

Response ID ANON-QSQE-VTU7-G

Submitted to Ecocide (Scotland) Bill
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3 What is your name?

Name:
Sarah Komashko

4 What is your email address?

Email:
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5 Are you responding as an individual or on behalf of an organisation?

Organisation

Organisation details

1 Name of organisation

Name of organisation:
Quakers in Scotland (Parliamentary Engagement Working Group)

2 Information about your organisation

Please add information about your organisation in the box below:

Quakers are a faith community with our roots in Christianity. For centuries we have undertaken internationally recognised work on reconciliation and peace, and on aspects of social justice such as penal reform. We continually adapt our work to a changing world but remain guided by our core values of peace, equality, truth, and simplicity and sustainability. Quakers in Scotland promote these values across Scotland through practical action and advocacy.

1. General Views

1.1 Do you support the overall aim of the Ecocide (Scotland) Bill to criminalise the most serious forms of environmental harm?

Yes

1.2 How would the Bill interact with existing law, in particular section 40 of the Regulatory Reform (Scotland) Act?

Please use this textbox to provide your answer:

It is important not to view ecocide as a catch-all provision to outlaw causing environmental harm. In practice many of the ongoing acts that contribute to the climate crisis will not be caught by the definition of ecocide as requiring 'severe environmental harm'. However, we do believe it is appropriate to have a new offence linked to particularly severe harm, as well as continuing to have penalties in place for lesser offences.

Criminalising ecocide in Scots law will add an additional threshold of penalties for environmental damage. This aspect of recognition of the issue of ecocide would be a powerful witness by the Scottish Parliament, speaking truth about the importance of the issue.

Specific environmental offences are already recognised in Scots law, including the Wildlife and Countryside Act 1981 and various air and water pollution statutes. However, there are currently no dedicated legal provisions to address environmental crimes comparable to ecocide in terms of scale and severity; that is, causing widespread and substantial damage, which is either irreversible or long-lasting, to an ecosystem.

Definitions and scope should be aligned with the Regulatory Reform (Scotland) Act 2014 and extend its provisions.

2. Definition and Scope of the Offence (section 1)

2.1 The Bill defines ecocide as causing "severe environmental harm", where "severe" means that the environmental harm has "serious adverse effects" and is either "widespread" or "long-term". Do you agree with the definition of ecocide in the Bill?

Please use this textbox to provide your answer:

Stop Ecocide International (<https://www.stopecocide.earth/legal-definition>) 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." The definition as set out in the Bill is in line with this internationally recognised definition, which is appropriate in the interests of legal clarity. However Section 1 of the Bill should be extended to explicitly encompass both acts and omissions that lead to ecocide-level damage, as included in section 40(1) of the Regulatory Reform (Scotland) Act 2014.

2.2 Please comment on the definitions of the following and whether you consider they are defined clearly and appropriately:

"Severe environmental harm" definition:

"Widespread" definition:

"Long-term" definition:

2.3 The offence applies to harm caused either intentionally or recklessly. Do you consider this threshold to be appropriate?

Please use this textbox to provide your answer:

It is appropriate that the offence covers both intentional or reckless behaviour, to avoid a person or company hiding behind a claim of ignorance of the consequences of their actions. As Quakers, we believe that humans "do not own the world and its riches are not ours to dispose of at will" (Quaker Advices & Queries 42). We all have responsibilities for all that we have taken from the Earth. In the face of overwhelming evidence of rapidly increasing destruction of the Earth we are called to work for a world that prioritises ecological repair and wellbeing. It is appropriate that those who work for the reverse are penalised.

2.4 Is it clear how the Bill would apply in cases such as where environmental harm is:

Cumulative damage caused by multiple acts etc.:

A form of land management which is otherwise legal.:

A project or development which has been consented or licenced by a public authority.:

3. Defence of Necessity (section 2)

3.1 The Bill includes a defence of "necessity" where ecocide was committed to prevent greater harm (not including financial harm). Do you agree with this approach?

Please use this textbox to provide your answer:

We agree that "financial harm" should not qualify as a defence to committing ecocide but are generally concerned about the wider possibilities of allowing a defence of necessity.

3.2 Do you have any concerns about how this defence could be interpreted or applied?

Please use this textbox to provide your answer:

Any defence should be very narrowly construed. The idea of 'causing no harm' is a very simple idea at its core, and as Quakers we believe in the power of simplicity. To be most effective, 'ecocide' needs to be easy for everyone to understand.

We have some concerns that war, or 'security concerns' would be seen as an exemption that would allow governments and their agents to do whatever they think necessary to national defence. For example, Russia has been charged with Ecocide under the terms of the existing international law on account of the destructive effects of the war in Ukraine. A similar charge could be brought against Israel in relation to the destruction of Gaza, with US, UK, and EU suppliers of weapons contributing to mass destruction. Use of modern weaponry clearly has devastating environmental implications which in many cases must properly be classified as Ecocide.

Energy or food security would be other categories which should not be sufficient issues to qualify as a defence to committing ecocide.

At a minimum, greater definition of the defence and 'greater harm' is needed.

4. Individual and Organisational Liability (sections 3 and 4)

4.1 The Bill allows for individuals, organisations and specified senior individuals (e.g. directors or partners) of organisations to be held liable for ecocide. Do you support this approach?

Please use this textbox to provide your answer:

Yes. It is important that the severity of the offence be recognised. Individuals should not be able to hide behind their corporation to escape liability for what they have done, instructed to be done, or should have reasonably foreseen would be an outcome of corporate policies. Equally, these individuals should not be able to close down their business in order to avoid responsibility for their actions. Consideration should be given to the level of authority held by an individual within an organisation when deciding on the appropriateness of prosecution and/or penalty.

4.2 Are the provisions on individual and organisational culpability sufficiently clear and appropriate, including the definitions of who is a “responsible individual”?

Please use this textbox to provide your answer:

4.3 Are the provisions on vicarious liability clear and appropriate?

Please use this textbox to provide your answer:

We are concerned that the defence open to companies to say that they did not know that their employee(s) were committing ecocide may allow too wide a gap in the protection of the law. Ignorance of the law is no excuse to compliance with it. B should have had no reasonable cause for doubt or suspicion that A was committing ecocide.

5. Penalties and Deterrence (sections 5-8)

5.1 The Bill proposes a maximum custodial sentence of 20 years and unlimited fines (or an unlimited fine in the case of an organisation). Are these penalties appropriate and proportionate?

Please use this textbox to provide your answer:

Yes, given that an ecocide-level offence would cover severe environmental damage, it should be met by corresponding criminal sanctions.

5.2 Should the Bill consider alternative or additional penalties?

Please use this textbox to provide your answer:

While it is important not to limit the potential to penalise severe offences such as these, it is also essential to consider the wider justice framework. In addition to, or alongside custodial or financial penalties, there should be additional non-custodial penalties available to the courts for those found to be guilty of the prohibited conduct, such as barring from holding director or trustee roles, as well as restorative practices. When/if convictions occur, the Court should be required to assess the “environmental harm” and what, if anything, can be undertaken to restore the environment. Sanctions should include measures (e.g. appropriate community service, financial contributions) to contribute to environmental restoration, whether directly related to the crime or not.

5.3 Does the potential for publicity orders (mandatory publication of conviction details) add a meaningful deterrence?

Please use this textbox to provide your answer:

In the debate around the International law on Ecocide, reputational risk is thought to be a key deterrent, obliging business leaders and their board members to take this into account in their decision making before undertaking a project that could be considered as ecocide. Therefore, publicity orders must be mandatory to add meaningful deterrence.

6. Enforcement and Institutional Readiness (section 9)

6.1 Which enforcement bodies do you consider to be key to responding to potential ecocide events, and do you believe enforcement agencies such as SEPA, Police Scotland and COPFS are currently equipped to investigate and prosecute ecocide?

Please use this textbox to provide your answer:

There is a concern that these bodies may have powers but are not adequately resourced at the moment. Additional bodies which might have relevant powers to examine threats of ecocide are Environmental Standards Scotland, the Water Industry Commission for Scotland, and the Accounts Commission with its role in examining local authorities’ use of public money.

In order to establish that ecocide has occurred, baseline studies and monitoring are essential, and there could be a role for colleges and universities and wildlife organisations in generating relevant data that could be part of a case for ecocide having taken place. Funding for this would be required.

6.2 What additional resources, training or powers (if any) would be required to effectively enforce the provisions in the Bill and are these reflected in the Financial Memorandum?

Please use this textbox to provide your answer:

7. Sectoral, Economic and Community Impacts

7.1 What impact could the offence of ecocide have on Scottish businesses and what sectors could be most impacted?

Please use this textbox to provide your answer:

7.2 Are the Bill's safeguards (e.g. the requirement for intention or recklessness, the necessity defence, and the vicarious liability provisions) sufficient to protect legitimate industrial and other activities which may pose a risk to the environment?

Please use this textbox to provide your answer:

7.3 The Committee is interested in your views on the potential implications of the Bill on:

Local communities:

Rural economies:

Innovation or investment:

Equalities and human rights:

The impact of environmental issues, including climate change, is disproportionately felt by the most marginalised people and places both globally and in Scotland. Legislating for ecocide would advance environmental justice by building the law's capacity to hold polluters to account.

8. Alignment with International and EU Law and developments in other countries

8.1 How well does the Bill align with international developments (e.g. EU Environmental Crime Directive, Stop Ecocide campaign, individual country approaches)?

Please use this textbox to provide your answer:

The definition of ecocide contained in the Bill seems to line up well with similar international efforts, for example aligning with the Stop Ecocide International legal definition. In 2024, the EU passed a law that criminalises actions "comparable to ecocide". Several other states are considering introducing ecocide into their domestic law, others have already done so. Legislating in Scotland would, therefore, be an example of alignment with EU law – and put Scotland among the 'leading' jurisdictions in this regard. In terms of liability, we should consider both how Scotland's law will apply extra-territorially, and also how Scottish police will work to enforce ecocide laws of other nations if their nationals enter Scotland.

9. Reporting and Oversight (section 10)

9.1 The Bill requires regular reporting by Scottish Ministers on enforcement and outcomes. What are your views on these provisions and if they are appropriate?

Please use this textbox to provide your answer:

9.2 What other forms of parliamentary or independent oversight might be appropriate?

Please use this textbox to provide your answer:

10. Final Comments

10.1 Are there any other issues or concerns you would like to raise regarding the Bill?

Please use this textbox to provide your answer:

Causing severe and widespread harm to the environment should be treated with the severity it deserves. Recognising ecocide as a crime would send a powerful message about our commitment to safeguarding the planet for current and future generations. Scotland has already demonstrated climate leadership on loss and damage; this bill represents a natural next step. By holding individuals and corporations accountable for reckless actions that devastate ecosystems, we can help ensure a more just and sustainable future for all.

The fact of criminalising ecocide should stand as a powerful deterrent to board members in both the private and public sectors. We note that as early as 2021, the Institute of Directors Global Conference invited the co-founder and executive director of Stop Ecocide International to their conference of international directors. The private sector knows the importance of ensuring directors are familiar with the risks and exposure that they may run if they authorise acts which cause environmental destruction. The public sector needs to also be aware of these risks and have them at the front of their minds in more than just a 'tick box' exercise.

10.2 Do you have suggestions to improve the Bill or make it more effective?

Please use this textbox to provide your answer: