



The Scottish Parliament
Pàrlamaid na h-Alba

Net Zero, Energy and Transport Committee

Gillian Martin MSP
Cabinet Secretary for Climate Action and Energy
Scottish Government

11 December 2025

Dear Cabinet Secretary,

Ecocide (Scotland) Bill

Thank you for providing evidence on the Bill on 2 December. During the evidence session, we discussed how the offence in the Bill might “dovetail” with the section 40 offence in the Regulatory Reform (Scotland) Act 2014.

We noted that the Bill offence and the section 40 offence address similar misconduct, but that the legal test for each is slightly different. In particular, the section 40 offence is strict liability, with no need to prove a “mental element”. It has been noted during Stage 1 that prosecutors might therefore see the section 40 offence as the “safer” option and prosecute that instead, even in circumstances where it might seem on the face of it that the offence could or should have been tried as ecocide.

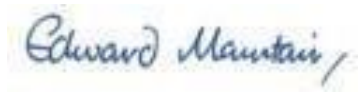
You stated that the Scottish Government was exploring the interaction of the section 40 offence, and the offence set out in the Bill and, were the Bill to proceed to Stage 2, you may lodge an amendment to add an ‘alternative conviction provision’ which you identified as one way to help ensure the offences work effectively together.

The Committee is interested in knowing more about this in advance of agreeing our Stage 1 report. Can you provide further information on the Scottish Government’s consideration of an alternative conviction provision, explaining how it could work in practice, whether such provisions are found elsewhere in Scottish criminal statutes, and how a Stage 2 amendment might be framed (again, perhaps drawing on examples of such provisions in existing legislation)?

With the Committee considering a draft of its Stage 1 report very early in the New Year, I would be grateful for a response by **19 December** if possible.

Yours sincerely,

Contact: Net Zero, Energy and Transport Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email netzero@parliament.scot. We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

A handwritten signature in blue ink that reads "Edward Mountain".

Edward Mountain MSP

Convener

Net Zero, Energy and Transport Committee