



## **Ecocide (Scotland) Bill Call for Views**

September 2025

### **Introduction to Scottish Environment LINK**

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with 50 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organisations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits. This consultation response was written by LINK's Governance Group.

#### **1. Response**

##### **1. General Views**

##### **1.1. Do you support the overall aim of the Ecocide (Scotland) Bill to criminalise the most serious forms of environmental harm?**

Yes.

##### **2. Definition and Scope of the Offence (section 1)**

##### **2.1. The Bill defines ecocide as causing "severe environmental harm", where "severe" means that the environmental harm has "serious adverse effects" and is either "widespread" or "long-term". Do you agree with the definition of ecocide in the Bill?**

No. Section 1 of the Bill should be extended to explicitly encompass both acts and omissions that lead to ecocide-level damage, as included in section 40(1) of the Regulatory Reform (Scotland) Act 2014.

##### **2.2. Please comment on the definitions of the following and whether you consider they are defined clearly and appropriately:**

##### **"Severe environmental harm"**

Yes.

##### **"Widespread"**

This is defined clearly, but would be strengthened if damage caused to designated sites including National Parks, Marine Protected Areas and Sites of Special Scientific Interest were included explicitly.



## **“Long-term”**

Yes.

### **2.3. The offence applies to harm caused either intentionally or recklessly. Do you consider this threshold to be appropriate?**

No. The Bill should be amended to only apply to relevant organisations, including public bodies, and responsible officials, which should be clearly outlined in section 1.

Only responsible officials who have actual, senior decision-making power in the organisation should be liable.

We propose that in this Bill, relevant organisations and responsible officials should have the same meaning as in section 42(3) of the Regulatory Reform (Scotland) Act 2014.

### **2.4. Is it clear how the Bill would apply in cases such as where environmental harm is:**

#### **A result of cumulative damage caused by multiple acts e.g. consumption or disposal of a product**

We understand that it would not apply in such cases unless the environmental damage caused by an individual act and the person(s) involved met the threshold specified in the offence of ecocide.

#### **A result of a form of land management which is otherwise legal e.g. use of chemicals**

We understand it would apply if person(s) involved and the environmental harm caused met the thresholds specified in the offence of ecocide.

#### **A result of a project or development which has been consented or licenced by a public authority?**

We welcome and understand it would apply if person(s) involved and the environmental harm caused met the thresholds specified in the offence of ecocide. The offence of ecocide in the Bill does not require for acts to be unlawful. Having a relevant permit or an authorisation from a public body is not a defence under the Bill, unlike section 40(6) of the Regulatory Reform (Scotland) Act 2014.

## **3. Defence of Necessity (section 2)**

### **3.1. The Bill includes a defence of "necessity" where ecocide was committed to prevent greater harm (not including financial harm). Do you agree with this approach?**

No, a defence of necessity should not be included in the Bill.

### **3.2. Do you have any concerns about how this defence could be interpreted or applied?**

Yes. “Greater harm” is not defined and it is not clear whether the person must prove that the action they took was objectively necessary or simply that they believed it was necessary. If this defence is included then a clear definition of greater harm is required.

## **4. Individual and Organisational Liability (sections 3 and 4)**



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**4.1. The Bill allows for individuals, organisations and specified senior individuals (e.g. directors or partners) of organisations to be held liable for ecocide. Do you support this approach?**

No. Only organisations and responsible officials should be held liable for ecocide (see answer 2.3).

**4.2. Are the provisions on individual and organisational culpability sufficiently clear and appropriate, including the definitions of who is a “responsible individual”?**

No. Individual culpability should be limited to responsible officials (see answer 2.3), which should be reflected throughout section 3 and 4 of the Bill.

**4.3. Are the provisions on vicarious liability clear and appropriate?**

No.

Section 4 should be amended to limit liability to organisations and responsible officials.

**5. Penalties and Deterrence (sections 5-8)**

**5.1. The Bill proposes a maximum custodial sentence of 20 years and unlimited fines (or an unlimited fine in the case of an organisation). Are these penalties appropriate and proportionate?**

Yes.

We consider that the custodial sentence of up to 20 years is appropriate and proportionate.

We also agree with the provision for unlimited fines. However, the amount of the fine imposed on an organisation should be considered alongside any unintended consequences, and alternative penalties considered (see answer 5.2).

**5.2. Should the Bill consider alternative or additional penalties?**

Yes. In line with the EU Environmental Crime Directive, it should be mandatory to confiscate the instrumentalities and proceeds made from the crime of ecocide (Article 10), extending the Proceeds of Crime Act 2002 which provides for some confiscation of proceeds. In addition to orders for compensation that may include costs of remediation or mitigation, the Bill should include the option of orders to restore the environment.

**5.3. Does the potential for publicity orders (mandatory publication of conviction details) add meaningful deterrence?**

No, publicity orders must be mandatory to add meaningful deterrence.



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This response was compiled on behalf of LINK's Governance Group and is supported by:

Woodland Trust Scotland

Scottish Wildlife Trust

Keep Scotland Beautiful

Chartered Institute of Ecology and Environmental Management (CIEEM)

John Muir Trust

**For further information contact:**

Dan Paris, Director of Policy and Engagement

[dan@scotlink.org](mailto:dan@scotlink.org)



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