



Law Society  
of Scotland

# Consultation response

## Nature Recovery Green Paper: Protected Sites and Species

May 2022



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Environmental Law Sub-committee welcomes the opportunity to respond to DEFRA's consultation on *Nature Recovery Green Paper: Protected Sites and Species*<sup>1</sup>. We do not seek to answer the consultation questions but have the following comments to put forward for consideration.

## General remarks

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We note that the policy areas covered in the Green Paper, except for some of those in the marine environment, are devolved in Scotland and so we make only limited comment on this consultation. In this regard, we recognise that while Scotland will need to consider its own way forward in relation to species and site protection and there is no need for the legal structures to be the same across the UK, a degree of alignment or comparability is desirable firstly in relation to ensuring that international obligations (including those under the EU-UK Trade and Co-operation Agreement) are met, secondly to enable the efficient and well-regarded scientific work of the JNCC to continue without duplication, and thirdly because major developments, for example infrastructure and renewable energy developments, whether promoted under reserved or devolved powers, are likely to interact with protected sites and nature conservation issues across a wide and possible cross-border area. Accordingly, there may be a need for early consideration on both sides of the border of the impact of the different legal regimes, designations and levels of protection as policy and projects are developed.

The Green Paper does not contain sufficient detail about the proposals so as to be able to fully assess the impacts of the proposed changes, and in particular the breadth and level of protection that will be provided. We are generally supportive of the move towards consolidation and simplification of the law in this important area. We note, however, that simplification of the law does not, and should not, mean that a lower level of environmental protection will be afforded by the regime. As always, it is important that there are sufficient

<sup>1</sup> <https://consult.defra.gov.uk/nature-recovery-green-paper/nature-recovery-green-paper/>



resources to fully support the successful introduction of a new regime in this area, especially when many other aspects of the policy landscape (such as the introduction of biodiversity net gain in planning) mean that authorities may find their capacity to deal with biodiversity issues stretched.

**For further information, please contact:**

Alison McNab

Policy Team

Law Society of Scotland

DD: 0131 476 8109

[alisonmcnab@lawscot.org.uk](mailto:alisonmcnab@lawscot.org.uk)