting by ownership (2016-2017) | 1 100ha Forestry Commission | 3 700ha private sector | private sector new planting has decreased (e.g. 6 200ha in 2012-2013) but has remained greater than Forestry Commission new planting (e.g. 800ha in 2012-2013) | see above |
| | | | | | |
| | New planting by forest type (2016-2017) | 3 200ha conifers | 1 500ha broadleaves | broadleaf planting has decreased considerably to become less extensive than conifer planting, which has increased | see above |
| | | | | | |
| | Woodland area by ownership (2017) | 470 000ha (33%) owned by FC; 970 000ha (67%) owned by the private sector | these proportions have been fairly stable since 2013 | see above | |
| | Species composition (2017) | 74% conifers (1 061 000ha) | 26% broadleaved species (378 000ha) | no trend data available | see above |
| | | | | | |
| | Native woodland cover (2013) | 319 100ha (22.5% of Scotland's total woodland area as of March 2011 and roughly 4.0% of Scotland's total land area) | native woodland cover decreased during the 20 th century but began to recover after 1985 in response to policy changes | Forestry Commission - Native Woodland Survey of Scotland ; SNH - Natural Heritage Trends - Forest and woodland: native woodland | |
| | Condition (2013) | 46% found to be in satisfactory condition | overall, conditions are stable or declining , with some areas exhibiting improvements and others declining | see above; Scotland's Environment – Woodlands and forests | |
| | Ancient woodland cover (2013) | 120 305ha (65%/64 130ha of these ancient woodlands qualify as native woodland, comprising 20.6% of native woods in total and just 4.6% of all woodlands in Scotland) | as compared to previous surveys (i.e. Scottish Ancient Woodland Inventory), ancient woodland cover appears to have decreased | see above | |
| | Condition (2013) | 40% found to be in satisfactory condition | no trend data available | see above | |
| | Scotland Biodiversity List woodland habitats | lowland mixed deciduous, native pine woodlands, upland birchwoods, upland mixed ashwoods, upland oakwood, wet woodland, wood pasture and parkland | | Scottish Government - Scottish Biodiversity List | |
| Designated protected areas (2016) | 1 423 Sites of Special Scientific Interest (SSSI), 51 Ramsar sites, 153 Special Protection Areas (SPAs), 249 Special Areas of Conservation (SAC) | | SNH - Protected areas | | |
| Condition of notified species National Indicator (SSSI, Ramsar, SPA, SAC) (2016) | 71% of all species features were in favourable condition; 3% were unfavourable recovering; 3% were unfavourable with corrective measures agreed; and 24% were in an unfavourable condition | considered to be in stable condition | SNH Biodiversity Indicator S010 – Condition of notified species | | |

| Environmental Topic | Baseline Information | Key Data | Trends | Source |
|--------------------------|--|---|--|---|
| | | <p>the percentage of species features that were favourable or unfavourable recovering were:</p> <ul style="list-style-type: none"> 88% of terrestrial mammals; 72% of birds; 76% of fish; 57% of marine mammals; 50% of amphibians and reptiles; 100% dragonflies; 87% of butterflies; 82% of other invertebrates; and 82% of vascular plants; 65% of non-vascular plants | | |
| | Condition of notified habitats national indicator (SSSI, Ramsar, SPA, SAC) (2016) | 53% of woodlands were favourable/unfavourable recovering | considered to be in stable condition | SNH Biodiversity Indicator S011 – Condition of notified habitats |
| | Index of abundance of terrestrial breeding birds national indicator (woodland species) (2014) | 163 | this figure reflects a significant increase (63%) since 1994 | SNH Biodiversity Indicator S003 – Abundance of terrestrial breeding birds |
| Soil | Characteristics | in general, Scotland's soils are young, acidic, carbon rich, and nutrient poor compared to those found elsewhere in UK and mainland Europe | | SEPA - Making the Case for the Environment: Soil |
| | Condition (2014) | Scotland's soils are considered to be in good condition | no trend data available | Scotland's Environment - State and Trend Assessment |
| | Main soil types | podzols (associated with coniferous woodland), brown earths (associated with semi-natural woodlands to the west), gleys, organic peat soils | | The James Hutton Institute - Soils - Introduction |
| | Spatial extent of peat soils (2015) | peat soils cover 22% of Scotland's land area, mostly to the north and on the islands of Lewis and Shetland | | SEPA - Making the Case for the Environment: Soil |
| | Condition of peat soils (2018) | it is estimated that over 80% of peat soils are degraded | certain peat soils are considered to be improving due to focused restoration efforts | Scotland's Soils - Peatland Restoration; ClimateXChange - NB22a Peatland restoration area |
| | Carbon uptake by peat soils (2018) | estimated at 0.018 Mt CO ₂ e/year | by 2027, carbon uptake by peat soils could increase to 1.5-5.4 Mt CO ₂ e/year if all degraded peatlands were immediately restored | ClimateXChange – Soil Carbon and Land Use in Scotland |
| | Soil carbon storage (2011) | 3 000 million tonnes (roughly 50% of the UK total) | this figure has remained relatively stable over time, although there may be small changes in individual land use categories over short time periods | see above |
| Water | Water bodies in Scotland | 125 000km of river, 25 500 lochs (2 000km ²), 49 estuaries (1 000km ²), 19 000 km of coastline (48 000km ²), and 462 000km ² of offshore waters; additionally, significant volumes of groundwater (greater than rivers and lochs combined) | | Key Scottish Environment Statistics 2016; BGS/SEPA - Scotland's aquifers and groundwater bodies |
| | Condition (2014) | Rivers: nearly half now reported as being in good condition or better | conditions are considered to be stable or improving | Scotland's Environment - State and Trend Assessment |
| | | Lochs: almost two-thirds are in good or high condition | conditions are considered to be stable or improving | |
| | | Estuaries: 85% are in good or high environmental condition | conditions are considered to be improving | |
| | | Coastal waters: 97% are in good or high condition | conditions are considered to be stable or declining | |
| | | Groundwater: more than 80% in good condition | no trend data available | |
| Flood risk (2015) | 1 in 22 homes and 1 in 13 businesses are at risk from flooding | episodes of flooding are expected to become more common and severe in response to climate change | SEPA - Flood risk management in Scotland; Committee on Climate Change - Scottish Climate Change Adaptation Programme: An independent | |

| Environmental Topic | Baseline Information | Key Data | Trends | Source |
|--------------------------------|---|---|--|--|
| | | | | assessment for the Scottish Parliament |
| Climatic factors | Greenhouse gas emissions* (EU ETS adjusted) (2015) * includes carbon dioxide, methane, and nitrous oxide (1990 baseline) and hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, and nitrogen trifluoride (1995 baseline) | 45.5 MtCO ₂ e | 41.0% reduction from 1990/1995 baseline | Scottish Government - Scottish Greenhouse Gas Emissions 2015 |
| | Greenhouse gas emissions by forestry sector (2015) | -7.0 MtCO ₂ e (i.e. net emissions removal) | absorption by forestry is likely to fall over the coming decades due to low planting and forests maturing | see above; SPICe - Scottish Forestry |
| | Mean annual temperature (2016) | 7.83°C | in general, temperatures have been increasing ; eight of the ten warmest years on record in Scotland have occurred since 2001; the average temperature in the 2000s was 0.90°C warmer than the 1961-1990 average and warmer than any other decade since records began in 1910 | Scottish Government temperature data (Metadata: Met Office); Key Scottish Environment Statistics 2016 (Metadata: Met Office) |
| | Mean annual precipitation (2015) | 2015 was the second wettest year since records began in 1910 with precipitation recorded at 33.3% above the 1961-1990 baseline | records show an overall increase in rainfall since the 1980s over previous decades, but there is seasonal and regional variation | Key Scottish Environment Statistics 2016 (Metadata: Met Office) |
| | Climate projections for Scotland | in general, projections suggest observed climate trends will continue and intensify in the future. These include: <ul style="list-style-type: none"> projected increases in mean annual temperature by the 2080s for Scottish regions range from 1.6°C to 4.5°C, with central estimates between 2.6°C and 3.0°C; drier summers and wetter winters; more seasonal rainfall; and increased risk of flood, drought, and extreme weather events | | see above |
| Historic and cultural heritage | Condition (2014) | Scotland's historic environment is considered to be in moderate condition | conditions are considered to be stable | Scotland's Environment - State and Trend Assessment |
| | Percentage of pre-1919 dwellings classified as having disrepair to critical elements national indicator (2016) | 67% | this is a reduction from a peak of 80% in 2012 | Scottish Government - Improve the state of Scotland's historic sites National Indicator |
| | Designations (2018) | 6 World Heritage sites, 8 167 scheduled monuments, 377 gardens and designed landscapes, and 663 conservation areas | | Historic Environment Scotland – Listing, scheduling and designations |
| | Archaeological features associated with Scotland's woodlands | approximately 25 000 | | Forestry Commission Scotland – Scotland's woodlands and the historic environment |
| | Examples of historical woodland features | wood banks, charcoal platforms, saw pits, park pale, ancient coppice stools, veteran trees | | Forestry Commission – Archaeology OF wooded environments |
| | Records of non-designated historic assets (2015) | 320,000 records of historic assets. This is information on historic environment assets that are not necessarily nationally important or legally protected, | | Scotland's Environment - People and the environment historic environment |

| Environmental Topic | Baseline Information | Key Data | Trends | Source |
|----------------------------|---|--|---|--|
| | | but nonetheless contribute to Scotland's overall historic environment. Based on data in the Canmore database around 93% of archaeological sites and monuments recorded in Canmore are undesignated | | |
| Material assets | Main types of land use (2014) | Agriculture (~70%), woodland (~18%), urban (~2.5%) | thousands of years ago, woodland cover was the dominant land use type; over time, this decreased to make way for agriculture, which today greatly surpasses all other types of land use, although agricultural land has decreased in area from 1982, likely due to woodland and urban expansion | Scotland's Environment – Land use and management |
| | Key land-based industries | agriculture (crops and livestock), forestry, sporting (e.g. deer management), food and drink, mining and aggregate extraction, energy, tourism | | see above |
| | Agricultural land use in Scotland (2016) | ~50% rough grazing; ~25% grass; ~10% used for crops or left fallow; ~15% used for woodland, ponds, yards, or other uses | since 2000, these proportions have remained relatively stable ; however, the NA2 Area of Prime Agricultural Land (Land Capability) Indicator suggests a long-term trend towards an increase in prime agricultural land in response to climate change (e.g. warmer, drier summers) | Scottish Government – Agricultural Land Use in Scotland ; Scottish Government Rural and Environment Analytical Services – Economic Trends in Scottish Agriculture ; ClimateXChange – NA2 Area of Prime Agricultural Land (Land Capability) Indicator |
| | Area of woodland on farms (2016) | 502 400ha | woodland on farms has increased in area since 2007 (279 900ha) | Forestry Commission - Forestry Statistics 2017 |
| | Extent of built development landscape national indicator (2009) | 122 498ha (1.55% of Scotland's land area) | no trend data available | SNH Landscape Indicator LBD1 – Extent of Built Development |
| | Waste sent to landfill (2014) | 4.02 million tonnes | 42% reduction from 2005 | Key Scottish Environment Statistics 2016 (Metadata: SEPA) |
| | Amount of Biodegradable Municipal Waste (BMW) sent to landfill (2014) | 1.06 million tonnes | 51% reduction from 2005 | see above |
| | Household waste recycling rate (2015) | 44.2% | increase from 42.8% in 2014 | see above |
| | Timber harvesting (2016) | 8.4 million m ³ | timber harvesting has increased relatively steadily over the past 35 years, with current volumes roughly seven times those of the late 1970s | Forestry Commission - Forestry Statistics 2017 |
| | Restocking in Scotland (2016-2017) | 11,100ha | | see above |
| | Restocking by ownership (2016-2017) | 6,700ha Forestry Commission | | see above |
| | | 4,400ha private sector | | |
| | Restocking by forest type (2016-2017) | 9,100ha conifers | | see above |
| 2,000ha broadleaves | | | | |
| Non-timber forest products | more than 200, including wild and managed game; berries, mushrooms, and other edible plants; medicinal plants; foliage, seeds, bark, and resins; dyes and craft materials | | ForestHarvest website | |
| Landscape | Condition (2014) | Scotland's rocks and landforms considered to be in generally good condition | conditions are considered to be stable or declining | Scotland's Environment – Rocks and landforms |

| Environmental Topic | Baseline Information | Key Data | Trends | Source |
|---------------------|--|---|--|---|
| | Geoparks | 3 (10% of Scotland's total land area) | | |
| | Wild land areas | 42 (mostly in the north and west) | | SNH - Wild Land Area descriptions |
| | Area of National Landscape Designations national indicator (2016) | <ul style="list-style-type: none"> • 25.2% (1,988,000ha) of land was covered by one or more form of landscape designation; • 17.5% (1,381,100ha) of land and sea was designated as National Scenic Area (13% of Scotland's land was designated as National Scenic Area, mostly found in more remote and mountainous areas). • 8.1% (639,100ha) of land was designated as National Parks; • 1.0% (76 500ha) of land was of Inventory of Gardens & Designed Landscapes status; • 0.3% (27,000ha) of land was of Battlefields Inventory status; • 0.2% (18,300ha) of land was of land was scheduled as Scheduled Monuments | increase from approximately 17% in 1996, due in large part to designation of Cairngorms and Loch Lomond & the Trossachs National Parks | SNH Landscape Indicator LLQ1 0 Area of National Landscape Designations |
| | Visual influence of built development national indicator* (2013) | one or more types of built development could be seen from 73% (5,750,855ha) of Scotland's land area (7,880,880ha) | this represents an increase from 71.4% in 2012 and from 65.4% in 2008 | SNH Natural Heritage Indicator N3 - Visual influence of built environment |

* The components that make up this indicator are: Airfields; Major bridges; Extraction industries; Offshore surface structures; Wind Turbines; Tall structures without wind turbines; Building density (low and high); Motorways; Trunk roads; Non trunk A roads; B Roads; Minor roads and tracks (all); Railways; Overhead lines

Appendix E: Analysis of Consultation Authorities responses to the Scoping Report

| Section of Scoping Report | Consultation Authority Comments on the Scoping Report | Scottish Government Response |
|---|--|--|
| Consultation Authority - HES | | |
| Scope and level of detail | On the basis of the information provided, we are content with this approach proposed for the assessment. However, we have provided some comments on the scope and level of detail of the assessment in the attached annex. We note that the historic environment has been scoped in. | Noted. |
| Consultation period for the Environmental Report | We note the information provided on consultation and next steps. However, it would be beneficial if the timescales for consultation on the Environmental Report could be confirmed. Please note that, for administrative purposes, we consider that the consultation period commences on receipt of the relevant documents by the SEA Gateway. | The Consultation Authorities have been notified via the SEA Gateway on 9 th August 2018 that the consultation period will be 8 weeks. |
| Approach to the assessment | We welcome the inclusion of cultural heritage within the scope of the assessment. However, we note the reasons for inclusion set out in Table 2 (<i>proposed scoping in/out of SEA topics</i>). We consider that the focus of likely impacts on the historic environment as relating primarily to impacts on ancient and semi-natural woodlands as being too narrow. We note that setting is referred to as a possible secondary impact to the historic environment under the landscape category. However, both the felling and restocking of trees have the potential to have a direct impact on the historic environment. Tree felling and restocking operations have the potential to have a direct impact on archaeology through disturbance and to create further disturbance through bioturbation by tree roots. Impacts on setting should be considered as direct due to the potential for effects on the cultural significance of archaeological sites. We recommend that the assessment of effects takes a broader approach to considering impacts on archaeology. | Noted. Potential effects have been considered accordingly within this Environmental Report. |
| Proposed approach to the assessment | We note the proposed objectives and assessment questions. We recommend that the assessment questions are broadened to include provision for potential effects on both site and setting of archaeological sites and monuments. | Noted. Consideration of these issues has been included in the assessment but the assessment methodology has been changed to reflect the nature of the proposals. |
| Policy context and proposed environmental baseline | We note the policy context for cultural heritage as set out in paragraphs 4.3.14 – 17. We note the reference to Scottish Planning Policy (SPP) in paragraph 4.3.16. SPP makes provision for designated archaeological sites which it states should be preserved in situ and in appropriate setting. We would highlight that Scottish Ministers' policy for scheduled monuments as set out in paragraph 145 of SPP attaches equal weight to impacts in both site and setting and it is important that the assessment reflects this. We would also highlight that SPP also makes provision for non-designated archaeological sites (paragraph 150) which it recommends are preserved in situ where feasible. | Noted and accounted for within the assessment. |
| Initial environmental baseline | We recommend that Historic Environment Scotland's data is added to the list of information sources for the environmental baseline which appears on page 27 of the Scoping Report. We note the proposed baseline as set out in Figure 2 (<i>Proposed Baseline</i>). We recommend that the baseline gathered for the assessment reflects the policy context for the historic environment and takes into account the advice on the approach to the assessment as discussed above. | The Scoping Report will not be updated but HES data has been used in the baseline of the Environmental Report. |
| Consultation Authority - SEPA | | |
| General comments | We note that the scope of the assessment will be focussed on the proposal to make changes to volume exemptions for ancient and semi-natural woodlands. We are content with this approach as we recognise that it is a proportionate approach, focussing on the elements of the proposal which are deemed to have the potential to lead to significant environmental effects. We note, and welcome, that the remaining elements of the proposed changes will be brought into the assessment for consideration of cumulative effects. | Noted. |
| Scoping of SEA topics | We note that in terms of our interests the SEA topics of biodiversity, soil and water have been scoped into the assessment (Table 2). We would however recommend widening the scope of the assessment to consider the following issues: Climatic factors <ul style="list-style-type: none"> • We infer from the Scoping Report that there will be a presumption to restock and we are therefore particularly concerned that it is proposed to scope climatic factors out of the assessment. We would recommend that climatic factors is included in order to pick up issues associated with peat, acidification from sea-salt events and, risks from changes in distribution of invasive species / pathogens. • We would also highlight the note in Table 2 that trees and soil are intricately linked on the issues of soil condition and stability. Any impacts on soil condition and stability could also have impacts on transfer of greenhouse gases (GHG), hence we would recommend including consideration of climatic factors in the assessment. • You may also wish to give consideration to energy requirements associated with felling, restocking, haulage, and waste management activities, including the application of low carbon technologies. Material assets | Climatic factors and material assets have been scoped into the assessment based on SEPA's advice to assess any possible effects. However, sea salt events, invasive species, energy requirements, forestry infrastructure and waste are considered to be beyond the remit of the proposal. In terms of restocking locations (peat) and waste associated with felling and restocking, conditions are set on a case by case basis. Guidance is provided by the regulator on a case by case basis and also operators should rely on the UKFS to some extent – but that is also likely to form part of the specific conditions in any case. |

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| | <ul style="list-style-type: none"> Infrastructure is an essential element of forestry activity. We would therefore recommend that you give consideration as to whether the proposals may result in significant effects on infrastructure elements such as forestry tracks, haulage routes, management of machinery (including transport) and oil storage. We would also recommend that consideration of waste issues is included in the assessment. This should examine elements such as felling waste and management of brash; the potential cumulative impacts of waste are also likely to be particularly important. | |
| Proposed methodology | <p>Our comments on the proposed methodology reflect our recommendations above on expanding the scope of the assessment. We would recommend the following amendments / additions to the proposed methodology as set out in Table 3 (<i>Proposed methodology: SEA objectives and assessment questions</i>):</p> <p>Soil</p> <ul style="list-style-type: none"> All soils should be protected bearing in mind the impact of a degraded soil on issues such as water quality, flood risk and greenhouse gas emissions. The proposed assessment questions should include reference to (i) protecting carbon stores and improving resilience to climate change through the protection and enhancement of soils, (ii) protecting and enhancing soil quality and the wider environment by reducing erosion and compaction, (iii) protecting and enhancing soils to act as a buffer to protect water against pollution, and (iv) protecting soil functionality. A specific question on peat and peatland restoration should be included to address issues around restocking in areas of deep peat. <p>Water</p> <ul style="list-style-type: none"> The water objective should be amended to "Protect and improve the water environment". This is the statutory objective in the Water Framework Directive. <p>Climatic factors</p> <ul style="list-style-type: none"> An objective should be framed around the reduction of existing and the avoidance of new GHG emissions. The assessment questions should include reference to (i) the avoidance of disturbance of carbon rich soils, (ii) the promotion of restoration opportunities for peatlands, and (iii) the potential for low carbon technology to support felling, restocking, haulage and waste management activities. <p>Material assets</p> <ul style="list-style-type: none"> An objective should be framed around the sustainable use and management of material assets. The assessment questions should include reference to (i) sustainable use and management of existing infrastructure e.g. forestry roads, haulage routes and machinery, and (ii) creation and management of felling waste and brash. | The assessment has considered these recommendations where they are of relevance to the proposals. |
| Mitigation and monitoring proposals | We note that mitigation proposals are largely set within the context of existing standards and environmental Regulation. We would highlight the importance of considering the potential for multiple unregulated activities (e.g. those at too small a scale individually to fall within existing Regulations) to cumulatively result in effects of a significant nature. We would welcome this issue to be addressed in the ER. | This is considered to be outwith the scope of the proposed Regulations. |
| Reasonable alternatives | We note that as yet no reasonable alternatives have been developed. We would be pleased to provide input to the development of alternatives as you progress with the assessment. | SEPA have been invited to comment on the proposals via their representatives on the Regional Forestry Forums |
| Environmental baseline | <p>We would highlight the following points for your information and / or clarification with regard to Figure 2 (<i>Proposed Baseline</i>):</p> <ul style="list-style-type: none"> The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 should also be included at paragraph 4.3.12. The Water Environment and Water Services (Scotland) Act 2003 established river basin planning in Scotland, except for the Solway Tweed area which is covered by separate legislation due to its cross-border nature. http://soils.environment.gov.scot/ contains relevant information on soils including soil maps and the carbon and peatland map 2016. Our SEA topic guidance notes on air, soil, water, climatic factors and material assets include links to sources of baseline information which you may find relevant to this assessment. | Noted. The Scoping Report will not be updated but relevant information has been included in the baseline within this Environmental Report. |
| Consultation Authority - SNH | | |
| Approach to the assessment | I'm responding on behalf of Scottish Natural Heritage to let you know that we are satisfied with the Scoping approach to the assessment of the Regulations on Felling and Restocking, and don't require any further changes. | Noted. |
| Policy Content | While the actual assessment is still to be made, it's perhaps worth noting that while we are generally happy with the proposed changes, an aspect that does need further clarity is around diseased trees. Every tree disease is different, and we would caution against a blanket approach to 'diseased trees', perhaps focussing more on the felling of trees that are either a) dangerous, or b) necessary to fell in order to control the spread of that specific disease. | The Scottish Government are maintaining the exemption for Dutch Elm. The Scottish Government agree that there are many questions around diseased trees and that extending the |

| | | |
|--|--|---|
| | | exemption would require careful consideration although we have had no representations so far to extend it to any other disease. |
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Appendix F: Respondent information form



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RESPONDENT INFORMATION FORM – Regulations on Felling and Restocking Consultation

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

Individual

Organisation

Full name or organisation's name

Please specify organisation type (if applicable):

Community group or organisation

Third sector organisation

Private sector organisation

Academic or research organisation

Public Body, including Local Government, Executive Agencies etc.

Other – please state...

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response only (without name)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.



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