

# Forestry and Land Management (Scotland) Bill

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## 2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 68	Schedules 1 and 2
Sections 69 to 71	Schedule 3
Sections 72 to 75	Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 22

#### Fergus Ewing

- 46 In section 22, page 7, line 28, leave out <means> and insert <includes>

#### Fergus Ewing

- 47 In section 22, page 7, line 31, at end insert—
- <“registered remedial notice” means a notice registered under section  
(*Registration of remedial notices*),  
“remedial notice” means a notice given under section 48,>

### Section 23

#### Peter Chapman

- 133 In section 23, page 8, line 5, at end insert—
- <( ) the felling consists solely of the topping or lopping of trees or the trimming or  
laying of hedges, or>

#### Peter Chapman

- 134 In section 23, page 8, line 5, at end insert—
- <( ) the felling is of a tree having a diameter not exceeding 10 centimetres and the  
felling is carried out in order to improve the growth of other trees, or>

#### Peter Chapman

- 135 In section 23, page 8, line 5, at end insert—
- <( ) the aggregate cubic content of the trees felled by the person does not exceed 5  
cubic metres in any period of 3 months, or>

#### Fergus Ewing

- 48 In section 23, page 8, line 11, at end insert <, or  
( ) a registered remedial notice.>

## Section 27

### Fergus Ewing

49 In section 27, page 9, line 20, at end insert—

<( ) A continuing condition on felling permission may, in particular, require persons to provide information to the Scottish Ministers.>

### Fergus Ewing

50 In section 27, page 9, line 34, at end insert—

<( ) the information which continuing conditions may require,>

## Section 30

### Fergus Ewing

51 In section 30, page 10, line 19, leave out from <must> to end of line 22 and insert <may—

(a) after complying with subsection (1A), decide whether to grant permission, or

(b) if consent under the order is required for the felling of the tree, refer the application to the planning authority that made the order.

(1A) The Scottish Ministers must—

(a) consult the planning authority that made the order, and

(b) have regard to any representations made by that planning authority.

(1B) Where an application is referred to a planning authority, the provisions of the order and any provisions of the Town and Country Planning (Scotland) Act 1997 relating to the order apply as if the application were an application to the planning authority for consent to fell the tree under the order.

(1C) Section 23 (offence of unauthorised felling) does not apply to felling where—

(a) an application has been referred under subsection (1)(b),

(b) the planning authority has consented to the felling, and

(c) the felling is carried out in accordance with the consent.>

### Fergus Ewing

52 In section 30, page 10, line 29, at end insert <, or

( ) a registered remedial notice.>

### Fergus Ewing

53 In section 30, page 10, line 30, after <section> insert <and section 31>

## Section 31

### Fergus Ewing

54 In section 31, page 11, line 13, at end insert—

<( ) The Scottish Ministers must, before deciding to give a felling direction in relation to a tree that is covered by a tree preservation order—

- (a) consult the planning authority that made the order, and
- (b) have regard to any representations made by that planning authority.>

### **Section 33**

#### **Fergus Ewing**

- 55 In section 33, page 11, line 36, leave out <or a> and insert <, a remedial notice or a registered>

### **Section 37**

#### **Fergus Ewing**

- 56 In section 37, page 13, line 28, leave out <each> and insert <the>

#### **Fergus Ewing**

- 57 In section 37, page 13, line 29, leave out first <registered notice to comply> and insert <relevant registered notice>

#### **Fergus Ewing**

- 58 In section 37, page 13, line 29, leave out second <registered notice to comply> and insert <relevant registered notice>

#### **Fergus Ewing**

- 59 In section 37, page 13, line 30, at end insert—  
<( ) In this section and section 38, a “relevant registered notice” means—  
(a) a registered notice to comply,  
(b) a registered remedial notice.>

#### **Fergus Ewing**

- 60 In section 37, page 13, line 33, leave out <registered notice to comply> and insert <relevant registered notice>

#### **Fergus Ewing**

- 61 In section 37, page 13, line 35, leave out <registered notice to comply> and insert <relevant registered notice>

#### **Fergus Ewing**

- 62 In section 37, page 13, line 36, leave out <registered notice to comply> and insert <relevant registered notice>

#### **Fergus Ewing**

- 63 In section 37, page 13, line 37, leave out <registered notice to comply> and insert <relevant registered notice>

#### **Fergus Ewing**

- 64 In section 37, page 14, line 1, leave out <registered notice to comply> and insert <relevant registered notice>

## Section 38

### Fergus Ewing

- 65 In section 38, page 14, line 5, leave out <registered notice to comply> and insert <relevant registered notice>

### Fergus Ewing

- 66 In section 38, page 14, line 7, leave out <registered notice to comply> and insert <relevant registered notice>

### Fergus Ewing

- 67 In section 38, page 14, line 8, leave out <registered notice to comply> and insert <relevant registered notice>

### Fergus Ewing

- 68 In section 38, page 14, line 11, leave out <registered notice to comply> and insert <relevant registered notice>

### Fergus Ewing

- 69 In section 38, page 14, line 13, leave out <registered notice to comply> and insert <relevant registered notice>

### Fergus Ewing

- 70 In section 38, page 14, line 14, leave out <registered notice to comply> and insert <relevant registered notice>

### Fergus Ewing

- 71 In section 38, page 14, line 15, leave out <registered notice to comply> and insert <relevant registered notice>

## Section 39

### Fergus Ewing

- 72 In section 39, page 14, line 26, at end insert—  
<( ) a remedial notice,>

## Section 40

### Fergus Ewing

- 73 In section 40, page 14, line 30, after <38(2)(b),> insert <(Registration of remedial notices)(b),>

## Section 41

### Fergus Ewing

- 74 In section 41, page 15, line 8, at end insert—  
<( ) a remedial notice,>

## Section 42

### Fergus Ewing

- 75 In section 42, page 15, line 21, at end insert <,  
( ) a remedial notice (including any condition imposed on it),  
( ) a registered remedial notice.>

### Peter Chapman

- 75A As an amendment to amendment 75, line 2, after <any> insert <reasonable>

### Fergus Ewing

- 76 In section 42, page 15, line 27, after <comply> insert <, a remedial notice or a registered remedial notice>

### Fergus Ewing

- 77 In section 42, page 15, line 28, leave out <registered>

## Section 44

### Fergus Ewing

- 78 In section 44, page 16, line 8, at end insert <,  
( ) a remedial notice (including any condition imposed on it),  
( ) a registered remedial notice.>

### Peter Chapman

- 78A As an amendment to amendment 78, line 2, after <any> insert <reasonable>

### Fergus Ewing

- 79 In section 44, page 16, line 16, after <comply> insert <, a remedial notice or a registered remedial notice>

## Section 45

### Fergus Ewing

- 80 In section 45, page 16, line 27, at end insert <, or  
( ) a registered remedial notice>

## Section 47

### Fergus Ewing

- 81 In section 47, page 17, line 11, after <notice> insert <(including any condition imposed on it)>

### Peter Chapman

- 81A As an amendment to amendment 81, after <any> insert <reasonable>

**Fergus Ewing**

- 82 In section 47, page 17, line 11, at end insert <, or  
( ) a registered remedial notice.>

**Fergus Ewing**

- 83 In section 47, page 17, line 22, leave out <or a> and insert <, a remedial notice or a registered>

**Section 48**

**Fergus Ewing**

- 84 In section 48, page 18, line 11, after <notice> insert <(including any condition imposed on it)>

**Peter Chapman**

- 84A As an amendment to amendment 84, after <any> insert <reasonable>

**Fergus Ewing**

- 85 In section 48, page 18, line 11, at end insert—  
<(5A) The Scottish Ministers may by regulations make further provision about remedial notices.  
(5B) Regulations under subsection (5A) may, in particular, include provision about the imposition of conditions on a remedial notice (which may include steps that must be taken after the notice is complied with).>

**Peter Chapman**

- 85A As an amendment to amendment 85, line 5, after <of> insert <reasonable>

**Section 49**

**Fergus Ewing**

- 86 In section 49, page 18, line 14, after <notice> insert <(including any condition imposed on it)>

**Peter Chapman**

- 86A As an amendment to amendment 86, after <any> insert <reasonable>

**After section 49**

**Fergus Ewing**

- 87 After section 49, insert—  
**<Registration of remedial notices**  
If a remedial notice (including any condition imposed on it) has been given in respect of land, the Scottish Ministers may apply to register a notice in relation to that land specifying—  
(a) the effect of the notice and, if relevant, the date by which it must be complied with,  
(b) a description of the land to which the notice relates.>

**Peter Chapman**

87A As an amendment to amendment 87, line 3, after <any> insert <reasonable>

**Fergus Ewing**

88 After section 49, insert—

**<Registered remedial notices: offence**

- (1) An owner of the land to which a registered remedial notice relates commits an offence if that person fails, without reasonable excuse, to comply with the registered remedial notice.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.>

**Section 51**

**Fergus Ewing**

89 In section 51, page 18, line 29, after <notice> insert <(including any condition imposed on it)>

**Peter Chapman**

89A As an amendment to amendment 89, after <any> insert <reasonable>

**Fergus Ewing**

90 In section 51, page 18, line 29, after <notice> insert <or a registered remedial notice>

**Fergus Ewing**

91 In section 51, page 18, line 31, leave out <remedial>

**Fergus Ewing**

92 In section 51, page 18, line 32, leave out <remedial>

**Section 52**

**Fergus Ewing**

93 In section 52, page 18, line 36, leave out <The sheriff> insert <A sheriff, a summary sheriff>

**Fergus Ewing**

94 In section 52, page 19, line 3, after <sheriff> insert <, summary sheriff>

**Section 54**

**Fergus Ewing**

95 In section 54, page 19, line 29, leave out <This section applies> and insert <Subsections (2) to (8) apply>

**Fergus Ewing**

**96** In section 54, page 20, line 22, at end insert—

<( ) References in the following provisions to the Scottish Ministers include reference to persons authorised in writing by the Scottish Ministers—

- (a) section 44(1),
- (b) section 45(2),
- (c) section 46(2),
- (d) section 47(2),
- (e) section 51,
- (f) subsections (2), (6), (7) and (8).>

**Section 55**

**Fergus Ewing**

**97** In section 55, page 20, line 26, after <notice> insert <(including any condition imposed on it)>

**Peter Chapman**

**97A** As an amendment to amendment 97, after <any> insert <reasonable>

**Fergus Ewing**

**98** In section 55, page 20, line 26, after <notice> insert <or (as the case may be) the registered remedial notice>

**Section 59**

**Fergus Ewing**

**99** In section 59, page 22, line 3, leave out <or 49> and insert <, 49 or (*Registered remedial notices: offence*)>

**Section 60**

**Fergus Ewing**

**100** In section 60, page 22, line 33, after <notice> insert <(including any condition imposed on it)>

**Peter Chapman**

**100A** As an amendment to amendment 100, after <any> insert <reasonable>

**Fergus Ewing**

**101** In section 60, page 22, line 34, at end insert <,

- ( ) a decision to refuse to agree to the variation or discharge of a registered remedial notice.>



## Section 61

### Peter Chapman

- 13 In section 61, page 23, line 11, leave out <may> and insert <must>

## After section 64

### Rhoda Grant

- 102 After section 64, insert—

#### <Chief forester

- (1) The Scottish Ministers must, for the purposes of assisting and advising them in the carrying out of their functions under this Act, appoint an officer to be known as the chief forester.
- (2) The Scottish Ministers must by regulations prescribe qualifications to be held by the person appointed as chief forester.>

### Rhoda Grant

- 103 After section 64, insert—

#### <Area foresters

- (1) The Scottish Ministers must, for the purposes of carrying out of their functions under this Act—
  - (a) divide Scotland into administrative areas,
  - (b) appoint for each such area an officer to be known as the area forester.
- (2) The Scottish Ministers must by regulations prescribe qualifications or experience to be held by a person appointed as an area forester.>

### Rhoda Grant

- 104 After section 64, insert—

#### <National advisory group

- (1) The Scottish Ministers must, for the purposes of advising them on the carrying out of their functions under this Act, establish a national advisory group.
- (2) The Scottish Ministers must ensure that membership of the group includes persons, or representatives of persons, who appear to them to have an interest in—
  - (a) the economic, environmental and social benefits of forestry,
  - (b) sustainable forest management and the management of land to further sustainable development,
  - (c) local communities in forest areas,
  - (d) such other matters as they consider appropriate.>

**Rhoda Grant**

105 After section 64, insert—

**<Local partnership working groups**

- (1) The Scottish Ministers must, for the purposes of assisting and advising them in the carrying out of their functions under this Act—
  - (a) divide Scotland into administrative areas,
  - (b) establish for each such area a local partnership working group.
- (2) The Scottish Ministers must ensure that membership of each group includes persons, or representatives of persons, who appear to them to have an interest in relation to that area in—
  - (a) the economic, environmental and social benefits of forestry,
  - (b) sustainable forest management and the management of land to further sustainable development,
  - (c) local communities in forest areas,
  - (d) such other matters as they consider appropriate.>

**Section 65**

**Fergus Ewing**

106 In section 65, page 24, line 9, at end insert—

<( ) section 48(5A),>

**Rhoda Grant**

107 In section 65, page 24, line 10, at end insert—

<( ) section (*Chief forester*)(2),>

**Rhoda Grant**

108 In section 65, page 24, line 10, at end insert—

<( ) section (*Area foresters*)(2),>

**Section 67**

**Fergus Ewing**

109 In section 67, page 24, line 31, at end insert—

<“owner”, in relation to any land, means a person who has right to the land whether or not that person has completed title; but if, in relation to the land (or, if the land is held *pro indiviso*, in relation to any *pro indiviso* share in it) more than one person comes within that description of owner, then “owner” means such person as most recently acquired such right.>

**Schedule 3**

**Richard Lyle**

110 In schedule 3, page 28, leave out line 14

**Fergus Ewing**

- 111 In schedule 3, page 28, line 21, leave out <Forestry> and insert <Forested>

**Fergus Ewing**

- 112 In schedule 3, page 28, line 21, leave out <10> and insert <10(1)>

**Fergus Ewing**

- 113 In schedule 3, page 28, line 27, at end insert—  
<Owner Section 67>

**Fergus Ewing**

- 114 In schedule 3, page 28, line 28, at end insert—  
<Registered notice to comply Section 22  
Registered remedial notice Section 22>

**Section 74**

**Claudia Beamish**

- 136 In section 74, page 26, line 30, at end insert—
- <(3A) Regulations bringing sections 68 and 70 into force must not be made until the Scottish Ministers have laid before the Scottish Parliament a report setting out the administrative arrangements they intend to make for the carrying out of their functions under this Act.
  - (3B) The report under subsection (3A) must set out in particular the arrangements the Scottish Ministers intend to make for—
    - (a) the establishment of any agency or similar body,
    - (b) the governance of any such agency or body,
    - (c) the roles and responsibilities of senior officers of any such agency or body,
    - (d) the financial reporting and accountability of any such agency or body,
    - (e) the establishment of any advisory groups to assist them in carrying out their functions,
    - (f) the exercise of the powers in section 62 (power to form companies etc.).
  - (3C) Before making any significant change to the arrangements set out in the report under subsection (3A), the Scottish Ministers must—
    - (a) consult such persons as they consider appropriate,
    - (b) notify the Scottish Parliament of any such change.>

**Long Title**

**Fergus Ewing**

- 115 In the long title, page 1, line 3, leave out <forestry> and insert <forested>



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