

# Ecocide (Scotland) Bill

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## Policy Memorandum

### Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Ecocide (Scotland) Bill introduced in the Scottish Parliament on 29 May 2025.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 70–EN);
  - a Financial Memorandum (SP Bill 70–FM);
  - a Delegated Powers Memorandum (SP Bill 70–DPM);
  - statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 70–LC).
3. This Policy Memorandum has been prepared by the Non-Government Bills Unit (NGBU) to set out the policy behind the Bill of Monica Lennon, the Member in Charge of the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### Background

4. Monica Lennon stated at the outset when pursuing a Bill on ecocide:

“The climate and ecological crises can be addressed together through an ecocide law. In the Scottish Parliament I am building support for Scotland to join others in the international community in support of the Stop Ecocide International campaign. Stopping ecocide is not a choice, it is our duty. All of us can be earth protectors and take bold action to avert climate and ecological catastrophe.”<sup>1</sup>
5. The United Nation's Intergovernmental Panel on Climate Change (IPCC) has described climate change as “...a grave and mounting threat to our wellbeing and a healthy planet.”<sup>2</sup> The scientific consensus is that it is “unequivocal” that human

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<sup>1</sup> [Monica Lennon MSP — Stop Ecocide International](#)

<sup>2</sup> [Climate change: a threat to human wellbeing and health of the planet. Taking action now can secure our future — IPCC](#)

behaviour and activity have caused, and are causing, global warming, which is affecting every region on Earth.<sup>3</sup> Rising temperatures are increasing the danger that “tipping points”, including the thawing of permafrost, may soon be reached which could further increase global warming.<sup>4</sup> As well as the medium and longer-term risks to wellbeing and the planet, the impact of global warming is being felt now, with some of the most vulnerable people and ecosystems globally under threat.

6. Despite these significant challenges, the IPCC and others, including the United Nations Department of Economic and Social Affairs, have stated that urgent action could ensure that the worst impacts of climate change are mitigated.<sup>5</sup>

7. The United Nations Office on Drugs and Crime Executive Director, Ghada Waly, said that those involved in environmental crime are generating billions of pounds globally while simultaneously “causing irreversible damage to people and ecosystems.”<sup>6</sup> Across the planet, the EU estimates that environmental crime is growing annually between 5% and 7%, costing governments between 80 and 230 billion euros each year.<sup>7</sup> It is in this context that the Member has decided to introduce this Bill.

8. The term “ecocide” refers to the most serious environmental crimes. It has been reported that the first use of the term “ecocide” was by Professor Arthur W. Galston, a U.S. biologist who studied the environmental impacts of chemical agents used by the U.S. Army in the Vietnam War.<sup>8</sup>

9. Examples of other incidents that have been described as ecocide include those that are reported to have occurred around the Talvivaara Mine in Finland. Mining of nickel, and the alleged illegal mining of uranium, led to a series of leaks in 2012 from the mine into surrounding rivers and lakes of toxic chemical waste, including nickel, uranium and zinc.<sup>9</sup> The leaking of these heavy metals has caused significant damage to aquatic ecosystems including fish populations,<sup>10</sup> with increased pollutant levels leading to long term environmental damage.

10. In response to incidents of this type, the Stop Ecocide International movement was founded in 2017 by a group of activists including the late Polly Higgins, a Scottish barrister,<sup>11</sup> with the objective of making ecocide an international crime. Monica Lennon MSP has indicated that she was inspired to introduce this Bill after becoming aware of Stop Ecocide International in 2021.<sup>12</sup>

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<sup>3</sup> [What is the Intergovernmental Panel on Climate Change \(IPCC\)? - Grantham Research Institute on climate change and the environment](#)

<sup>4</sup> [Top Findings from the IPCC Climate Change Report 2023 | World Resources Institute](#)

<sup>5</sup> [Goal 13 | Department of Economic and Social Affairs](#)

<sup>6</sup> [Crimes that affect the environment](#)

<sup>7</sup> [Environmental Crime Directive - European Commission](#)

<sup>8</sup> [History – Ecocide Law](#)

<sup>9</sup> [Talvivaara mine: environmental disaster in Finland - Nuclear Heritage](#)

<sup>10</sup> [Talvivaara Mine Environmental Disaster | Environmental Justice Organisations, Liabilities and Trade](#)

<sup>11</sup> [Who We Are — Stop Ecocide International](#)

<sup>12</sup> [Stop Ecocide International and Stop Ecocide Foundation – Ecocide Law](#)

11. Stop Ecocide International movement's objectives are:

"To have ecocide recognized as an international crime at the International Criminal Court (ICC) in The Hague;

To have ecocide recognized as a crime at national and regional level and monitor the effective implementation of all legislation that criminalizes ecocide;

To carry out all further actions that are related to or may be conducive to the above in the broadest sense."<sup>13</sup>

12. The Independent Expert Panel for the Legal Definition of Ecocide, convened by the group the Stop Ecocide Foundation, defines ecocide as: "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts."<sup>14</sup>

13. While legislating on international crime is outwith the competence of the Scottish Parliament, the Member believes that Scotland should "pave the way for the UK" by criminalising ecocide in domestic law,<sup>15</sup> in line with the objectives of Stop Ecocide International as described above.

14. There are moves being made towards introducing legislation for the specific crime of ecocide across a large number of countries at present. France has already introduced legislation in 2021 to criminalise ecocide in domestic law,<sup>16</sup> as has Belgium.<sup>17</sup> Other EU states, including the Netherlands, are considering progressing similar legislation.<sup>18</sup>

## Policy objectives of the Bill

15. This Bill seeks to prevent mass environmental damage and destruction taking place in Scotland due to crimes of ecocide by putting in place strong punishments associated with this crime. It aims to protect the environment in Scotland covering all natural resources: air, water, soil, wild fauna and flora (including habitats).

16. As set out below, there is a significant amount of environmental legislation that has effect in Scotland. This comprises a combination of European derived, UK wide and Scotland specific legislation, including provisions of the Regulatory Reform (Scotland) Act 2014 (hereafter the RRA). The Member feels that, too often, those who commit environmental crime do not face criminal penalties or, as the Member says, that "criminal sanctions are often seen as the last resort."<sup>19</sup> She also believes that

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<sup>13</sup> [Stop Ecocide International and Stop Ecocide Foundation – Ecocide Law](#)

<sup>14</sup> [Legal definition of ecocide drafted by Independent Expert Panel — Stop Ecocide International](#)

<sup>15</sup> [Ecocide Law Scotland - Monica Lennon](#)

<sup>16</sup> [Légifrance - Publications officielles - Journal officiel - JORF n° 0196 du 24/08/2021](#)

<sup>17</sup> [Belgium becomes first European country to recognise ecocide as international level crime — Stop Ecocide International](#)

<sup>18</sup> [The Netherlands – Ecocide Law](#)

<sup>19</sup> [Monica Lennon MSP Ecocide Prevention Consultation document](#)

environmental crimes on the scale of ecocide should not be seen as “regulatory matters” and that establishing a specific offence that firmly places the most serious environmental offences as criminal matters will send out an important signal to companies and individuals. The first policy objective of this Bill, therefore, is to ensure serious environmental offences are treated as criminal offences.

17. The second policy objective of this Bill is to act as a deterrent to individuals and companies from committing serious environmental offences. The Member believes that the establishment of a specific, stand-alone offence for the crime of ecocide, with penalties including a custodial sentence of a significant length or significant fines (or both), will act as a deterrent to companies and individuals working within those companies from acting in ways that risk causing significant environmental harm.

18. A third objective of this Bill is to ensure that domestic legislation maintains alignment with developments at an EU level. The EU’s Environmental Crime Directive (ECD) came into force in May 2024. The Member believes that domestic legislation on environmental law must keep pace with developments at an EU level, despite the UK’s departure from the EU. While this directive does not refer to ecocide specifically, it includes provisions criminalising the most serious cases of environmental damage that are “comparable to ecocide”. The ECD does address “the most serious environmental offences, which can have devastating effects on both the environment and human health, through means of criminal law.”<sup>20</sup> EU Member states are obliged to ensure that breaches of the most serious environmental obligations constitute criminal offences in domestic settings, and, in addition: “Member States will be obliged to establish qualified offences, subject to more severe penalties where one of the offences defined in the Directive leads to serious widespread and substantial damage or destruction of the environment.”<sup>21</sup>

19. The Member believes that Scotland should be the first country in the UK to recognise the crime of ecocide.<sup>22</sup> In response to the introduction of Monica Lennon’s proposal for this Bill, the CEO and co-founder of Stop Ecocide International, Jojo Mehta, said:

“Scotland is shaping up to be a bold leader when it comes to ecocide legislation and a commitment to nature and all of us that rely on it.”<sup>23</sup>

20. To achieve the objectives stated above, this Bill creates a criminal offence of ecocide. The penalties provided for in the Bill include a custodial sentence of up to twenty years and unlimited fines.

21. The Bill also provides for compensation orders to people impacted by the ecocide event or costs incurred to restore the damage to the environment. Furthermore, it gives the relevant Court powers to take into account, in determining the level of fine, the

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<sup>20</sup> [New Environmental Crime Directive comes into force - European Commission](#)

<sup>21</sup> [New Environmental Crime Directive comes into force - European Commission](#)

<sup>22</sup> [Polluters could face jail under MSP's ecocide plan - BBC News](#)

<sup>23</sup> [Ecocide bill lodged in Scottish parliament — Stop Ecocide International](#)

extent to which an individual or organisation has benefitted financially from the actions that constituted ecocide. In addition, the Bill allows courts to require the issuing of a publicity order related to an ecocide offence, including details of the individual or individuals, included within an organisation, who committed an offence. The Scottish Ministers are required under the Bill to develop and publish a report on the operations of the Bill that will include information such as the number of ecocide offences that have taken place, the number of criminal prosecutions and associated sentences etc.

## Current law and practice - domestic

22. There is a range of existing environmental legislation at a Scottish and UK level, including the Environmental Protection Act 1990, which makes provision amongst other matters for pollution control and waste management<sup>24</sup> and the Wildlife and Countryside Act 1981, which protects natural habitats and wild animals.<sup>25</sup> The Nature Conservation (Scotland) Act 2004 was enacted to conserve biodiversity and enhance natural features in Scotland and includes specific provisions for the protection of Specific Sites of Scientific Interest (SSSIs).<sup>26</sup> The 2004 Act also gave Ministers powers to issue nature protection orders, which would allow for specific acts which could be harmful to the environment to be prohibited in certain areas (which may, or may not, be SSSIs).<sup>27</sup>

23. The Water Environment and Water Services (Scotland) Act 2003 was intended to protect and improve Scotland's water environment.<sup>28</sup> Its provisions included new controls over activities that may affect the water environment, such as discharges, abstractions, and engineering works, which, without regulation, could lead to damage or pollution of the water environment<sup>29</sup>. The 2003 Act is primarily regulatory in nature though includes criminal penalties for breaches in regulatory requirements such as failure to obtain the relevant authorisations or breaches of licence conditions.

24. The RRA was intended to enhance the application of existing regulations, to improve the operating conditions for businesses and for benefits to the environment. During the passage of the Regulatory Reform Bill, the Scottish Government said that it was designed to help businesses to flourish, while protecting people and the environment.<sup>30</sup>

25. While the RRA includes provisions concerning regulatory matters beyond environmental law, it was also intended to update and streamline existing environmental legislation and ensure that the regulation of environmental activities was defined on the basis of the likelihood of those activities causing environmental harm. This was intended to shift the focus of such regulation away from pollution control and towards actual or potential environmental harm.<sup>31</sup>

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<sup>24</sup> [Environmental Protection Act 1990](#)

<sup>25</sup> [Wildlife and Countryside Act 1981](#)

<sup>26</sup> [Nature Conservation \(Scotland\) Act 2004](#)

<sup>27</sup> [Nature Conservation \(Scotland\) Act 2004](#)

<sup>28</sup> [Water Environment and Water Services \(Scotland\) Act 2003](#)

<sup>29</sup> [Water Environment and Water Services \(Scotland\) Act 2003](#)

<sup>30</sup> [Regulatory Reform Bill 2013, Policy Memorandum](#)

<sup>31</sup> [Regulatory Reform Bill 2013, Policy Memorandum](#)

26. As well as synchronising and simplifying the existing regulatory framework, section 40 of the RRA created a new offence to “act, or permit another person to act, in a way that causes or is likely to cause significant environmental harm.”<sup>32</sup> It also provides that it is an offence to fail to act, or permit another person not to act, in such a way that this failure to act causes or is likely to cause significant environmental harm. An offence under section 40 could be committed whether or not a person intended for such environmental harm to be caused, or whether such a person had acted recklessly or carelessly (known as a strict liability offence).<sup>33</sup> A person convicted under section 40 of the RRA by summary conviction is liable for a fine of up to £40,000 or imprisonment of up to twelve months (or both), or, if convicted on indictment, liable to an unlimited fine or imprisonment of up to five years (or both).<sup>34</sup>

27. On the rationale for this new offence, the Scottish Government’s consultation stated:

“It is sometimes difficult for the courts to appreciate the significance of environmental cases which are based mainly on breaches of regulatory requirements. We therefore intend to create an offence which relates to knowingly causing significant environmental harm.”<sup>35</sup>

28. “Significant” environmental harm in this context is defined in the RRA as if:

“it has or may have serious adverse effects, whether locally, nationally or on a wider scale, or it is caused, or may be caused, to an area designated in an order by the Scottish Ministers for the purposes of this section.”<sup>36</sup>

29. Section 41 of the RRA allows for a person convicted of such a crime to be directed by the courts to rectify the damage that has been done, within a specific timeframe, and that if such restorative work is not completed, the courts can impose a fine or custodial sentence.<sup>37</sup>

30. The RRA also makes corporate offending provision. Where a “relevant organisation” (defined as companies, limited liability partnerships, partnerships or other bodies/associations) commits the significant environmental harm offence (under section 40 of the RRA)<sup>38</sup> and the commission of the offence is attributable to the connivance, consent or negligence of a responsible official of the organisation, the official also commits the offence.” Responsible officials are defined in section 42(3) of the RRA and the title of the official depends on the type of organisation involved. For example, in the case of a company the responsible official is a director, secretary, manager or similar officer of the company.<sup>39</sup>

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<sup>32</sup> [Regulatory Reform \(Scotland\) Act 2014](#)

<sup>33</sup> [Regulatory Reform \(Scotland\) Act 2014](#)

<sup>34</sup> Section 40 (7) [Regulatory Reform \(Scotland\) Act 2014](#)

<sup>35</sup> Regulatory Reform (Scotland) Bill 2013, [Policy Memorandum](#).

<sup>36</sup> Section 40(9) [Regulatory Reform \(Scotland\) Act 2014](#).

<sup>37</sup> Section 41, [Regulatory Reform \(Scotland\) Act 2014](#)

<sup>38</sup> Or the offence of failing to comply with a remediation order

<sup>39</sup> Section 42 [Regulatory Reform \(Scotland\) Act 2014](#)



31. Section 32 of the RRA provides that the Scottish Environment Protection Agency (SEPA) may be required, by order, to publish notices of any enforcement action that it has taken under the powers in the RRA. Examples of the information provided by SEPA on the fixed and variable monetary penalties imposed on people and businesses who have been convicted of environmental offences are available on its website.<sup>40</sup>

## Enforcement of existing environmental legislation

32. The Crown Office and Procurator Fiscal Services (COPFS) and SEPA have different responsibilities relating to the enforcement of environmental crime in Scotland. SEPA is responsible for the investigation of environmental crime and for gathering evidence. If necessary, SEPA will refer cases to COPFS for potential prosecution. COPFS decides whether to proceed with a prosecution or take other actions.<sup>41</sup>

33. COPFS has specialist Procurator Fiscal Deputies who focus on environmental crimes, and who have the technical expertise that is required to evaluate the evidence presented. SEPA and COPFS have developed an Environmental Crime Protocol to “ensure that liaison arrangements between COPFS and SEPA are transparent, with cases being dealt with in the most effective and consistent way”.<sup>42</sup>

34. SEPA has various enforcement powers available to it, including issuing fixed monetary penalties, variable monetary penalties and enforcement undertakings.<sup>43</sup> An enforcement undertaking can take place when a responsible person who is found to be in breach of an environmental offence can voluntarily offer to make financial amends for the offence and to prevent its recurrence.<sup>44</sup> The Lord Advocate has given SEPA guidance on the exercise of its functions in relation to monetary penalties and voluntary undertakings. When SEPA is considering using monetary penalties or accepting a voluntary undertaking, they must have regard to the Lord Advocate’s Guidelines. The guidance sets out circumstances and criteria for using enforcement measures and when SEPA should be consulting COPFS so that prosecution can be considered.<sup>45</sup>

35. The Scottish Sentencing Council, in its review of the sentencing of wildlife and environmental crimes, stated:

“Supporting, educating and advising those regulated is a major part of the work of regulators, with detection, punishment and deterrence of those causing harm forming a relatively small proportion of regulators’ activities. The criminal law, in turn, is only a part of that detection, punishment and deterrence effort.”<sup>46</sup>

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<sup>40</sup> [Penalties imposed and undertakings accepted | Scottish Environment Protection Agency \(SEPA\)](#)

<sup>41</sup> [Environmental crime protocol | Scottish Environment Protection Agency \(SEPA\)](#)

<sup>42</sup> [Environmental crime protocol | Scottish Environment Protection Agency \(SEPA\)](#)

<sup>43</sup> [20201216-environmental-and-wildlife-crimes-lit-review.pdf](#)

<sup>44</sup> [20201216-environmental-and-wildlife-crimes-lit-review.pdf](#)

<sup>45</sup> [Lord Advocates guidelines to SEPA: use of enforcement measures under the regulatory reform \(Scotland\) act 2014](#)

<sup>46</sup> [Environmental and wildlife crime | Scottish Sentencing Council](#)

36. As noted in the Member's consultation, in cases where there is a failure to comply with environmental legislation, SEPA will often have discretion as to the enforcement action it seeks to take. Referral to COPFS may take place only after less punitive enforcement action has been unsuccessful, with referral for criminal prosecution generally reserved for the most serious offences. As SEPA notes:

"Whilst we have the ability to refer all offences to COPFS, this option will generally be reserved for offences that are most serious or where there is evidence of wider criminality".<sup>47</sup>

37. As noted in the Member's consultation, it has been reported that SEPA statistics show that the number of prosecutions, statutory notices, warning letters and other penalties initiated or issued by the agency for pollution breaches has decreased by over 100 a year since 2019.<sup>48</sup> Since the RRA was enacted in 2014, it does not appear that any person has been convicted of an offence under section 40.

38. The Member believes that the existing statutory framework for environmental offences, which is largely regulatory in nature, combined with apparently low levels of criminal punishments being imposed upon offenders, is insufficient if Scotland were faced with the most serious environmental offences, such as ecocide. She believes ecocide is a criminal act and that the provisions of this Bill will strengthen and enhance the existing legal framework by establishing a new, standalone criminal offence for the most serious environmental crimes. This Bill is intended to prevent future ecocide incidents and ensure that appropriately robust punishments are available to courts so that individuals in the highest positions of decision-making power and corporations can have proportionate penalties imposed upon them. A conviction under section 40 of the RRA could result in a sentence of up to twelve months (on summary conviction) or up to five years (on conviction on indictment), whereas this Bill provides for a person convicted of ecocide to be punished by a sentence in prison up to twenty years on indictment, a significantly higher penalty than under the RRA.

## Current Law And Practice - EU

39. As noted by the European Commission, the European Union recognises environmental crimes as "a growing concern which causes significant damage to the environment, citizens' health and the economy within the EU and worldwide."<sup>49</sup> These crimes cross state boundaries and can generate significant income, while being difficult to detect and punish.<sup>50</sup>

40. The revised EU Environmental Crime Directive (ECD) (Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law) came into force on 20 May 2024.<sup>51</sup> This replaced the

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<sup>47</sup> [Enforcement report 2016 - 2017 \(SEPA\)](#)

<sup>48</sup> [Polluters let off as Sepa cuts legal action threefold](#)

<sup>49</sup> [Environmental Crime Directive - European Commission](#)

<sup>50</sup> [Environmental Crime Directive - European Commission](#)

<sup>51</sup> [Directive - EU - 2024/1203 - EN - EUR-Lex](#)



previous version, the 2008 Environmental Crime Directive (the 2008 ECD). The 2024 ECD is intended to address perceived shortcomings regarding the effectiveness of environmental criminal law, by establishing new rules and procedures. A review of the 2008 ECD suggested it was having insufficient impact on environmental crime: the number of environmental crimes which led to prosecution and sentencing were too low, and penalties for such crimes were felt not to be serious enough to act as a deterrent and cooperation between Member States was inadequate.<sup>52</sup>

41. The 2024 ECD establishes minimum rules with regards to the definition of criminal offences and penalties in order to protect the environment more effectively, as well as measures to prevent and combat environmental crime. The ECD includes a list of conducts to be established as criminal offences in the national legal order of Member States. For serious environmental crimes, the ECD obligates Member States to:

“establish as qualified offences cases where particularly serious damage to and destruction of the environment is caused by committing one of the offences listed in the Directive. These qualified offences shall be subject to more severe penalties for natural and legal persons than the ones for the other offences.”<sup>53</sup>

42. For such crimes, the Directive provided for the imposition of “minimum-maximum imprisonment penalties” and, for legal entities (i.e. non-natural persons) fining methods of fixed amounts of between 24 and 40 million euros or based on the worldwide turnover of the legal person deemed to be responsible.

43. As noted above, Belgium recently introduced domestic legislation in line with the requirements of the EU’s 2024 ECD.<sup>54</sup> Other EU states (including the Netherlands) are reported to be considering introducing similar legislation, in line with the Directive.<sup>55</sup>

44. The new offence in Belgium is intended to prevent and punish the most serious cases of environmental damage and will apply to individuals in the highest positions of decision-making power and to corporations. Penalties for individuals include up to 20 years in prison, while corporations could face fines of up to 1.6 million euros. The CEO of Stop Ecocide International, Jojo Mehta, said:

“Belgium has demonstrated strong leadership today not only on a national level, but on behalf of all of us who are made more vulnerable and whose livelihoods are directly threatened when the most powerful in society make decisions that result in mass-scale environmental destruction. There is real momentum growing around the ecocide law conversation at every level currently.”<sup>56</sup>

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<sup>52</sup> [Environmental Crime Directive - European Commission](#)

<sup>53</sup> [Environmental Crime Directive - European Commission](#)

<sup>54</sup> [Belgium becomes first in EU to recognise ecocide as international crime](#)

<sup>55</sup> [The EU Is Advancing a Game-Changing Environmental Law Tackling ‘Ecocide’ | Best Countries | U.S. News](#)

<sup>56</sup> [Belgium becomes first European country to recognise ecocide as international level crime — Stop Ecocide International](#)

45. The Member believes that it is essential, in the light of the UK's exit from the European Union, that Scotland should maintain pace with environmental law at a European level. This Bill therefore includes provisions that would criminalise ecocide in a similar fashion to the Belgian legislation.

## Alternative approaches

46. To achieve the policy objectives set out above, the Member considered if improvements to the enforcement of existing legislation (as set out above) would be sufficient. As noted above, since 2014 there have been no convictions for causing serious environmental harm as defined under section 40 of the RRA. The Member does not consider that simply improving enforcement of existing legislation, such as Section 40 of the RRA, would be sufficient to meet her policy objectives.<sup>57</sup> Improving enforcement could not increase the penalties that could be imposed on offenders for the most serious environmental crimes under existing legislation. For example, an individual convicted of a crime that meets the definition of ecocide as set out in this Bill could currently be prosecuted for the significant harm offence under the RRA, but the maximum penalty courts could impose would be a custodial sentence of up to five years, which the Member feels is insufficient. When this Bill is enacted, such an offence could lead to a custodial sentence of up to twenty years, which the Member feels is appropriate, given the potential impacts and gravity of such an offence.

47. The Member considered amending the RRA section 40 offence as a means of achieving her policy objectives. However, the RRA is focussed on the regulatory system, and the approach to environmental compliance and enforcement as opposed to serious cases of criminality. The Member did thoroughly explore this option including meeting with the Scottish Government on numerous occasions. The Scottish Government made clear during these meetings and in correspondence that it was considering the potential to modify the section 40 offence to give effect to changes similar to those in the ECD. The Scottish Government has not, at time of drafting this document, taken steps to progress this option.

## Consultation

48. Monica Lennon consulted on a draft proposal lodged on 7 November 2023.<sup>58</sup> The consultation ran from 8 November 2023 until 9 February 2024.<sup>59</sup> There were 3,379 responses and a summary of those responses was published along with a final proposal on 12 November 2024. Of the 3,379 responses, 134 were from organisations and 3,245 were from individuals.

49. A very high majority of respondents (just over 95%) were fully supportive of the proposal. A further 3% were partially supportive. A very small minority, 34 respondents, just over 1%, were fully opposed to the proposal. Nine respondents (less than 0.5%)

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<sup>57</sup> See above for more details on the Member's policy objectives.

<sup>58</sup> [Proposed Ecocide \(Prevention\) \(Scotland\) Bill | Scottish Parliament Website](#)

<sup>59</sup> [Proposed Ecocide \(Prevention\) \(Scotland\) Bill | Scottish Parliament Website](#)

were partially opposed. 19 respondents were neutral, and 15 respondents did not wish to express a view.<sup>60 61</sup>

## Reasons for supporting the proposals

50. Respondents who fully supported the Bill felt that it will protect Scotland's environment and biodiversity. Some of them argued that without such legislation, corporations could be allowed to carry out environmental crimes without facing appropriate penalties.

51. Other supportive respondents felt that it was appropriate that Scotland, with its rich biodiversity and natural heritage, should be the first UK nation to introduce the crime of ecocide into domestic law, and at the forefront of the international movement. Some respondents (including The Royal Geographical Society) to the consultation highlighted the leading role as co-founder of a Scottish lawyer, Polly Higgins, in the movement and suggested this made it even more appropriate that Scotland led the way.

52. Maintaining alignment with other jurisdictions, including the EU, was another argument cited by supportive responses, and that keeping pace with policy at an EU level in this way was a stated objective of the Scottish Government, post EU withdrawal.

53. A strong theme amongst these respondents was that the introduction of a crime of ecocide could have a significant effect as a deterrent to environmental crimes that could be perpetrated by corporations. They argued that for any deterrent to be effective, the proposed penalties needed to be severe, they must be properly implemented and resourced, and the legislation needed to be publicised to ensure that public awareness was raised.

54. Other respondents who were fully supportive cited the potential importance of the Bill for preserving the planet for future generations. Pupils from primary schools (including St Aidan's Primary School in Wishaw) expressed their support for the proposal due to the impact of environmental crime on the environment, and the Children and Young People's Commissioner (which was partially supportive) noted increased anxiety amongst children and young people about "the combined climate and nature emergencies".<sup>62</sup>

## Reasons for neutral position on the proposals

55. While less than 1% of respondents to the consultation were neutral in support of its provisions, one of these respondents was SEPA. While SEPA stated that its overall position on the Bill was neutral, its response highlighted what it felt was a lack of clarity about how the provisions would interact with the RRA. It suggested that it was "unsure" if creating a new offence of ecocide would be "necessary nor the most effective

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<sup>60</sup> [Monica Lennon Ecocide Consultation Summary](#)

<sup>61</sup> [Monica Lennon Ecocide Consultation Responses](#)

<sup>62</sup> [Monica Lennon Ecocide Consultation Responses](#)

approach to achieving the aims set out in the proposal” as it felt that the definition of ecocide as set out in the consultation would already be covered as an offence under section 40 of the RRA. The response stated:

“The definition includes acts which are an offence already under section 40 of the Regulatory Reform (Scotland) Act. Should the proposed Bill progress to legislation, there needs to be a clear understanding of how it would sit within or complement the existing framework to avoid unintended consequences.”<sup>63</sup>

56. Another neutral response was received by a group of organisations: the Centre for Climate Crime and Climate Justice, Queen Mary University of London, We Own It, Scottish Hazards Campaign, UK Hazards Campaign, Institute of Employment Rights and Violation Tracker UK. This group stated it could not commit to full support until it had seen the details of the Bill but felt that it should be broad enough to capture a range of environmental offences. This group of organisations also stated that it felt that SEPA did not currently have the capability to implement and enforce existing environmental law, as well as any future ecocide law and that to tackle this:

“Systemic underfunding will need to be reversed and pre-2010 levels of funding restored, with an additional resource added to deal with the new burden of investigation and prosecution.”<sup>64</sup>

## Reasons for opposing the proposals

57. Of the total 3,379 responses, nine were partially opposed to the proposed Bill and 34 were fully opposed: less than 1.5% of total responses.

58. Some organisations, including the Scottish Fishermen’s Federation, felt that existing environmental laws were sufficient, and that no further legislation was necessary. They wrote:

“Scotland has a raft of relevant legislation that already exists which contains provisions to deal with failures to comply with environmental law.”<sup>65</sup>

59. The other main reason given by opponents of the proposed Bill were due to the potential negative impact on industry, especially fishing and farming. One anonymous respondent wrote:

“... I've seen proponents of this bill discussing home-growing and traditional farming methods as somehow "damaging" to our ecology, and am extremely concerned that this bill will be in fact used to clamp down on natural methods of farming and agriculture which have sustained the natives of the British Isles for centuries, rather than on large-scale industrial processes (which are referred to by proponents of the bill as "conventional" farming methods).”<sup>66</sup>

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<sup>63</sup> [Monica Lennon Ecocide Consultation Responses](#)

<sup>64</sup> [Monica Lennon Ecocide Consultation Responses](#)

<sup>65</sup> [Consultation - Proposed Ecocide \(Prevention\) \(Scotland\) Bill - Monica Lennon MSP](#)

<sup>66</sup> [Monica Lennon Ecocide Consultation Summary](#)

## Costs of the Bill

60. The consultation asked respondents to reflect on the cost implications of the proposed Bill. Of those who selected a substantive option, the most selected response was that the proposed Bill would lead to some increase in costs (1,210 respondents (35%)) whilst 235 respondents (7%) thought there would be a significant increase in costs. 522 (16%) respondents felt that there would be no overall change in costs, with a further 208 (6%) were of the view that there would be a significant reduction in costs whilst a further 199 (6%) respondents believed there would be some reduction in costs.

61. SEPA was a respondent who felt the Bill would lead to an increase in costs, stating:

“Although the structures and resources are in place for the investigation and prosecution of environmental crime across several public authorities however, the scale of such events, albeit potentially rare, will require significant effort/resource, training and support. Scale, resource implications and training requirements should also reflect the breadth of reporting agencies that could be involved.”<sup>67</sup>

62. Others (including Scottish Wildlife Trust) who agreed there would be an increase in cost argued that such increases could be offset by the levels of fines generated, in line with the “polluter pays” principle, while others felt that any short-term increase in costs would be offset by savings as a result of the prevention of ecocide events in the future.

63. Others felt the Bill would be broadly cost neutral, including individual respondent Dr Marian Bruce, who stated:

“I don't see why there would be any more costs. Our police, SEPA and NatureScot are well equipped to recorded and report on ecocide.”<sup>68</sup>

## The Bill in detail

### Section 1- Offence of ecocide

64. Section 1 of the Bill provides that a person commits the crime of ecocide by causing severe environmental harm with intent or by reckless action. Section 1(2) defines environmental harm, which is severe if it has serious adverse effects and is either widespread or long-term. Section 1(c) and (d) define the meanings of widespread and long term: “Widespread” is defined as damage which impacts beyond a limited geographic area, to impact upon an ecosystem or species or a significant number of human beings, either directly or indirectly. “Long-term” damage is defined as damage that is irreversible or is unlikely to be reversed through a process of natural recovery within a 12-month period.

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<sup>67</sup> [2990 SEPA response](#)

<sup>68</sup> [Monica Lennon Ecocide Consultation Summary](#)

65. The Member has considered very carefully the terms of the definition of ecocide included in the Bill, but appreciates and welcomes further scrutiny at Stage 1, for example on the extent to which terms such as “limited geographic area” require to be defined in more precise terms on the face of the Bill.

66. Other considerations by the Member included omitting the references to “intent” and “with recklessness” in the definition in the Bill. She noted that other environmental offences (including those under section 40 of the RRA) are “strict liability” offences and the Member explored whether the criminal offence of ecocide should also have no requirement to demonstrate such an act was committed with knowledge. Strict liability is a legal concept which means that a person or entity can be held legally responsible for an act or omission, regardless of intent or negligence. Strict liability offences tend to arise in relation to certain statutory offences commonly in relation to regulatory and public welfare offences in areas such as animal welfare, environmental law and health and safety. Strict liability is largely confined to regulatory offences. Usually, criminal offences include a requirement to demonstrate there has been a wrongful act (the *actus reus*) and a wrongful state of mind known as “*mens rea*”, i.e. personal culpability for the crime. *Mens rea* refers to the intent or mental state of an individual that must be established before they can be convicted of a crime.

67. The Member decided to include the references to “intent” and “recklessness” (thereby including an element of *mens rea*) because not including them would have meant that, in effect, someone could be convicted of the crime of ecocide without any requirement to prove that the individual had any degree of intent or was careless or reckless. In other words, if an individual had acted entirely lawfully and diligently and an ecocide event occurred as a result of some kind of accident for which they had no fault, such a person could have been convicted (resulting in a lengthy custodial sentence). While it may be challenging to identify specific examples of when an ecocide event could occur in such circumstances, the Member felt it was essential that the law provides for such a situation and ensures individuals are treated in line with natural justice.

68. The consultation included a proposed definition of ecocide which reflected that someone committing the crime would do so with knowledge of the risk of ecocide. It stated:

“unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the Scottish environment being caused by those acts.”<sup>69</sup>

69. A large majority of respondents (90%) who answered the question on the definition supported the definition that was proposed, 7% preferred another definition (for reasons explored below) and 2% of respondents did not support the definition.

70. Supporters felt that it was important that the definition was in line with a consensus developed by international experts, and that the proposed definition was a

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<sup>69</sup> [History – Ecocide Law](#)



strong and robust as possible. Others who broadly supported the definition warned that the requirement in the definition that such acts needed to be “committed with knowledge” was a potential loophole that could be exploited.

71. Other respondents highlighted concerns about inclusion of the word “wanton”. Professor Colin T. Reid and the joint response from The Centre for Climate Crime and Climate Justice, Queen Mary University of London, We Own It, Scottish Hazards Campaign, UK Hazards Campaign, Institute of Employment Rights and Violation Tracker UK shared these concerns about the words “wanton” and “unlawful”, adding that the former would introduce unnecessary legal uncertainty in the context of domestic law. The Member has acted on these concerns and amended the definition in the Bill as a result, as set out above.

## Section 2- Defence of necessity

72. Section 2 provides for the defence of necessity which a person may use if charged with ecocide. The defence is that a person’s actions were carried out to prevent greater harm occurring (section 2(1)(a)) and the prevention of harm was necessary and reasonable (section 2(1)(b)). The person charged with ecocide is responsible for demonstrating, on the balance of probabilities, that they had such a defence (section 2(2)). The Member included these defences because she felt that there may be (very rare) circumstances where a person could conceivably act in a way that may risk ecocide to prevent a greater harm: such as avoiding significant loss of human life. As set out above, while such a situation may seem very unlikely, the Member felt it was important to explicitly include such a defence to ensure that there was clarity for the courts if such a situation was to occur.

## Section 3- Individual culpability

73. Section 3 sets out where personal culpability lies when an organisation commits the offence of ecocide. Where ecocide is committed by a relevant organisation, a responsible individual within that organisation also commits ecocide where the actions of that individual involves consent or connivance. “Relevant organisation” is defined as a company, limited liability partnership, partnership or any other body or association (section 3(3(a))). “Responsible individual” is defined as director, secretary or member for a company; as a member for a limited liability partnership; as a partner for a partnership; and as an individual who is in control of the affairs, for other bodies and associations (section 3(3)(b)).

74. The Member’s policy intention is to ensure that not only could an organisation be prosecuted for ecocide, but that certain individuals within that organisation could also be prosecuted. The Member has carefully considered which people, in which positions, in different types of organisations could reasonably be assumed to have culpability. This is to ensure that those who should be prosecuted are not inadvertently excluded due to a loophole in the legislation, but also, crucially, to ensure that the Bill does not unintentionally cause individuals who are not sufficiently senior in an organisation to be personally culpable. Individuals at a senior level of an organisation specified in section

3(3) of the Bill (public or private sector), with control over that organisation including decision taking over its actions and ultimate oversight of their delivery are covered by section 3. Individuals at a lower level in these organisations envisaged as middle management or below would not be subject to prosecution under section 3.

## Section 4- Vicarious liability

75. Section 4 provides for vicarious liability. An employer could be charged with ecocide where an employee commits the offence, subject to certain defences. Proceedings may be taken against the employer in respect of the offence whether or not proceedings are also taken against the employee. This will assist to ensure that those who benefit from offending behaviour are held accountable.

## Section 5- Penalties

76. Section 5 of the Bill sets out the penalties that courts may impose on anyone convicted of ecocide. Such a conviction is only possible under indictment. This means that the offence can be tried in the Sheriff Court or the High Court. Either court may impose an unlimited fine. The maximum custodial sentence that may be imposed by the Sheriff Court is 5 years. However, the Sheriff Court may remit a case to the High Court for sentencing if it is of the view that a higher prison sentence should be imposed.

77. Section 5(1) of the Bill provides that an individual convicted of ecocide can receive a custodial sentence of up to twenty years or such imprisonment as well as a fine. Under section 5(2) an organisation may receive a fine. The level of fine in each case will be for the court to determine, however as noted above the level of fine possible is unlimited. The Member envisages that the fines imposed under this Bill should be sufficiently high to ensure that any individual, and/or an organisation considering an action that could reap financial benefits that also risks causing ecocide, would decide not to take such an action on the basis that they are aware that such an action could lead to very severe penalties. This includes fines that could constitute a percentage of the annual profit of an organisation at a level that would have a notable impact on the organisation.

78. If the case is tried in the Sheriff Court, the maximum prison sentence available is 5 years. If the case is tried in the High Court, there is no such limit on a custodial sentence. The Bill provides that an individual could be liable to imprisonment for up to 20 years.

79. It is the Member's position that the ecocide offence is a very serious offence which should only be triable on indictment. It will be for the Crown Office and Prosecution Service to determine on the basis of the particular circumstances of the case before them which charges should be prosecuted and in which court. The Member envisages that if an ecocide offence was tried in the Sheriff Court but it was determined that a higher sentence should be imposed (beyond a term of five years) then the case may be remitted to the High Court, having cognisance of the Bill providing for a sentence of up to 20 years.

80. A significant majority of responses to the Member's consultation (2,672 (79% of those who answered)) were fully supportive of the proposed penalty of a custodial sentence of up to twenty years, with a further 455 respondents (14%) partially supportive. A small minority of respondents, 44 (1%), were fully opposed to the proposed penalties, with a further 44 respondents (1%) partially opposed. Of those who were partially opposed to the proposed penalties, some (including Rosa Stutenberg) said that a custodial sentence should be a last resort and that "stripping CEOs of their power and imposing large fines" should be the primary focus<sup>70</sup>. 113 (3%) adopted a neutral position.

## Section 6- Regard to be had to financial benefit in determining fine amount

81. Section 6 makes provision such that the court must have regard to any financial benefit in consequence of the ecocide offence when determining the amount of fine to be imposed. The Member is seeking to ensure that anyone who may benefit financially from ecocide would not retain funds from committing the offence even after receiving a fine. Again, in terms of the deterrent effect, the awareness amongst organisations and individuals of the nature of the penalties will act as a basis for them to decide against any actions that could constitute ecocide. These measures collectively are intended to force organisations to consider corporate responsibility, seeking to rebalance towards environmental and societal considerations in an era where many organisations are perceived to be prioritising profit over these considerations.

## Section 7- Compensation orders

82. Section 7 makes provision for compensation orders. It provides that section 249 of the Criminal Procedure (Scotland) Act 1995<sup>71</sup> which makes general provision for compensation orders to be made by the courts, allows the court to make a compensation order requiring compensation to be paid by a person convicted of ecocide. This is subject to the matters set out in section 7 with regards to the loss or damage caused and the persons that may be compensated. This provision adds to the suite of provisions that seek to deter organisations and individuals from actions that could lead to ecocide. The potential that they could be required to compensate for the damage caused, whether directly or indirectly, by the offending acts should have a preventative effect. In addition, it ensures that anyone who has incurred costs or will incur costs as a result of another person committing ecocide may be compensated. Such persons that may be compensated therefore may comprise a single individual or a group of individuals in a particular community. Section 7 also makes provision for compensation orders to cover costs incurred preventing, reducing or remediating the effects of harm to the environment or other associated harm. It is anticipated that where SEPA or local authorities have to undertake work in the immediate aftermath of, or beyond, an ecocide event that these bodies would also be in a position to receive compensation of these costs under the provisions in Section 7.

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<sup>70</sup> [Monica Lennon Ecocide Consultation Summary](#)

<sup>71</sup> [Criminal Procedure \(Scotland\) Act 1995](#)

## Section 8- Publicity orders

83. Section 8 of the Bill provides that courts may, in addition to the penalties specified under section 5, make a publicity order which requires a person convicted of ecocide, to publish information regarding an ecocide offence. This information includes that the person has been convicted of the offence, particulars of the offence and any other sentence passed by the court in respect of it (section 8(1)). Section 8(4) of the Bill sets out further requirements in respect of the order. Any person failing to comply with such an order may be fined up to £40,000 on summary conviction and for an unlimited amount on indictment. The intention is that the provision would, in combination with others summarised above, contribute further to the preventative effect of the Bill. The Member is seeking to ensure that, in addition to the knowledge of potentially receiving substantial prison sentences and severe financial penalties, those considering such acts would also be aware of the potential impact on the publicity surrounding a successful prosecution. The Member is well aware of the value of ensuring organisations and the often high profile senior figures within them give due consideration to the reputational impact of their actions. Should a publicity order be made, in addition to wide media coverage of a conviction, the Member considers that it would ensure that the wider public (including other organisations considering similar actions) are made aware of the implications of such actions, thereby adding further to the deterrent effect. In terms of public faith in enforcement where environmental crimes take place, the Member considers that this provision and others in the Bill will help serve to demonstrate a commitment at a national level to protecting the environment and the citizens living in Scotland.

84. It is worth noting that the Member considered including other measures in the Bill with a focus on reputational impact, including on individuals. Such measures, for example, included the potential for convicted individuals being prevented from becoming trustees of charities or positions in relation to being in public office. This was on the basis that a conviction for ecocide suggests the person would not be suitable to undertake those positions. The Member will monitor all written responses and oral evidence to the lead committee at Stage 1 to establish whether there are other measures that could be given active consideration to, with a view to amending the Bill at Stage 2 should the Bill progress to the amending stages.

## Section 9 - Enforcement powers

85. Section 9 amends the Environment Act 1995 to ensure that enforcement powers are available to relevant authorities to investigate the offence of ecocide. The Member wants to ensure that all relevant authorities have the required powers to do so. This section ensures that SEPA, as the proposed primary enforcing authority, would have the necessary powers to fully investigate and gather evidence that could lead to prosecutions for persons committing ecocide.

## Section 10- Report on operation of the Act

86. Section 10 requires Scottish Ministers to publish a report on the operation of the Bill once enacted every five years and for this report to be laid before the Parliament. The report must include information on the number of reported crimes of ecocide, cases in which criminal proceedings are brought, convictions for ecocide in criminal proceedings and sentences that have been passed, an account of how much money has been recovered as a result of the Proceeds of Crime Act 2002 (or otherwise), and an assessment of the damage and costs of the damage caused by acts resulting in an ecocide conviction. In producing this report, Scottish Ministers must consult a range of stakeholders and consider their views (section 10(3)).

## Effects on equal opportunities, human rights, UNCRC, island communities, local government, sustainable development etc.

### Equal opportunities

87. The Member has carried out an Equalities Impact Assessment (EQIA), a summary of which will be sent to the lead committee during Stage 1.

88. The purpose of the Bill is to ensure that the natural environment in Scotland is protected, and the risk of ecocide is reduced. This sits alongside broader international efforts to arrest the destruction of ecosystems and the degradation of that natural environment. Certain population groups may be more exposed to the negative impacts of climate change than others. For example, the EQIA noted that as the impacts of climate change accumulate as time passes, children and young people may be more likely to suffer indirect ill effects as a result of serious environmental criminal offences. In addition, there is evidence that living in socio-economic deprivation can exacerbate the negative impacts of climate change because, for example, people living in poverty may live in lower quality accommodation which can be more exposed to poor air quality than accommodation in other areas.<sup>72</sup> However, the EQIA did not identify any groups with protected characteristics who would be adversely affected as a result of the provisions of the Bill.

89. The aim of the Bill is to benefit the population of Scotland as a whole, regardless of protected characteristics, therefore the Bill itself should have no substantive positive or negative impact on any individual or group protected by the Equality Act 2010.

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<sup>72</sup> [Opportunity/Challenge 8: Ensure that policies, action and spend necessary to mitigate and adapt to the global impacts of climate change deliver a just transition for people in Scotland - Resource Spending Review: Equality and Fairer Scotland Statement - gov.scot](#)

## Human rights

90. The Member believes that the Bill is compliant with the European Convention on Human Rights (ECHR) and that this Bill will positively impact on human rights. At a basic level, if the Bill achieves a key aim of preventing ecocide through deterrence, then there will be an improvement in wellbeing for those who would have been negatively impacted by potential ecocide events which has been prevented.

91. It is considered that the provisions of the Bill engage, or potentially engage, several rights under the Convention, namely Article 1 of Protocol 1 (“A1P1”) (right to property), Article 6 (right to a fair trial) and Article 8 (Right to respect for private and family life, home and correspondence).

92. The ecocide offence will be prosecuted before and adjudicated by the courts in the same way as existing offences are. Courts are required to interpret and apply laws in a way that is compatible with human rights.

93. Section 2 of the Bill provides for a defence of necessity. It is for a person accused of ecocide to establish, on the balance of probabilities, that their action was necessary and reasonable to prevent greater harm (such as loss of life). Article 6(2) of the Convention is engaged which protects the presumption of innocence. However, the prosecution still requires to prove all of the elements of the offence, including recklessness beyond a reasonable doubt. Section 2 is considered within the reasonable limits as are permitted and compatible with the Convention.

94. A1P1 is a right which can be interfered with if it is in pursuit of a legitimate aim and the measures are proportionate. In cases concerning the confiscation of the proceeds of a criminal offence which followed conviction, the European Court of Human Rights has treated the confiscation as a control of use of property. A1P1 permits such control to secure the payment of penalties and penalties may include the imposition of a fine.

95. The enforcement powers under section 9 of the Bill would permit the seizure of items, by authorised persons, such as documents and wider evidence such as samples to be taken from “premises” as part of an investigation into an ecocide offence. This could amount to deprivation of property or the control of the use of that property. These powers are required for the purposes of prevention of crime and are subject to certain safeguards as provided for under the Environment Act 1995, namely being carried out by authorised persons only and in certain circumstances with a warrant. Sufficient safeguards are in place to ensure that any interference with property rights is proportionate and required for the purposes of preventing and investigating a serious environmental crime.

96. Consideration was also given to Article 8. Section 8 of the Bill provides that the court may make a publicity order, as has been detailed earlier in this policy memorandum. This may involve a requirement to disclose specific details as regards the person convicted and the particulars of the offence and sentence passed. Article 8



rights may be interfered with where the interference is lawful, necessary in a democratic society, and proportionate. A balance is required in terms of making the public aware of certain information with the need to protect individuals from undue publicity. However, it is considered that the discretionary power available to the courts to make a publicity order is necessary and a proportionate penalty, in addition to the other sanctions available to the courts, for a person convicted of the serious offence of ecocide.

97. Consideration has also been given in respect of section 9 of the Bill which amends section 108 of the Environment Act 1995 (powers of enforcing authorities and persons authorised by them). Currently SEPA has powers under section 108 to enter premises and examine and investigate as necessary for the purposes of determining whether any of the listed offences under section 108 are being or have been committed. Ecocide is to be added to the list of offences.

98. These powers are consistent with those already available to the relevant enforcing authorities (SEPA), e.g. in respect of the offence under section 40 of the RRA, relating to significant environmental harm.

99. The powers under section 108 may be exercised in relation to obtaining evidence from a residential premises or a business premises. Under section 108(6) of the Environment Act 1995, except in an emergency, entry will only be permitted to a residential premises with either the consent of the occupants or with a warrant. The powers, set out in primary legislation and subject to the safeguards referred to in this and preceding paragraphs of this memorandum, are for the purpose of the prevention and detection of crime to determine those who may be liable for causing severe harm to the environment.

## Statement of compatibility under section 23(1) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024

100. Monica Lennon MSP has made a statement that, in her view, the Bill as a whole further embeds UNCRC rights.

101. The overall aim of the Bill is to provide a strong deterrent to causing significant and widespread damage to the environment by creating a statutory offence of ecocide and providing for severe penalties. This would have a positive impact on the lives of children in being a measure that seeks to protect the environment and therefore contributes to their health and the quality of their future lives.

102. In particular, the measures in the Bill seek to provide a deterrent against widespread and significant harm to the environment and, as such, would have a positive impact on a child's right to life and their survival and development in terms of Article 6. It is well known that environmental damage can directly lead to issues such as poor air quality, contamination of drinking water and therefore have a significant effect on a child's life and development.

103. Also, Article 24 provides for a child's right to the enjoyment of the highest attainable standard of health and paragraph (2)(c) of that Article requires States to take into consideration the dangers and risks of environmental pollution in combating disease and malnutrition. A clean environment where children can, for example, play safely in outdoor areas free from pollution and have access to uncontaminated food and water helps to positively impact this right.

## Island communities

104. Island communities could be more likely to suffer adverse consequences as a result of climate change than other communities, which certain forms of ecocide can contribute to. Rising sea levels can damage infrastructure, homes and business on islands,<sup>73</sup> and these communities may be more exposed to the impacts of severe weather (incidents of which may increase due to climate change) than mainland communities. In addition, instances of ecocide that impact on water quality and the marine environment in the sea are likely to have a more notable impact on island communities given the proximity of land to stretches of coastline and the reliance of island communities on a safe and healthy coastal environment. As the Member intends that the provisions of this Bill will act as a deterrent to potential incidents of ecocide in the future, it is possible that island communities (which are more vulnerable to the impacts of climate change) may benefit as a result.

## Local government

105. The Member does not consider that there will be any significant impact on local government. There may be instances where ecocide events are reported to local authorities who require to report incidents to the Police and Fire and Rescue services. There would also be a role for local authorities where an ecocide event takes place in their area and members of the public are concerned about damage to the environment including their living conditions. Primarily the Bill will have resource implications for SEPA, Police Scotland, the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunals Service, as reflected in the Financial Memorandum.

## Sustainable development

106. The provisions of this Bill are likely to have a positive impact on local environments and communities. As stated earlier, serious environmental crimes can have a devastating impact on eco-systems and communities. The prevention of such crimes, which is one of the objectives of this Bill, is therefore likely to have a positive impact on environments and communities.

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<sup>73</sup> [Island Communities Impact Assessment - Climate Change \(Emissions Reduction Targets\) \(Scotland\) Bill - Climate Change \(Emissions Reduction Targets\) \(Scotland\) Bill: island communities impact assessment - gov.scot](#)

107. The Member's intention is that the Bill, when enacted, will send a distinctive signal to individuals and companies that actions that risk causing serious environmental harms are criminal in nature and will result in a significant custodial sentence/fine for any individual or company. One of the intentions of this Bill is to act as a deterrent for this kind of behaviour. As a result, it seems likely that the Bill will reduce the risks of future ecocide events. As ecocide is defined as having severe and widespread/long term impacts on communities and the eco-system, the benefits of preventing such an incident are likely to be significant. These impacts would benefit communities in the short term, but also could have a cumulative protecting effect on the planet for future generations.

# Ecocide (Scotland) Bill

## Policy Memorandum

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