

Regulations on Felling and Restocking

Strategic Environmental Assessment Scoping Report

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1 Introduction

1.1 Context

- 1.1.1 Following the passage of the Forestry and Land Management (Scotland) Bill through Parliament, the Scottish Government is proposing to bring forward secondary legislation intended to update the current provisions on felling and restocking, ensuring that statutory processes are proportionate to the activities they seek to regulate and to increase environmental protection. Regulation is also being considered to bring forward straightforward and transparent applications, permissions, directions, appeals, and compensation processes.

1.2 Purpose of this report

Strategic Environmental Assessment

- 1.2.1 The Environmental Assessment (Scotland) Act 2005 (the ‘2005 Act’) requires that public plans, programmes, and strategies (PPS) be assessed for their potential effects on the environment¹. Undertaking a Strategic Environmental Assessment (SEA) provides a means of identifying potentially significant environmental impacts at an early stage in the development of the PPS. SEA also considers how identified impacts can be avoided or minimised through appropriate mitigation measures and provides for engagement with stakeholders through public consultation on both the PPS as well as the findings of the assessment. This feedback is used to inform the final iteration of the PPS, as summarised by the Post Adoption Statement.
- 1.2.2 The proposed changes to the felling regulatory regime (‘the proposal’) fall under Section 5(3) of the 2005 Act and so are subject to SEA. In accordance with the requirements of the Act, a Scoping Report has been prepared to give preliminary consideration to the types of environmental effects that could arise from the implementation of the proposal.
- 1.2.3 This Scoping Report sets out the following information:
- the proposed scope and level of detail of the assessment;
 - a description of the potential assessment methodology;
 - a summary of data and sources to be used in the environmental baseline; and

¹ Environmental Assessment (Scotland) Act 2005, asp 15 [online] Available at: <https://www.legislation.gov.uk/asp/2005/15/introduction> (accessed 04/09/2017)

- the prospective period of consultation on the proposal and the forthcoming draft Environmental Report.
- 1.2.4 The views of the Consultation Authorities; Scottish Environment Protection Agency (SEPA), Historic Environment Scotland (HES) and Scottish Natural Heritage (SNH) are sought on this Scoping Report.

1.3 Report structure

1.3.1 This Scoping Report is set out as follows:

- **Section 1 (this section)** introduces the proposal and the Strategic Environmental Assessment process.
- **Section 2** provides background information on the development of the proposal, including proposed changes to the existing legislation and a discussion of those that warrant an assessment.
- **Section 3** sets out the proposed approach to the assessment, including potential methodology and how mitigation, enhancement, monitoring, reasonable alternatives, and cumulative effects will be addressed.
- **Section 4** sets out the broader legislative and policy context in which the regulations will be developed and operate, and an outline of the proposed environmental baseline that will inform the subsequent assessment.
- **Section 5** details the next steps in the preparation of the regulations and the SEA process, including proposed consultation timescales.

2 Background

The following paragraphs set out the legislative basis for the development of the proposal. Further, given that many aspects of the proposal focus solely on changes in procedure or guidance, this section presents a case for assessing only those proposals with the potential to give rise to significant environmental effects.

2.1 Forestry in Scotland

2.1.1 The Scottish Government recognises the multiple benefits already delivered by forestry in Scotland, and it is committed to ensuring it can deliver more in the future. In achieving its ambitions for forestry, the Scottish Government is determined to use all available powers and levers to establish a modern statutory framework, with appropriate governance and operational arrangements, to support and protect this valuable and growing sector.

2.2 The Forestry and Land Management Bill

2.2.1 The Bill is the first of three principal activities required to complete the devolution of forestry to the Scottish Government. It will provide the legislative framework to enable delivery of a package of other policy initiatives to increase forestry's contribution to the Scottish Ministers' economic, environmental, and social ambitions.

2.2.2 Once the Bill has completed its passage, provisions will be made to wind up the Forestry Commissioners as a cross-border public authority and to help establish new collaborative cross-border arrangements with the UK and Welsh Governments. There will also be new arrangements for transferring some of the Forestry Commissioners' property and liabilities to the Scottish Ministers.

2.2.3 Finally, the activities presently delivered by the Forestry Commissioners in Scotland through Forestry Commission Scotland (FCS) and Forest Enterprise Scotland (FES) will be transferred to the Scottish Government.

2.2.4 Regulatory, policy, support and grant-giving functions will transfer to Scottish Forestry, a Scottish Government Agency. Management of the Scottish Ministers' National Forest Estate will transfer to Forestry and Land Scotland, an agency of the Scottish Government.

2.3 Forestry regulations

2.3.1 It will also be necessary to set out procedures for the permitting of felling, ensuring restocking and for the associated procedures for appeals and compensation. Separately, the exemptions to have permission to fell will

be reviewed. This SEA is concerned with these proposed changes, which the Scottish Government intends to bring forward following the passage of the Bill through Parliament.

Proposed changes to the regulations

- 2.3.2 Currently, statutory procedures for the licensing of felling and re-stocking, and associated provisions on enforcement and appeals, are contained in the Forestry Act 1967; in The Forestry (Felling of Trees) Regulations 1979²; and in the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017³.
- 2.3.3 Additionally, exemptions to licensing requirements are set out in Section 9 of the Forestry Act 1967 and through The Forestry (Exceptions from Restriction of Felling) Regulations 1979⁴.
- 2.3.4 Table 1 summarises the existing statutory provisions covering tree felling license exemptions, alongside a description of the regulatory changes that are anticipated:

Table 1. Proposed changes to tree felling license/permission exemptions

| Current exemptions | Anticipated changes |
|---|--|
| 1. For the felling of small/young trees, fruit trees, and elm trees affected by Dutch elm disease. | No substantive change is envisaged; however, legislative change may be brought forward for the consolidation of diseased tree exemptions. |
| 2. For the felling of trees in gardens, church yards, and public open spaces. | No substantive change is envisaged; however, some changes may be made to improve guidance/definitions. |
| 3. For felling trees on a small scale, with reference to the size of trees (diameter), volume of wood felled, and a range of specific situations. | Changes are being considered to refine or remove the volume exemption for ancient and semi-natural woodlands to increase environmental protection against unregulated or inappropriate deforestation. Some changes may be made to diameter exemptions. |
| 4. For the felling of trees to prevent a danger or abate a nuisance. | No substantive changes are anticipated; however, some changes to guidance may be made to improve clarity. |
| 5. Felling of trees by an electricity operator, water authority, under | No substantive changes are anticipated; however, some changes to guidance may |

² The Forestry (Felling of Trees) Regulations 1979, SI 791 [online] Available at: <http://www.legislation.gov.uk/uksi/1979/791/contents/made> (accessed 22/02/2018)

³ The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017, SI 113 [online] Available at: <http://www.legislation.gov.uk/ssi/2017/113/made> (accessed 22/02/2018)

⁴ The Forestry (Exceptions from Restriction of Felling) Regulations 1979, SI 792 (as amended) [online] Available at: <http://www.legislation.gov.uk/uksi/1979/792/made> (accessed 27/02/2018)

| | |
|---|--|
| planning permission, or for airport safety. | be made to improve clarity. |
| 6. Lopping and topping, trimming/laying hedges. | No change envisaged. |
| 7. Felling covered by a dedication plan. | No change envisaged. |
| 8. Thinning | No substantive change is envisaged; however, some changes may be made to improve guidance/definitions. |
| 9. Tree Preservation Orders (TPO) | No change envisaged. |
| 10. Windblown and dead or dying trees | Changes are being considered to adjust how windblown trees are regulated. Diseased trees are covered by point 1. No substantive changes envisaged to the exemptions for dead or dying trees. Some changes may be made to improve guidance/definitions. |

2.3.5 Proposals are also being considered to update provisions for applications, permissions, directions, compensation and appeals.

2.3.6 Proposals on all of the above will be developed in parallel with the SEA and will be subject to public consultation.

2.4 Subject of the present assessment

2.4.1 Initially, it was proposed that the SEA would assess the proposal as a 'package' of measures in order to reflect how it would likely be presented when issued for public consultation. However, as additional details were considered, it became clear that the majority of the ground covered by the package of measures and the eventual regulations will likely only restate current practice or statute and as such, are unlikely to lead to substantive changes in how felling or re-stocking is carried out in practice. Therefore, it is proposed that only those parts of the proposal with the potential to lead to significant environmental effects be subject to individual assessment, namely, exemptions (pertaining to changes to volume exemptions for ancient and semi-natural woodlands). The remaining aspects of the proposal will still be considered when assessing the potential for cumulative impacts to arise from the implementation of the entire suite of proposed regulations.

2.4.2 Any additional proposed changes which emerge as the proposal is developed would be subject to additional assessment if and as they arise.

3 The approach to the assessment

3.1 Purpose and scope of the assessment

- 3.1.1 The purpose of this SEA is to determine the likelihood and significance of the environmental impacts that could arise from the changes to the way in which felling is regulated. This will allow corresponding mitigation measures to be identified where necessary and highlight opportunities for enhancement in cases where positive impacts are possible.
- 3.1.2 An initial consideration of the potential environmental impacts of these changes in light of the SEA topic areas suggests that potentially significant impacts would likely focus on the following topics:
- Biodiversity, Flora, and Fauna;
 - Soil;
 - Water;
 - Cultural Heritage; and
 - Landscape.
- 3.1.3 The rationale behind the proposed scope is provided in Table 2. The views of the Consultation Authorities are sought on this proposed scope.

Table 2. Proposed scoping in/out of SEA topics

| SEA topic | In/out | Reasons for inclusion/exclusion |
|---------------------------------------|---------------|---|
| Biodiversity, Flora, and Fauna | In | Trees and woodlands provide habitats on a number of scales for both plants and animals. As such, they are often areas of high biodiversity value, particularly ancient and semi-natural woodlands ⁵ . |
| Population and Human Health | Out | Right of access to the outdoors is entrenched in legislation such as the Land Reform (Scotland) Act 2016 while policies such as the National Planning Framework 3 help ensure the quality of green space. As such, it is considered unlikely that the proposal would result in significant environmental impacts in terms of people or communities. |
| Soil | In | Trees and soil are physically linked, sharing and exchanging both matter and ecosystem services. For example, soils receive inputs of organic matter from tree detritus while tree root systems help reduce soil erosion and promote drainage. The proposal could have impacts on soil condition and stability. |
| Water | In | Trees and woodlands provide a range of ecosystem services, including water purification and flood management. Their removal could have an impact upon hydrological conditions, water quality, and the capacity of water bodies to withstand flooding. |
| Air | Out | It is unlikely that the proposal will lead to significant impacts on air quality. Specifically, the activities under regulation (i.e. tree felling and re-stocking) are not associated with significant emissions of the gases or particulates that lead to poor air quality. |
| Climatic Factors | Out | It is considered unlikely that the proposal will lead to significant changes in the overall volume and rate of felling and/or re-stocking. As such, there are unlikely to be significant impacts in terms of changes to carbon sequestration and carbon stocks at the national level. It is therefore proposed that 'Climatic Factors' be scoped out of the present assessment. |
| Material Assets | Out | It is considered unlikely that the proposal will lead to significant changes in the overall volume and rate of felling and/or re-stocking and so, by extension, it is unlikely that the functionality and quality of forests and woodlands as a resource will be impacted. As such, it is proposed that 'Material Assets' be scoped out of the present assessment. |
| Cultural Heritage | In | The proposal puts forward changes to volume exemptions for ancient and semi-natural woodlands. Such woodlands are recognised as relics of historic vegetation and land use patterns and so hold considerable natural and cultural heritage value, both in and of themselves and through their relation to other cultural heritage features. |
| Landscape | In | Changes in tree cover due to felling and re-stocking could lead to impacts on landscape character, such as by increasing or reducing openness and obscuring or revealing features. This can also lead to secondary impacts on cultural heritage by invoking changes in setting or environmental context. |

⁵ Forestry Scotland (2016) What are Scotland's native woodlands? [online] Available at: <http://scotland.forestry.gov.uk/supporting/strategy-policy-guidance/native-woodland-survey-of-scotland-nwss/scotlands-native-woodlands> (accessed 22/02/2018)

3.2 Proposed approach to the assessment

- 3.2.1 The proposed approach for predicting the environmental effects that could arise from the proposal, the consideration of mitigation and enhancement measures, and suggestions for implementing a monitoring programme are described in this section.
- 3.2.2 A number of previous SEAs, particularly those pertaining to policies with implications for land use, set an appropriate framework for the present assessment. These assessments have already compiled a considerable amount of baseline data on forests and woodlands in Scotland, and have explored the possible environmental impacts that could result from changes to the sector. Recent examples include:
- ‘Getting the best from our land - A land use strategy for Scotland 2016-2021’⁶;
 - ‘Draft Climate Change Plan: The Draft Third Report on Policies and Proposals 2017-2032’ and ‘Draft Scottish Energy Strategy: The Future of Energy in Scotland’ (joint assessment)⁷;
 - ‘Proposals for a Draft Climate Change Bill’⁸.
- 3.2.3 Additional SEAs could include those undertaken on National Planning Framework 3 and Scottish Planning Policy⁹ (joint), ‘A Consultation on 2020 Challenge for Scotland’s Biodiversity’¹⁰, and ‘Climate Ready Scotland: Draft Scottish Climate Change Adaptation Programme’¹¹. The assessment of these policy areas has largely been undertaken by the Scottish Government SEA team, thereby providing the added benefit of good institutional knowledge of the broader policy area and a consistency of approach.
- 3.2.4 It is expected that relevant environmental baseline information and findings will be collated from these previous assessments and used to

⁶ Scottish Government (2015) Getting the best from our land, consultation on a draft Land Use Strategy for Scotland 2016-2021 – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Resource/0048/00489448.pdf> (accessed 22/02/2018)

⁷ Scottish Government (2017) The Draft Climate Change Plan: The Draft Third Report on Policies and Proposals 2017-2032 and Draft Scottish Energy Strategy: The Future of Energy in Scotland – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Resource/0051/00513440.pdf> (accessed 22/02/2018)

⁸ Scottish Government (2017) Proposals for a new Climate Change Bill – Strategic Environmental Assessment Environmental Report [online] Available at: https://consult.gov.scot/energy-and-climate-change-directorate/climate-change-bill/supporting_documents/SCT07175538641_environmental_%20Final_v2.pdf (accessed 22/02/2018)

⁹ Scottish Government (2013) National Planning Framework 3 and Scottish Planning Policy – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Publications/2013/04/3435> (accessed 23/02/2018)

¹⁰ Scottish Government (2012) A Consultation on the 2020 Challenge for Scotland’s Biodiversity – Environmental Report and Non-Technical Summary [online] Available at: <http://www.gov.scot/Topics/Environment/environmental-assessment/sea/SEAG> (accessed 23/02/2018)

¹¹ Scottish Government (2013) Climate Ready Scotland: Draft Scottish Climate Change Adaptation Programme – Strategic Environmental Assessment Environmental Report [online] Available at: <http://www.gov.scot/Resource/0042/00426535.pdf> (accessed 23/02/2018)

guide the subsequent assessment, being mindful of any changes in the baseline since that time.

- 3.2.5 It is expected that the approach and findings of the forthcoming SEA on the new Forestry Strategy will also feed into the present assessment and vice versa.
- 3.2.6 SEA objectives can be useful in describing, analysing, and comparing environmental effects. Indicative SEA objectives and assessment questions are provided in Table 3; these cover all of the SEA topic areas that have been scoped into the assessment. The example objectives and their corresponding assessment questions have been derived from the key environmental issues, baseline data, and environmental protection objectives of relevance to the proposal.
- 3.2.7 The findings of the assessment are likely to be presented in narrative form, drawing on the application of assessment questions to each of the topics. The aim being to focus the assessment on the key issues and potential for significant environmental effects (direct, indirect, and secondary) associated with the proposals, ensuring this is framed in the context of current environmental obligations. This approach will also allow the combined effects of the proposals, and inter-relationships between them, to be explored.
- 3.2.8 Although an objective-led approach is likely to remain the preferred methodology, this approach may evolve as the assessment progresses and new considerations emerge. The views of the Consultation Authorities on this proposed assessment method are welcomed.

Table 3. Proposed methodology: SEA objectives and assessment questions

| Objective for each topic | Proposed assessment questions |
|--|---|
| Biodiversity, flora and fauna | |
| Protect and enhance forest and woodland ecosystems | Will the proposal: <ul style="list-style-type: none"> • Have a direct or indirect effect upon designated and non-designated sites, habitats, or protected species? • Promote the protection of designated and non-designated habitats and species? • Help to maintain and enhance ecosystem functions? |
| Soil | |
| Protect high quality and sensitive soils and reduce soil erosion | Will the proposal: <ul style="list-style-type: none"> • Protect and enhance agricultural and forest soils? • Help prevent or reduce soil erosion? |
| Water | |
| Protect and enhance the water environment | Will the proposal: <ul style="list-style-type: none"> • Support the protection and enhancement of the water environment? • Safeguard supplies and quality of groundwater and the existing water table? • Encourage flood prevention measures, where appropriate? |
| Cultural heritage | |
| Safeguard the historic and cultural environment, including historic landscapes | Will the proposal: <ul style="list-style-type: none"> • Protect and enhance areas of ancient and semi-natural woodland? • Recognise and promote the setting of historic environment assets? |
| Landscape | |
| Protect and enhance the quality of landscapes and townscapes | Will the proposal: <ul style="list-style-type: none"> • Help define landscape character? • Help protect landscape setting? • Protect the diversity and value of Scotland's landscapes? |

3.3 Identifying mitigation and opportunities for enhancement and monitoring proposals

- 3.3.1 SEA provides an opportunity to identify how any adverse environmental effects can be mitigated, and to enhance positive effects. It can also set out proposals for monitoring post adoption. There are a number of existing measures that serve to ensure that forestry-related operations in Scotland abide by the principles of sustainability and environmental protection. For example, the UK Forestry Standard describes the conditions that must be met when felling trees¹². A more comprehensive overview of such measures, some of which are set out in legislation, is provided in section 4. It is anticipated that the development and implementation of the proposal will be shaped by this existing framework of plans, programmes, and strategies.
- 3.3.2 Any recommendations for monitoring made during the SEA process are likely to focus on potential significant environmental effects, and addressing identified data gaps. Where appropriate, these will be linked to the implementation of mitigation or enhancement measures.

3.4 Consideration of reasonable alternatives

- 3.4.1 The 2005 Act requires that the potential for significant environmental effects of reasonable alternatives of a plan, programme, or strategy are assessed as part of the SEA process.
- 3.4.2 Consideration will be given to reasonable alternatives as the proposals are developed for public consultation.

3.5 Cumulative and in-combination effects

- 3.5.1 The SEA will consider the possibility of cumulative effects as a result of the implementation of a suite of measures. It will also assess any in-combination effects resulting from the implementation in conjunction with any existing and/or overlapping forestry management measures and operations.

¹² Forestry Commission Scotland (2017) Updated standard for forest management [online] Available at: <http://scotland.forestry.gov.uk/news-releases/1811-updated-standard-for-forest-management> (accessed 21/02/2018)

4 Policy context of the proposal and proposed environmental baseline

4.1 Purpose of this section

- 4.1.1 The 2005 Act requires Responsible Authorities to define the plan's broader policy context, highlighting any relevant environmental protection objectives that may influence its development and implementation. The immediate policy basis for the proposal is described in Section 2 of this report and further illustrated by Figure 1. This section describes possible relationships and interactions that could emerge between the proposal and wider plans, programmes, and strategies.
- 4.1.2 It is also a requirement of the 2005 Act that Responsible Authorities provide details of the character of the environment which may be affected, including any existing pressures and the likely evolution of the environment in the absence of the PPS. The plan will be assessed against this baseline to provide an indication of the type and significance of any environmental impacts that could arise.

4.2 Forestry policy

- 4.2.1 Forest and woodland management in Scotland is guided by a range of agreements, policies, and instruments at the international, EU, European, and domestic (UK and Scottish) level. These are largely focused on implementing sustainable forest management whilst promoting the multiple benefits of forests and recognising the interrelatedness between forestry and wider policy areas.

International

- 4.2.2 The United Nations Strategic Plan for Forests 2017-2030 (UNSPF¹³) provides a global framework for actions at all levels to sustainably manage all types of forests and trees outside forests and halt deforestation and forest degradation. The UNSPF also provides a framework for forest-related contributions to the implementation of the 2030 Agenda for Sustainable Development, the Paris Agreement adopted under the UN Framework Convention on Climate Change, the Convention on Biological Diversity, the UN Convention to Combat Desertification, the United Nations Forest Instrument (UNFI) and other international forest-related instruments, processes, commitments and goals.
- 4.2.3 The UNSPF serves as a reference for the forest-related work of the UN system and for fostering enhanced coherence, collaboration and synergies among UN bodies and partners towards the following vision and

¹³ <http://www.un.org/esa/forests/documents/un-strategic-plan-for-forests-2030/index.html>

mission, as well as a framework to enhance the coherence of and guide and focus the work of the International Arrangement on Forests (IAF) and its components.

- 4.2.4 At the heart of the UNSPF are 6 Global Forest Goals and 26 associated targets to be achieved by 2030. The Global Forest Goals and targets are voluntary and universal. They support the objectives of the IAF and aim to contribute to progress on the Sustainable Development Goals, the Aichi Biodiversity Targets, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change and other international forest-related instruments, processes, commitments and goals. The vision, principles and commitments set out in the 2030 Agenda for Sustainable Development provide the context for the Global Forest Goals and targets, which are interconnected and integrate the economic, social and environmental dimensions of sustainable forest management and sustainable development.

European Union

- 4.2.5 Although there is no provision for a common forestry policy at the EU level, forests are influenced by a wide range of Community policies, regulations and initiatives, particularly those relating to protecting biodiversity and addressing climate change¹⁴. Additionally, the **EU Forestry Strategy** provides a non-legislative framework to guide the development of policies having an impact on forests¹⁵.

European

- 4.2.6 Forest Europe (previously the **Ministerial Conference on the Protection of Forests in Europe**), is the principal regional forum which develops the principles and definitions of sustainable forest management. The UK is a signatory of all Forest Europe commitments and resolutions¹⁶ for the sustainable management of forests that reflect the objectives of the Forest Principles and other agreements of the 1992 Earth Summit¹⁷ as well as its own vision of a European forest resource which supports 'a green economy, livelihoods, climate change mitigation [and] biodiversity conservation' and improves water quality and combats desertification¹⁸.

¹⁴ European Commission (2016) EU Forest policies [online] Available at: <http://ec.europa.eu/environment/forests/fpolicies.htm> (accessed 21/02/2018)

¹⁵ European Commission (2017) The new EU Forest Strategy [online] Available at: https://ec.europa.eu/agriculture/forest/strategy_en (accessed 21/02/2018)

¹⁶ Forest Europe (undated) What is Forest Europe? [online] Available at: <http://foresteurope.org/foresteurope/> (accessed 21/02/2018)

¹⁷ Forestry Commission (2017) The UK Forestry Standard – The governments' approach to sustainable forestry [online] Available at: [https://www.forestry.gov.uk/pdf/FCFC001.pdf/\\$FILE/FCFC001.pdf](https://www.forestry.gov.uk/pdf/FCFC001.pdf/$FILE/FCFC001.pdf) (accessed 21/02/2018)

¹⁸ Forest Europe (undated) Vision and Mission [online] Available at: <http://foresteurope.org/foresteurope/#1470741557748-134fb529-3b91> (accessed 23/02/2018)

The UK Forestry Standard is the mechanism by which these commitments are carried out domestically¹⁹.

UK

- 4.2.7 The **UK Forestry Standard (UKFS)**, revised in 2017, acts as the reference standard for sustainable forest management in the UK, applying to all woodland regardless of ownership²⁰. It also serves as a vehicle for meeting the requirements of, and monitoring for international agreements on sustainable forest management of which the UK is a part²¹. The UKFS is regulated and monitored in Scotland by Forestry Commission Scotland (FCS)²². The UKFS and its associated guidelines captures all international, EU and domestic legislation relevant to forestry practices in the UK.

Scotland

- 4.2.8 The **Forestry Act 1967**²³ and its subsequent amendments is the principal legislation relating to the forestry sector in Scotland. It specifies the statutory duties and powers of the Forestry Commissioners as promoting the interests of forestry, the development of afforestation, and the production and supply of timber and other forest products²⁴. The Act will shortly be replaced following the passage of the **Forestry and Land Management (Scotland) Bill** through Parliament. The Bill, once enacted, will introduce new provision about Scottish Ministers' functions in relation to the management of forestry land and other land, and as the forestry regulator.
- 4.2.9 Forestry Commission Scotland (FCS) delivers, advises upon, and implements forest policy in line with the Scottish Government's National Performance Framework and other relevant priorities and policies. The current Scottish Government vision for forestry is provided by the 2006 **Scottish Forestry Strategy**²⁵. However, under the **Forestry and Land Management (Scotland) Bill** Scottish Ministers will have a duty to prepare, publish and report on a new strategy. The new strategy needs to

¹⁹ Forestry Commission (2017) The UK Forestry Standard – The governments' approach to sustainable forestry [online] Available at: [https://www.forestry.gov.uk/pdf/FCFC001.pdf/\\$FILE/FCFC001.pdf](https://www.forestry.gov.uk/pdf/FCFC001.pdf/$FILE/FCFC001.pdf) (accessed 21/02/2018)

²⁰ Forestry Commission Scotland (2017) Updated standard for forest management [online] Available at: <http://scotland.forestry.gov.uk/news-releases/1811-updated-standard-for-forest-management> (accessed 21/02/2018)

²¹ SPICe (2016) SPICe Briefing: Scottish Forestry [online] Available at: http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-93_Scottish_Forestry.pdf (accessed 21/02/2018)

²² ibid

²³ Forestry Act 1967, Chapter 10 [online] Available at: <https://www.legislation.gov.uk/ukpga/1967/10/introduction> (accessed 21/02/2018)

²⁴ Forestry Commission (2017) Ministers and Commissioners [online] Available at: <https://www.forestry.gov.uk/commissioners> (accessed 21/02/2018)

²⁵ Scottish Government (2018) Forestry [online] Available at: <http://www.gov.scot/Topics/farmingrural/Forestry> (accessed 23/02/2018)

be in place by 1 April 2019. The Strategy describes a forest resource that is diverse and robust, environmentally sensitive, and enhances human wellbeing in a number of ways²⁶. Following the passage of the Forestry and Land Management (Scotland) Bill, arrangements will be made to transfer to the Scottish Government the activities currently delivered through FCS.

Policies covering tree and woodland removal

- 4.2.10 The removal of trees and woodlands is controlled by a number of legislative and policy measures, depending upon the circumstances and scale of the removal.
- 4.2.11 Statutory procedures for the licensing of felling and restocking, and associated provisions on enforcement, appeals, and exemptions, are discussed in Section 2 of this report.
- 4.2.12 The **Town and Country Planning (Scotland) Act 1997** requires planning authorities to provide for the preservation or planting of trees when granting planning permission²⁷. It also confers on Scottish planning authorities powers to make **TPOs** for individual or groups of trees in the interests of amenity and cultural or historical significance, and sets out provisions on protection for **trees in conservation areas**. The **Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010** updated the procedure for making, varying, and revoking TPOs under the Act²⁸.
- 4.2.13 The **Scottish Government policy on the control of woodland removal** provides a strategic framework for appropriate woodland removal, covering the maintenance and expansion of forest cover and the achievement of an appropriate balance between forested and non-forested land²⁹.
- 4.2.14 Guidance around felling in afforested peatland sites is provided by the **National Peatland Plan**, which permits felling without restocking in certain cases³⁰.
- 4.2.15 The **Nature Conservation (Scotland) Act 2004** amended the Forestry Act 1967, enabling Forestry Commissioners to refuse felling licenses in

²⁶ Forestry Commission (2006) The Scottish Forestry Strategy [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/scottish-forestry-strategy-2006.pdf> (accessed 29/03/2017)

²⁷ Town and Country Planning (Scotland) Act 1997, Chapter 8 [online] Available at: <https://www.legislation.gov.uk/ukpga/1997/8/introduction> (accessed 21/02/2018)

²⁸ The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010, No. 434 [online] Available at: <http://www.legislation.gov.uk/ssi/2010/434/introduction/made> (accessed 29/03/2017)

²⁹ Forestry Commission Scotland (2009) The Scottish Government's Policy on Control of Woodland Removal [online] Available at: [https://www.forestry.gov.uk/pdf/fcfc125.pdf/\\$file/fcfc125.pdf](https://www.forestry.gov.uk/pdf/fcfc125.pdf/$file/fcfc125.pdf) (accessed 26/02/2018)

³⁰ SNH (2015) Scotland's National Peatland Plan – Working for our future [online] Available at: https://www.nature.scot/sites/default/files/2017-07/A1697542%20-%20150730%20-%20peatland_plan.pdf (accessed 26/02/2018)

instances where biodiversity or the visual quality of the land could be at risk³¹.

Policies covering woodland expansion and reforestation

- 4.2.16 In general, woodland expansion is promoted by several national PPS such as the **Land Use Strategy**, the Climate Change Plan, and Scotland's Rural Development Programme³².
- 4.2.17 The **Rationale for Woodland Expansion** lays out the Scottish Government's thinking on how woodland expansion can best increase the delivery of public benefits from Scotland's land³³.
- 4.2.18 The FCS publication '**The creation of small woodlands on farms**' advises on opportunities for creating new small woodlands in three different types of agricultural settings: arable land, permanent grassland, and hill land and unimproved grazing³⁴.

4.3 Wider policy

- 4.3.1 The following paragraphs focus on the wider policy objectives related to the main areas of consideration of the present assessment: 'Biodiversity, Flora, and Fauna'; 'Soil'; 'Water'; 'Cultural Heritage'; and 'Landscape', reflecting the proposed focus of this SEA.

Biodiversity, Flora, and Fauna policy

- 4.3.2 International policies provide a framework for the conservation, protection, and sustainable use of biodiversity, flora, and fauna.
- 4.3.3 The **Convention on Biological Diversity (CBD)** was opened for signature at the 1992 Earth Summit, which also gave rise to the Forest Principles³⁵. It functions as an internationally legally-binding treaty founded upon three primary goals: the conservation of biological diversity, the sustainable use of natural resources, and the fair and equitable use of

³¹ Nature Conservation (Scotland) Act 2004, asp 6 [online] Available at: <http://www.legislation.gov.uk/asp/2004/6/introduction> (accessed 26/02/2018)

³² Scottish Government (2018) Scottish Rural Development Programme (SRDP) 2014-2020 [online] Available at: <http://www.gov.scot/Topics/farmingrural/SRDP> (accessed 27/02/2018)

³³ Forestry Commission (2009) The Scottish Government's Rationale for Woodland Expansion [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/ForestExpansion.pdf> (accessed 26/02/2018)

³⁴ FCS (2006) The creation of small woodlands on farms [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/small-woodlands-on-farms.pdf> (accessed 26/02/2018)

³⁵ United Nations (undated) Convention on Biodiversity [online] Available at: <http://www.un.org/en/events/biodiversityday/convention.shtml> (accessed 26/02/2018)

biological and natural resources, including forests³⁶. It is often regarded as the key international instrument guiding sustainable development³⁷.

- 4.3.4 This progress towards an international commitment to halting biodiversity loss continued with the development of the **Aichi Targets for 2020**³⁸. The **2020 Challenge for Scotland's Biodiversity**³⁹ is Scotland's response to the Aichi Targets as well as the **EU Biodiversity Strategy to 2020**⁴⁰. The 2020 Challenge supplements the **2004 Scottish Biodiversity Strategy**⁴¹ and together they comprise the overall Scottish Biodiversity Strategy. **Scotland's Biodiversity – a Route Map to 2020** sets out the priority work needed to meet the Aichi targets and improve the state of nature in Scotland⁴². In terms of woodland, it specifies targets relating to bringing native woodland to good condition as well as for woodland creation and restoration.
- 4.3.5 At the European level, Scotland abides by the **EC Habitats (92/43/EEC)**⁴³ and **Birds (2009/147/EC)**⁴⁴ **Directives**. The Natura 2000 network is the primary vehicle for meeting collective aims of these Directives⁴⁵, which largely centre on the protection of rare and endangered natural habitats and wild species of European significance. The Natura 2000 network comprises terrestrial and marine Special Protection Areas (SPAs) and Special Areas of Conservation (SACs). Many of these sites are also underpinned by Sites of Special Scientific Interest (SSSI)⁴⁶, which are designated under the **Nature Conservation (Scotland) Act 2004**⁴⁷.

³⁶ Convention on Biological Diversity (1992) Text of the Convention [online] Available at: <https://www.cbd.int/convention/text/> (accessed 26/02/2018)

³⁷ United Nations (undated) Convention on Biodiversity [online] Available at: <http://www.un.org/en/events/biodiversityday/convention.shtml> (accessed 26/02/2018)

³⁸ Convention on Biological Diversity (2010) Aichi Biodiversity Targets [online] Available at: <https://www.cbd.int/sp/targets/default.shtml> (accessed 29/03/2017)

³⁹ Scottish Government (2013) 2020 Challenge for Scotland's Biodiversity: A Strategy for the conservation and enhancement of biodiversity in Scotland [online] Available at: <http://www.gov.scot/Resource/0042/00425276.pdf> (accessed 29/03/2017)

⁴⁰ European Commission (2011) The European Biodiversity Strategy to 2020 [online] Available at: http://ec.europa.eu/environment/nature/biodiversity/strategy/index_en.htm (accessed 29/03/2017)

⁴¹ Scottish Government (2004) Scotland's Biodiversity Strategy: It's in Your Hands – A strategy for the conservation and enhancement of biodiversity in Scotland [online] Available at: <http://www.scotland.gov.uk/Publications/2004/05/19366/37239> (accessed 26/10/2015)

⁴² Scottish Government (2015) Scotland's Biodiversity – a route map to 2020 [online] Available at: <http://www.gov.scot/Publications/2015/06/8630> (accessed 26/02/2018)

⁴³ European Commission (1992) The Habitats Directive [online] Available at: http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm (accessed 29/03/2017)

⁴⁴ European Commission (2009) The Birds Directive [online] Available at: http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm (accessed 29/03/2017)

⁴⁵ Scottish Government (2016) Natura 2000 [online] Available at: <http://www.gov.scot/Topics/Environment/Wildlife-Habitats/protectedareas/NATURA> (accessed 29/03/2017)

⁴⁶ Scottish Natural Heritage (2016) Sites of Special Scientific Interest [online] Available at: <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/national-designations/sssii/> (accessed 29/03/2017)

⁴⁷ Nature Conservation (Scotland) Act 2004, asp 6 [online] Available at: <http://www.legislation.gov.uk/asp/2004/6/introduction> (accessed 26/02/2018)

- 4.3.6 The **Wildlife and Countryside Act** promotes the protection of wildlife, the countryside, National Parks, and the designation of protected areas and public rights of way⁴⁸. It requires that tree work and work in woodland are carefully assessed for their potential risks to wildlife.

Soil policy

- 4.3.7 The importance of soil protection has been recognised at the European level in the form of the European Commission's **Thematic Strategy for Soil Protection**⁴⁹. The Strategy is founded on the principles of preventing further soil degradation and safeguarding its functions, ensuring responsible soil use and management patterns, mitigating the effects of human activities and environmental phenomena on soil condition, as well as restoring degraded soils to an acceptable level.
- 4.3.8 Many of these aims are shared by the **Scottish Soil Framework**, which places the sustainable management of soils within the context of the economic, social, and environmental needs of Scotland⁵⁰. The Framework identifies 13 key soil outcomes such as protecting soil biodiversity, reducing and remediating soil erosion, and tackling greenhouse gas emissions.
- 4.3.9 Peatland receives particular consideration under the **National Peatland Plan**, which aims to secure the sustainable use, management, and restoration of peatlands, including priority habitat bog woodland⁵¹.
- 4.3.10 At present, there is no legislative or policy tool developed specifically for the protection of soil in Scotland⁵². However, designations and their associated management agreements and operations often extend protection to soil as a means of enhancing the biodiversity, geodiversity, landform value, and cultural resources of the site⁵³. For example, **SSSIs** are notified to protect areas of land and water that best represent Scotland's natural heritage in terms of its flora, fauna, geology, geomorphology, and/or a mixture of these natural features⁵⁴.

⁴⁸ Wildlife and Countryside Act 1981, Chapter 69 [online] Available at: <https://www.legislation.gov.uk/ukpga/1981/69> (accessed 26/02/2018)

⁴⁹ European Commission (2006) Thematic Strategy for Soil Protection [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52006DC0231> (accessed 29/03/2017)

⁵⁰ Scottish Government (2009) The Scottish Soil Framework [online] Available at: <http://www.gov.scot/Publications/2009/05/20145602/0> (accessed 29/03/2017)

⁵¹ SNH (2015) Scotland's National Peatland Plan – Working for our future [online] Available at: https://www.nature.scot/sites/default/files/2017-07/A1697542%20-%20150730%20-%20peatland_plan.pdf (accessed 26/02/2018)

⁵² Scottish Government (2009) The Scottish Soil Framework [online] Available at: <http://www.gov.scot/Publications/2009/05/20145602/0> (accessed 21/11/2017)

⁵³ *ibid*

⁵⁴ SNH (2017) Sites of Special Scientific Interest [online] Available at: <https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-areas/national-designations/sites-special-scientific-interest> (accessed 24/01/2017)

Water policy

- 4.3.11 The EU's **Water Framework Directive (2000/60/EC)** (WFD) was introduced as a more comprehensive approach to managing and protecting Europe's water bodies including rivers, lochs, transitional waters, coastal waters, and groundwater resources⁵⁵. The WFD sets out a requirement for an assessment of both chemical and ecological criteria and has a goal of bringing all European waters to 'Good' status.
- 4.3.12 Scotland fulfils its water protection obligations under the WFD primarily through the **Water Environment and Water Services (Scotland) Act 2003**⁵⁶ which defines the establishment of River Basin Management Plans⁵⁷, and the **Water Environment (Controlled Activities) (Scotland) Regulations 2011**⁵⁸. Other relevant legislation includes the **Pollution Prevention and Control (Scotland) Regulations 2012**, which applies specifically to pollution originating from industry discharges⁵⁹.
- 4.3.13 The **EU Floods Directive (2007/60/EC)**⁶⁰ is implemented at the national level through the **Flood Risk Management (Scotland) Act 2009**⁶¹. The Directive mandates the creation of flood risk management plans for all inland and coastal areas at risk of flooding, integrating their development and employment with existing River Basin Management Plans. Flood risk management plans are designed to minimise negative impacts due to flooding on a range of receptors, including human health, the environment, and cultural heritage.

Cultural Heritage policy

- 4.3.14 National cultural heritage objectives are set out in legislation including the **Historic Environment (Amendment) (Scotland) Act (2011)**⁶². The Act builds upon existing legislation pertaining to ancient monuments and listed buildings as well as providing for the creation of inventories of gardens and designed landscapes, as well as of battlefields. Specifically, the 2011

⁵⁵ European Commission (2000) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0060> (accessed 27/11/2017)

⁵⁶ Water Environment and Water Services (Scotland) Act 2003, asp 3 [online] Available at: http://www.legislation.gov.uk/asp/2003/3/pdfs/asp_20030003_en.pdf (accessed 21/11/2017)

⁵⁷ SEPA (2016) River Basin Management Planning [online] Available at: <http://www.sepa.org.uk/environment/water/river-basin-management-planning/> (accessed 21/11/2017)

⁵⁸ The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended), SSI No. 206 [online] Available at: http://www.legislation.gov.uk/ssi/2011/209/pdfs/ssi_20110209_en.pdf (accessed 21/11/2017)

⁵⁹ The Pollution Prevention and Control (Scotland) Regulations 2012, SSI No. 306 [online] Available at: <http://www.legislation.gov.uk/ssi/2012/360/introduction/made> (accessed 21/11/2017)

⁶⁰ European Commission (2007) The EU Floods Directive [online] Available at: http://ec.europa.eu/environment/water/flood_risk/ (accessed 21/06/2017)

⁶¹ Flood Risk Management (Scotland) Act 2009, asp 6 [online] Available at: http://www.legislation.gov.uk/asp/2009/6/pdfs/asp_20090006_en.pdf (accessed 21/06/2017)

⁶² Historic Environment (Amendment) (Scotland) Act (2011), asp 3 [online] Available at: <http://www.legislation.gov.uk/asp/2011/3> (accessed 29/03/2017)

Act amends the Historic Buildings and Ancient Monuments Act 1953⁶³ and modifies the Ancient Monuments and Archaeological Areas Act 1979⁶⁴ as well as the Planning (Listed Buildings and Conservation) (Scotland) Act 1997⁶⁵.

- 4.3.15 **Our Place in Time – The Historic Environment Strategy for Scotland**, published in 2014, lays out a 10 year vision for Scotland’s historic environment⁶⁶. The vision is founded upon the fundamental aims of understanding, protecting, and valuing our historic environment, ensuring it continues to benefit Scotland’s wellbeing through its cultural, social, environmental, and economic contributions. The Strategy and the **Historic Environment Scotland Policy Statement**⁶⁷ set out an overarching framework for historic environment policy in Scotland.
- 4.3.16 Other relevant policies include National Planning Framework 3⁶⁸ and Scottish Planning Policy, Historic Environment Circular 1⁶⁹, and Historic Environment Scotland’s Managing Change in the Historic Environment guidance note series⁷⁰.
- 4.3.17 **Scotland’s Woodlands and the Historic Environment** communicates the forestry sector’s shared understanding of how forests and woodlands contribute towards Scotland’s historic environment and cultural heritage⁷¹. It outlines the practical measures the forestry sector can take to ensure its activities enhance the stewardship of the historic environment.

Landscape policy

- 4.3.18 The **European Landscape Convention** strives to promote landscape protection, management, and planning as well as achieve a more concerted approach to addressing landscape issues at the European

⁶³ Historic Buildings and Ancient Monuments Act 1953, Chapter 49 [online] Available at: http://www.legislation.gov.uk/ukpga/1953/49/pdfs/ukpga_19530049_en.pdf (accessed 29/03/2017)

⁶⁴ Ancient Monuments and Archaeological Areas Act 1979, Chapter 46 [online] Available at: <http://www.legislation.gov.uk/ukpga/1979/46> (accessed 29/03/2017)

⁶⁵ Planning (Listed Buildings and Conservation) (Scotland) Act 1997, Chapter 9 [online] Available at: <http://www.legislation.gov.uk/ukpga/1997/9/introduction> (accessed 29/03/2017)

⁶⁶ Scottish Government (2014) Our Place in Time – The Historic Environment Strategy for Scotland [online] Available at: <http://www.gov.scot/Publications/2014/03/8522/0> (accessed 03/07/2017)

⁶⁷ Historic Environment Scotland (2016) Historic Environment Scotland Policy Statement June 2016 [online] Available at: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=f413711b-bb7b-4a8d-a3e8-a619008ca8b5> (accessed 29/03/2017)

⁶⁸ Scottish Government (2014) National Planning Framework 3: A Plan for Scotland: Ambition, Opportunity, Place and Scottish Planning Policy [online] Available at: <http://www.gov.scot/Topics/Built-Environment/planning/NPF3-SPP-Review/NPF3> (accessed 29/03/2017)

⁶⁹ Historic Environment Scotland (2016) Historic Environment Circular 1 [online] Available at: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=ec209755-9bf8-4840-a1d8-a61800a9230d> (accessed 29/03/2017)

⁷⁰ Historic Environment Scotland (undated) Managing Change in the Historic Environment: Guidance notes [online] Available at: <https://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/> (accessed 29/03/2017)

⁷¹ Forestry Commission Scotland (2008) Scotland’s Woodlands and the Historic Environment [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/fcfc123.pdf> (accessed 26/02/2018)

scale⁷². The Convention presents a highly inclusive definition of landscape, specifying that protection and enhancement activities should apply equally to both ‘outstanding’ as well as less remarkable or degraded landscapes. This definition encompasses natural, rural, urban, and peri-urban landscapes across land, marine, and inland water environments.

- 4.3.19 At a national level, the role of Scotland’s natural heritage and landscapes in informing land use planning is set out in **Scottish Planning Policy**⁷³. Additionally, the **National Planning Framework 3** acknowledges the multiple benefits we derive from landscapes, such as improved human health and wellbeing as well as contributions to our quality of life⁷⁴. Both Scottish Planning Policy and National Planning Framework 3 also give significant protection to wild land areas⁷⁵.
- 4.3.20 **SNH’s Landscape Policy Framework** strives to ‘safeguard and enhance the distinct identity, the diverse character, and the special qualities of Scotland’s landscapes as a whole’⁷⁶.
- 4.3.21 **‘The right tree in the right place – Planning for forestry and woodlands’** provides Scottish Government advice to planning authorities on planning for forestry and woodlands⁷⁷. Development should consider how existing woodlands factor into local landscape character and value, while also recognising the potential contribution of future woodland creation, restructuring, and in exceptional cases removal, to landscape⁷⁸. The Scottish Government has a number of measures designed to protect woodland. This is principally articulated through the Scottish Government’s policy on the control of woodland removal, which places a strong presumption against the removal of any woodland.
- 4.3.22 Scottish Planning Policy states that the planning system should protect and enhance ancient woodland as an important and irreplaceable resource together with other native or long established woods, hedgerows and individual trees. TPOs can be used to protect individual trees and groups of trees considered important for amenity or their cultural or historic interest. Development Plans should identify woodlands of high

⁷² European Landscape Convention (2000) Text of the ELC [online] Available at: <https://rm.coe.int/1680080621> (accessed 21/11/2017)

⁷³ Scottish Government (2014) Scottish Planning Policy [online] Available at: <http://www.gov.scot/Publications/2014/06/5823> (accessed 03/07/2017)

⁷⁴ Scottish Government (2014) National Planning Framework 3: A Plan for Scotland: Ambition, Opportunity, Place and Scottish Planning Policy [online] Available at: <http://www.gov.scot/Publications/2014/06/3539> (accessed 03/07/2017)

⁷⁵ SNH (2012) Landscape policy: wild land [online] Available at: <https://www.snh.scot/professional-advice/landscape-change/landscape-policy-and-guidance/landscape-policy-wild-land> (accessed 21/11/2017)

⁷⁶ SNH (2005) Statement: SNH’s Landscape Policy Framework [online] Available at: <http://www.snh.org.uk/pdfs/polstat/Landscapepolicy.pdf> (accessed 21/11/2017)

⁷⁷ Forestry Commission Scotland (2010) The right tree in the right place – Planning for forestry and woodlands [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/fcfc129.pdf> (accessed 26/02/2018)

⁷⁸ *ibid*

nature conservation value and include policies for protecting them and enhancing their condition and resilience to climate change.

- 4.3.23 Under the forthcoming Planning Bill, Scottish Planning Policy will be given new statutory status as part of the Development Plan. Scottish Planning Policy is expected to be reviewed in parallel with preparation for National Planning Framework 4, which is expected to commence in 2018 with a view to adoption in 2020.
- 4.3.24 In addition The Scottish Plant Health Strategy⁷⁹ sets out the Scottish Government's approach to the protection of the health of plants (agricultural and horticultural crops, plants in parks and gardens, forestry and the natural environment) in Scotland.

⁷⁹ <http://www.gov.scot/Publications/2016/03/7136>

Figure 1. Draft regulations: immediate policy context

Forestry Act 1967

Sets out exemptions to licensing requirements for tree felling (Section 9)

Specifies statutory duties and powers of Forestry Commissioners

Additional exemptions: Forestry (Exceptions from Restriction of Felling) Regulations 1979

DEVOLUTION OF FORESTRY TO SCOTLAND

Proposed changes to Forestry regulations

Forestry and Land Management Bill

Clarify, update, and generally modernise procedures for licensing of felling and re-stocking

Remove Forestry Commissioners as cross-border public authority

Transfer of activities delivered by Forestry Commissioners to Scottish Government

Ensure procedures are fit for purpose and not a barrier to tree planting in the future

New collaborative cross-border arrangements with the UK

Continued development and management of National Forest Estate

Additional regulations being considered in relation to administrative processes

Transfer of some Forestry Commissioners' property and liabilities to Scottish Ministers

Potential to take on management of other land in the future

| |
|-----------------------|
| LEGEND |
| Legislation |
| Action |
| Outcome |
| Subject of Assessment |

4.4 Initial environmental baseline

4.4.1 The following paragraphs set out an indication of the type of data that could be used in the compilation of the environmental baseline that will inform the assessment of the draft regulations. The breadth and level of detail of this baseline information will reflect both the proposed scope of the assessment as well as the high level nature of the draft regulations.

4.4.2 Under each SEA topic, current trends and pressures will be explored, with the baseline information drawn from a range of sources. In particular, the SEA will likely build on the baseline information provided in:

- the suite of SEA studies undertaken by the Scottish Government, including ongoing work;
- Forestry Statistics 2017⁸⁰;
- National Forest Inventory;
- Forest Enterprise Scotland Corporate Plan 2017-2019⁸¹;
- additional Forestry Commission Scotland publications (for example, reports, guidance, and strategies);
- relevant studies commissioned by stakeholders, such as SNH and the Joint Nature Conservation Committee;
- SEPA data on water, soil, and other receptors;
- Scotland's Environment Web and other Scottish Government environmental sources; and
- the existing evidence base of academic and grey literature.

⁸⁰ Forestry Commission (2017) Forestry Statistics 2017 - Contents [online] Available at: <https://www.forestry.gov.uk/website/forstats2017.nsf/LUContentsTop?openview&RestrictToCategory=1> (accessed 15/02/2018)

⁸¹ Forest Enterprise Scotland (2017) Corporate Plan 2017-2019 [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/fes-corp-plan-17-19.pdf> (accessed 22/02/2018)

Figure 2. Proposed baseline

| SEA Topic | Baseline Information | Examples of Data |
|---------------------------------------|--|---|
| <p>Biodiversity, Flora, and Fauna</p> | <p>A description of forest and woodland biodiversity in Scotland, including spatial extent, species composition, and condition</p> | <p>Overall forest and woodland cover, including:</p> <ul style="list-style-type: none"> • Dominant types (that is, broadleaved versus coniferous) • Native woodland cover, including ancient and semi-natural woodlands (ASNW) and planted woods on ancient woodland sites (PAWS) (for example, Native Woodland Survey of Scotland) • Ancient wood pasture <p>Changes in forest and woodland cover</p> |
| | <p>Ecosystem services provided by forests and woodlands</p> | <p>Flood management, buffer zones around riparian habitats, adaptation to climate change, carbon sequestration</p> |
| | <p>Pressures on forests and woodlands</p> | <p>Incidence and prevalence of tree diseases, pests, deer grazing, invasive non-native species, non-native species in native woodlands</p> |
| | <p>International designations (statutory and non-statutory)</p> | <p>Biosphere reserves Natura sites Ramsar sites</p> |
| | <p>National designations (statutory and non-statutory)</p> | <p>National Parks</p> |

| SEA Topic | Baseline Information | Examples of Data |
|-----------|--|--|
| | | <p>SSSI</p> <p>National Nature Reserves</p> <p>Local Nature Conservation Sites</p> <p>Local Nature Reserves</p> <p>Regional parks</p> <p>Country parks</p> |
| | Local designations (statutory and non-statutory) | |
| | Protected species | Occurrence and distribution of European Protected Species that may be affected by forestry operations (for example, bats ⁸²) UK Biodiversity Action Plan species and habitats |
| Soil | A description of soil types in Scotland, including their spatial extent and general health | Distribution of carbon-rich soils such as peat Soil carbon sequestration potential Underlying geology |
| | Pressures to soil | Soil carbon loss, soil erosion trends, soil sealing, disturbances to soil arising from forestry activities and other industries |
| Water | State of the water environment | River Basin Management Plans Water Framework Directive Classification (SEPA Water Classification Hub) |

⁸² Forestry Commission Scotland (2007) FCS Guidance Note 34: Forest operations and European protected species in Scottish Forests [online] Available at: <http://scotland.forestry.gov.uk/images/corporate/pdf/Guidancenote34protectedspecies2.pdf> (accessed 14/02/2018)

| SEA Topic | Baseline Information | Examples of Data |
|-------------------|--|---|
| | Flood risk | SEPA flood maps (including coastal, river, and surface waters) |
| | Pressures to water | Pollution arising from forestry and other activities, alterations to water levels and flows, invasive non-native species, changes in shore and bank morphology, abstraction in support of industry, climate change |
| Cultural Heritage | Listings, scheduling, designations, and archaeological sites | World Heritage Sites Scheduled monuments Gardens and designed landscapes (Inventory of Gardens and Designed Landscapes) Battlefields (Battlefields Inventory) Listed buildings Conservation Areas Archaeological sites in forests and woodlands |
| | Pressures on cultural heritage | Land use change, changes in landscape, and climate change |
| Landscape | A description of Scotland's landscapes, including type, spatial extent, and trends | Landscape Character Assessments |
| | National designations | National Scenic Areas |
| | Local designations | Local Landscape Areas |

| SEA Topic | Baseline Information | Examples of Data |
|-----------|----------------------|-----------------------|
| | Other recognitions | Wild Land Areas (SNH) |

5 Consultation and next steps

- 5.1.1 This Scoping Report has been made available to the statutory Consultation Authorities for comment.
- 5.1.2 Following consultation, the responses will be analysed and used to inform the further development of the proposal and the SEA Environmental Report. Both will be made available for public consultation.
- 5.1.3 Table 4 sets out this indicative timeline.

Table 4. Indicative timeline for the development of the draft regulations

| Indicative timeline | Preparation of Secondary Legislation | Stage of the SEA |
|---------------------------------|--|---|
| January - April 2018 | Development of proposals (phase 3) following informal consultation | Scoping: Setting scope of assessment and submission of Scoping Report to Consultation Authorities |
| April - May 2018 | Further development of proposals | Environmental assessment: Undertake assessment and produce SEA Environmental Report |
| June - August 2018 | Public consultation on 'package' of draft proposals or draft 'policy document' | Environmental Report: Out to consultation |
| September - December 2018 | Consultation analysis of all responses received and drafting of regulations | |
| 1 st Quarter of 2019 | Regulations laid in Parliament | |
| April 2019 | Regulations finalised | Post- Adoption: Draft and finalise the Post-Adoption Statement. Advertise and publish the Post Adoption Statement |

Appendix 1: List of Abbreviations

| | |
|--------------|---|
| ASNW | Ancient and semi-natural woodland |
| CBD | Convention on Biological Diversity |
| EU | European Union |
| FCS | Forestry Commission Scotland |
| FES | Forest Enterprise Scotland |
| GHG | Greenhouse gas(es) |
| HES | Historic Environment Scotland |
| IAF | International Arrangement on Forests |
| IFF | International Forum on Forests |
| IPF | Intergovernmental Panel on Forests |
| JNCC | Joint Nature Conservation Committee |
| MCPFE | Ministerial Conference on the Protection of Forests in Europe |
| PAWS | Planted Ancient Woodland Sites |
| PPS | Plans, programmes, and strategies |
| SAC | Special Area(s) of Conservation |
| SEA | Strategic Environmental Assessment |
| SEPA | Scottish Environment Protection Agency |
| SNH | Scottish Natural Heritage |
| SPA | Special Protection Area(s) |
| SSSI | Site(s) of Special Scientific Interest |
| TPO | Tree Preservation Order(s) |
| The 2005 Act | The Environmental Assessment (Scotland) Act 2005 |
| UK | United Kingdom |
| UKFS | UK Forestry Standard |
| UNFI | United Nations Forest Instrument |
| UNFCCC | United Nations Framework Convention on Climate Change |
| UNSPF | United Nations Strategic Plan for Forests |
| WFD | Water Framework Directive |