Argyll and Bute Council
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Our Ref: **ECOAB/AW**

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Net Zero, Energy and Transport Committee
Scottish Parliament
Edinburgh EH99 1SP

Dear Committee Members,

Please find enclosed our formal submission on the Ecocide (Scotland) Bill. This response addresses the consultation questions in a neutral and analytical manner, reflecting our legal and regulatory perspective. We remain available to provide further clarification or oral evidence if required.

Yours sincerely,

Executive Director

Submission on the Ecocide (Scotland) Bill

1. General Views

1.1. We support the overall aim of the Bill to criminalise the most serious forms of environmental harm, as this aligns with international trends and reinforces Scotland's commitment to environmental protection.

1.2. Interaction with existing law, particularly section 40 of the Regulatory Reform (Scotland) Act, requires careful consideration to avoid duplication or conflict. Section 40 already provides for enforcement of environmental duties; the Bill should clarify its relationship to these provisions.

2. Definition and Scope of the Offence

2.1. The definition of ecocide as causing 'severe environmental harm' appears broadly appropriate, though practical application will depend on clear guidance.

2.2. Terms such as 'Severe environmental harm', 'Widespread', and 'Long-term' require precise statutory interpretation to ensure consistency and legal certainty.

2.3. The threshold of intent or recklessness is proportionate, reflecting seriousness while capturing negligent conduct that poses significant risk.

2.4. Application to cumulative damage, lawful land management, and consented projects should be clarified to prevent unintended criminalisation of regulated activities.

3. Defence of Necessity

3.1. The defence of necessity is reasonable in principle but requires safeguards to prevent misuse.

3.2. Clear criteria and judicial oversight will be essential to ensure consistent application.

4. Individual and Organisational Liability

4.1. Holding individuals and organisations accountable is appropriate and aligns with corporate responsibility principles.

4.2. Definitions of 'responsible individual' and vicarious liability provisions should be explicit to avoid ambiguity.

5. Penalties and Deterrence

5.1. Maximum custodial sentences and unlimited fines are proportionate given the gravity of harm.

5.2. Consideration could be given to alternative penalties such as remediation orders.

5.3. Publicity orders may enhance deterrence and transparency.

6. Enforcement and Institutional Readiness

6.1. SEPA, Police Scotland, and COPFS will be key enforcement bodies; current capacity may require enhancement.

6.2. Additional resources and training should be reflected in the Financial Memorandum.

7. Sectoral, Economic and Community Impacts

7.1. Potential impacts on sectors such as agriculture and energy should be assessed.

7.2. Safeguards appear adequate but require monitoring.

7.3. Implications for local communities, rural economies, and innovation merit further study.

8. Alignment with International and EU Law

8.1. The Bill aligns broadly with international developments, including the EU Environmental Crime Directive and Stop Ecocide campaign.

9. Reporting and Oversight

9.1. Ministerial reporting provisions are appropriate.

9.2. Independent oversight could strengthen accountability.

10. Final Comments

10.1. Further clarity on definitions and enforcement mechanisms would improve the Bill.

10.2. Guidance for regulated sectors will be critical to effective implementation.

References

Regulatory Reform (Scotland) Act 2014, section 40

Ecocide (Scotland) Bill – Scottish Parliament Consultation

EU Environmental Crime Directive (2023)

Stop Ecocide International Campaign