

Consultation Title: The Future of Forestry in Scotland

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Introduction

Scottish Land & Estates is a member organisation that uniquely represents the interests of both land managers and land-based businesses in rural Scotland. Scottish Land & Estates has members with interests in a great variety of land uses, including a great many with commercial forestry and amenity woodlands. Consequently, this consultation is of importance to our members and we welcome the opportunity to respond.

General Comments

The Forestry Industry is a vital part of Scotland's rural economy and our forestry and woodlands provide important opportunities to meet environmental objectives, for people to enjoy nature and the outdoors and for wildlife to flourish. We appreciate the Scottish Government's interest in, and support for, forestry. It is important that we think about any changes carefully to ensure we are putting in place good and workable structures to help Scotland make the most of this valuable resource going forward. In making change we should guard against losing the things that currently work well and instead focus on improving processes that have become overly centralised and cumbersome. Perhaps most important of all, the ethos we create around the new arrangements should be an enabling one. It is particularly important that such an approach is actively cultivated in the public sector.

Scottish Land & Estates members are keen to emphasise that the focus on forestry and the forestry industry must be central and always maintained. There is concern for example, that

it would be all too easy for the proposed new agency to run the national forest estate, Forestry and Land Scotland, to be used to deliver so much more than forestry and that in time the word “forestry” could be dropped from the organisation’s title, with it simply becoming known as “Land Scotland”. There is a fear this could result in a demotion in the importance of forestry to these broader activities. At a Scotsman Debate on 3 November, we were grateful for the Cabinet Secretary’s reassurance that the Agency’s primary focus would be forestry.

There is similarly some considerable concern that shifting the FCS functions into Scottish Government could result in a loss of expertise and of specific focus. We expand on these points below in our answers to the specific questions posed.

Some of these concerns could be allayed as the legislative framework is put in place.

It was also pointed out by several of our members that the consultation documentation could easily give the impression that all forestry in Scotland was under the control of the state. They felt that the role of private forestry in contributing to Scotland’s rural economy and to other land-based outcomes such as mitigating climate change, reducing the impact of flooding and improving biodiversity could be better recognised.

A further general point that has been made within the membership is that the optimum extent of state owned forestry is not considered within the consultation. New structures should, we believe, be given the flexibility to significantly alter the extent of state ownership if this is in the public interest.

Finally, a recurring theme in our discussions with many of our members has been that forestry management and functions should be delivered predominantly at a regional level, and should certainly not be further centralised within national government. Many members point to the role of the Land Use Strategy in developing regional approaches to integrated land use and management as a suitable way forward.

Chapter 1: New Organisational Arrangements in Scotland

Q1 – Our proposals are for a dedicated Forestry Division in the Scottish Government (SG) and an Executive Agency to manage the NFE. Do you agree with the approach? Please explain your answer.

It would be fair to say that the forestry representatives within our membership are not in total agreement in terms of our response to this question. There are some members who see the merits of the proposed split between the practical management of the national forest estate currently under FES and the policy, regulatory, support and advice functions carried out by FCS, and others, who are greater in number, who have raised concerns with us about it and who do not support it.

Those who are supportive of the proposal see that having the State forestry activities more clearly accountable to Scottish Ministers is on balance a positive move. They also see opportunity for better integration with other land uses – something that is becoming increasingly important in meeting environmental challenges and commitments. Further they highlight that FCS in recent times has not been wholly successful. That is, planting targets have been missed, restocking obligations appear not always to be enforced and grant systems are overly bureaucratic and a barrier to activity.

In terms of the concerns, these tend to be centred around the potential loss of the beneficial links between practical forestry management and the functions that exist within FCS. That is, many members with an interest in forestry see a clear value in state-owned forestry providing a training ground for those that may become future policy, advice and regulatory officers. That is, it gives them several years of practical experience before they take on these functions and gives those undertaking these functions a considerable amount of credibility and respect within their role.

It is true to say that all the forestry members we have spoken to agree that it is essential that those delivering the policy, regulation, support and advice functions are skilled, knowledgeable and have practical forestry experience as a pre-requisite. Some members see the best way to ensure that experience is to retain the current FCS/FES structure whereas others feel that such experience can be gained either in the private or state-owned forestry sector and that it is not necessary to retain the current approach to ensure a good supply of experienced governance officers.

If the Scottish Government goes ahead as proposed, we would like to see particular consideration given to how future employees of the forestry division of Scottish Government are developed through the industry such that some will be suitable candidates for such roles. Consideration also needs to be given to how those expertise, once gained, are retain.

A further concern that has been expressed in terms of making FCS functions a division of the Scottish Government is around the long-term nature of forestry and forestry investment. That is, the closer these functions are to Government the greater potential there is for priorities to change on a parliamentary 5-year cycle. It is felt that an agency of Government such as the current FCS perhaps gives a buffer to those changes and embodies long-term continuity more than a division would be likely to.

Q2 – In bringing the functions of FCS formally into the SG, how best can we ensure that the benefits of greater integration are delivered within the wider SG structure? What additional benefits should we be looking to achieve?

There is an assumption in the above question that the functions of FCS will become a division of Scottish Government which not all our members agree should be the case.

However, those that see such a move as beneficial, point out that a main benefit should be greater integration with other land uses. It is not a foregone conclusion that this will happen. It will be necessary for the Scottish Government to move forward with the delivery of mechanisms such as Scotland's Land Use Strategy and to consider high-level policy approaches to the rural economy for this to be realised.

Q3 – How should we ensure that professional skills and knowledge of forestry are maintained within the proposed new forestry structures?

This matter is of concern to our forestry members. As mentioned above, the FCS and FES together have developed and retained skills and expertise in forestry matters reasonably successfully. FES has often acted as a training ground in practical forestry management for those going on to fulfil roles within FCS.

Civil servants tend to move from policy area to policy area within Scottish Government and, while we appreciate that such individuals are often very capable people who bring with them a range of transferrable skills, it is nevertheless a concern to many in the forestry industry that those in positions of considerable influence, will not necessarily have a strong background in forestry management and related integrated land use matters.

As suggested above, consideration needs to be given to how people are developed and recruited to the proposed forestry division. It would be our members' wish to see civil servants with forestry expertise retained within the forestry division rather than moved on to cover other policy areas.

Q4 – What do you think a future land agency for Scotland could and should manage and how might that best be achieved?

As mentioned in our “general comments”, there is concern amongst our forestry-owning members that the central focus of forestry for this agency could be lost should the agency take on land which is owned and managed for other purposes. Indeed, it has been noted that the question posed in this consultation paper has already dropped the word “forestry” and talks about a “land agency”.

To be clear, we are not suggesting that the Scottish Government should not have an agency or agencies charged with owning and managing land for purposes other than forestry. However, we are concerned that if this agency takes on land managed for a variety of purposes that the focus on forestry will be diluted and may take a secondary role.

We have sought assurance from the Cabinet Secretary for the Rural Economy and Connectivity on this matter and are pleased to note that he can give this.

In this context, thinking about the role of an agency with forestry as its primary focus, members would wish to see an agency that is more locally focussed and that is willing to consider flexible solutions for sites that do not suit the agencies working practices but may be made to work by others, such as local community or local entrepreneur management through the provision of long leases.

The roles of the Agency should include:

- helping to assure a continuous supply of raw material to the timber processing industry;
- stimulating the market for timber;
- exploring and promoting the innovative use of timber, particularly how value can be added to timber products;
- leading the way in terms of developing new and sustainable management practices; and
- developing PES markets to support improved biodiversity, flood management and climate change mitigation.

We should also ensure that state-owned forestry does not disadvantage private forestry activities, so there needs to be parity with the private sector in terms of support and regulatory burdens. This not only needs to be thought about in terms of the market for timber products but also in terms of diversification activity. For example, mountain-biking

facilities provided free-of-charge on state forestry sites has stunted quite severely the development of a market for this activity within private forestry sites. This ultimately has not been beneficial to the mountain-biking community as it is only the Forestry Commission that can provide these facilities so they are limited, or to the public purse which is now obliged to underwrite the costs of running such facilities.

Some members suggest that state-owned forestry should be legally obliged to act in a commercial way with the aim of making a commercial return. Indeed, if this was a focus, it would help achieve parity with the private sector and should help prevent such unintended consequences as those outlined above in the case of mountain-biking.

Chapter 2: Effective cross-border arrangements

Q2 – Do you agree with the priorities for cross-border co-operation set out above, i.e. forestry research and science, plant health and common codes such as UK Forestry Standard?

If no, what alternative priorities would you prefer? Why?

Scottish Land & Estates' members agree with the priorities for cross-border co-operation set out in the consultation paper. However, we think the legal basis for plant health operations, where fast and sometimes drastic decisions need to be taken and implemented in a short space of time, operating on a UK wide basis and different legal jurisdictions, need to be clarified.

We would also stress the importance of English markets to the Scottish timber industry and therefore that Scotland needs to agree to standards of production which are dictated by this and other markets. It is also important that we are adequately represented on international bodies on matters such as timber certification. This has been done at UK level up to now.

Do you have views on the means by which cross-border arrangements might be delivered effectively to reflect Scottish needs? E.g. Memorandum of Understanding between countries? Scotland taking the lead on certain arrangements?

Scottish Land & Estates' members highlight the vital importance of cross-border arrangements to the forestry industry. Forest Research is considered within our membership to be one of the great strengths of forestry in Scotland, and plant health issues are of immediate and increasing concern.

There is concern that the consultation paper does not give any indication of how cross-border arrangements might be set up. We would urge the Scottish Government to give time and consideration to ensuring that effective arrangements are put in place. A vehicle like SCION in New Zealand (<http://www.scionresearch.com/general/home>) is suggested as worthy of consideration to support research. Setting up a UK-Forestry Council with appropriate representation from all areas of the UK is another option.

It will also be necessary for Scottish Government to think about how cases where the constituent countries do not share a common position will be dealt with.

We would also ask that FCS's status as a category 2 responder in case of emergency should not be lost. However, with the proposed separation of the regulatory function from the practical aspects of forestry much of the benefit could be lost because one of the key issues is knowledge of private sector resources that can be deployed in an emergency. For example, if there is a storm and a lot of windblown trees block roads then both chainsaw operators with appropriate certification and tree harvesters will need to be deployed.

Chapter 3: Legislation

Before we respond to the specific questions set out in the consultation paper, we make a few general observations in relation to the legislative framework. Scottish Land & Estates recognise the vital importance of good legislation in setting the overarching approach, the ethos and the parameters of how forestry, both public and private, is managed into the future. It is in our opinion the most critical element of this consultation.

The new arrangements should be ones which are enabling, with a focus on co-operative working, advice and facilitation, with regulation, which should be focussed on outcomes, used only as a backstop. Also, the legislation should create a duty on the proposed forestry management agency to co-operate with neighbours on areas of common interest and enable employees to work on private land from time-to-time, when there is a clear need to do so, for example: deer control, firefighting and fire prevention and disease control and prevention.

The forestry industry is very good at producing timber. It has a wealth of expertise in this regard. While regulation and oversight is important, this should not result in micro-management. The Scottish Government are also asked to acknowledge that there is strength in diversity. That is, it is rarely beneficial to the long-term resilience of the forestry sector to be overly prescriptive in terms of planting schemes and mixes.

Newer agendas such as integrated land use to deliver multiple benefits, including those that have no traditional market, but which are nevertheless vital to the public interest, are by their very nature more difficult to deliver against. In the clear majority of cases, regulation is not the solution to their delivery. Information, advice, facilitation and incentives are the tools that are necessary. The Act must be designed with these points in mind.

We would also urge that the provisions are enshrined in primary legislation so that they are given full parliamentary scrutiny and are not left to secondary processes.

Q1 - Should the Scottish Ministers be placed under a duty to promote forestry?

Scottish Land & Estates members agree that Scottish Ministers should be placed under a duty to promote forestry.

Q2 – What specifically should be included in such a general duty?

To maintain a focus on forestry and timber production, the general duty set out in the Forestry Act 1967 should be the basis of the new Act. This duty is still as relevant today as it was when the 1967 Act came into force.

We appreciate however that it is also important that the wider benefits forestry provides to society should be recognised and therefore should form an integral part of the general duty. The additional duty taken from the Climate Change (Scotland) Act 2009 and set out in the consultation document should therefore be included.

The Act should also include a provision which outlines that the body which manages the State's forestry has a duty to take account of its impact on private sector forestry. It should in effect not undertake activity which is detrimental to the growth and success of private forestry interests.

Further, the Act should set out that Scottish Ministers should report to Parliament on performance in meeting these general duties.

The legislation should ensure there are appropriate checks and balances in place. In particular, we think that an appeals mechanism, such as the Regional Advisory Committee in the 1967 Act, should be enshrined in the new legislation. Nothing undermines trust and confidence quicker than the lack of a mechanism to re-dress injustices.

Q3 – Recognising the need to balance economic, environmental and social benefits of forestry, what are your views on the principles set out above?

Scottish Land & Estates members are content with the principles for the new legislation set out in the consultation paper. We feel it is important for the delivery of the many benefits forestry offers wider society, that the industry has a strong and sustainable economic basis. Without a viable industry it is difficult to see how other outputs, important as they are, can be delivered.

Assessing impact

Are there any likely impacts the proposals contained in this consultation may have on particular groups of people, with reference to the “protected characteristics” listed in chapter 4? Please be as specific as possible.

We do not believe there are any impacts on the groups listed.

Do you think that the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector? Please be as specific as possible.

Are there any likely impacts that the proposals contained in this consultation may have upon the privacy of individuals? Please be as specific as possible.

Are there any likely impacts that the proposals contained in this consultation may have upon the environment? Please be as specific as possible

We have no comments on any of the above questions.