



Law Society of Scotland comments on the Forestry and Land Management (Scotland) Bill

The Law Society of Scotland's Rural Affairs Committee has considered the Forestry and Land Management Bill¹ currently before the Scottish Parliament. We responded² to the previous consultation in November 2016. We support the overall approach taken in the Bill and welcome the detail which expands upon the initial direction given in the previous consultation document. However, there are a few points, some of which we mentioned in our response to the initial consultation, where further clarification is needed. We also have some general observations on the content of the Bill. We would therefore like to offer the following comments for consideration.

Public access to the benefits of publicly owned land

We are of the view that the public should have much more access to the benefits of publicly owned land, including the NFE, as well as information about that land.

s.16 Compulsory purchase of land

We welcome the move to bring the CPO regime for forestry and land management into line with the other CPO regime under the 1947 Act. However, s.16 grants Scottish Ministers the power to acquire land for forestry by CPO rather than operating as a buyer in the market as is currently the case. It is important that the CPO mechanism should only be used where genuinely required by strategic considerations. Members have raised concerns that compulsory purchase orders could be used to bypass commercial negotiations which in turn could serve to artificially depress prices. Further information on the safeguards could be helpful in this regard.

s.22 Definition of felling

'... "felling" (and related expressions) means intentionally killing a tree...'

We understand that the intention of the Bill is to capture any way of removing a tree. Killing a tree other than by felling might be particularly relevant in the context of someone wishing to subvert a tree preservation order. However, we consider that the definition would be improved by amending the wording as follows:

'... "felling" (and related expressions) means **felling or otherwise** intentionally killing a tree...'

s.23(1)(a)/s.24 Exemptions to unauthorised felling

Section 23 leaves the details of operation to secondary legislation. This seems both unnecessary and unnecessary when compared to the 1967 Act. While Sections 9(2), 9(3) and 9(4) of the 1967 Forestry Act (which will be repealed) also rely on secondary legislation, they

¹[http://www.parliament.scot/Forestry%20and%20Land%20Management%20\(Scotland\)%20Bill/SPBill11S052017.pdf](http://www.parliament.scot/Forestry%20and%20Land%20Management%20(Scotland)%20Bill/SPBill11S052017.pdf)

²<https://www.lawscot.org.uk/media/948530/rural-sg-future-of-forestry-consultation-lss-reponse-.pdf>

nonetheless specified the exemptions in the Act without the requirement to look to further enabling legislation. The limits themselves are a separate consideration but it is clear from the primary legislation how they are defined.

s.63 Financial assistance

In our previous consultation response we noted that it was not clear which body would become responsible for administering grants – a function previously carried out by the Forestry Commission. Although section 63 makes provision for the Scottish Ministers to grant financial assistance, it is not clear how such funds would be administered on a practical level.

For further information, please contact:

Carolyn Thurston Smith

Policy Team

Law Society of Scotland

DD: (+44)(0)131 476 8205

carolynthurstonsmith@lawscot.org.uk