



Ecocide (Scotland) Bill

A response to the consultation from Stop Climate Chaos Scotland
September 2025

Responses to consultation questions

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?

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. Criminalising ecocide in Scots law will add an additional threshold of penalties for environmental damage.

This legislation could likely raise the severity of penalty issued for harms to the marine environment, ensuring sentencing more closely aligns with the gravity of the harm caused. This would particularly be useful in Scotland's marine environment where offences are given much smaller punishments than terrestrial harms or marine environmental crimes prosecuted in England. Greater scrutiny produced through legislation may also increase the percentage of acts which are prosecuted - some illegal fishing currently goes unpunished. The Bill should be used as an opportunity to make other related environmental penalties just as robust and stringent, by making them consistent in level and severity and a more meaningful deterrent than is currently in place.

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?

Although we welcome the alignment with the [Stop Ecocide International definition](#), 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”

Yes, we consider this is defined clearly and appropriately.

“Widespread”

This is defined clearly but damage caused to designated sites including National Parks, Marine Protected Areas and Sites of Special Scientific Interest should be included.

“Long-term”

Yes, we consider this is defined clearly and appropriately.

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

For responsible officials, it should be considered whether ‘recklessness’ in s1(1)(b)(ii) is the most appropriate threshold of mens rea in addition to intentionality. This is because ‘recklessness’ is a relatively high threshold. Article 3 of the EU Environmental Crime Directive provides that for some (but not all) offences, the threshold should be ‘serious negligence’. The concept of ‘serious/gross negligence’ does not appear to exist in Scots criminal law and therefore the definition of ‘recklessness’ ought to be reviewed against the definition of ‘serious negligence’ in other jurisdictions, to ensure that it is not a disproportionately high threshold that would prevent accountability. Clarity should also be provided on whether it is a subjective or an objective test.

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?

No, a defence of necessity should not be included in the Bill. It is unclear whether a defence of necessity is appropriate when weighing up acts or omissions that result in ecocide-level crimes.

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

Yes.

Apart from the exclusion of financial loss, ‘greater harm’ is not defined in the defence of necessity. How will the assessment of harm be made – is it objective or subjective? Is the assessment of whether the harm is ‘greater harm’ objective or subjective? It is also unclear whether the person must prove that the action they took was objectively necessary, or that they believed it was necessary. 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?

Workers acting on the instructions of their superiors should not be held liable.

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, and more analysis on how to identify liability for ecocide is required.

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

No - see answer to 4.1.

4.3. Are the provisions on vicarious liability clear and appropriate?

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.

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?

We support the proposed penalties. Given that an ecocide-level offence would cover severe environmental damage, it should be met by corresponding criminal sanctions. In the context of the sanctions in existing environmental law in Scotland. With the maximum term of imprisonment currently five years (for example, Wildlife and Countryside Act 1981), imprisonment up to a maximum of 20 years for ecocide appears appropriate.

This maximum term is also aligned with the evolving criminalisation of ecocide in other jurisdictions, where it carries imprisonment up to 10-20 years (for example, the proposed revision to [Belgian Penal Code](#), or Article 231-3 of the [French Climate and Resilience Law](#)).

In determining the fine, we recommend adopting [the view of ELI](#) in considering the financial benefits resulting from the crime of ecocide: ‘Where offenders have made financial gains, such gains should be confiscated, along with the proceeds resulting from the crime’. Article 10 of the revised EU Environmental Crime Directive also incorporates this sanction. Therefore, where the financial gains exceed the 10% of worldwide turnover for companies over three years, we advocate for financial sanctions that cover confiscation of all relevant profits.

5.2. Should the Bill consider alternative or additional penalties?



The EU Environmental Crime Directive notes that sanctions beyond financial penalties are 'often seen as being more effective ... especially for legal persons' (Preamble, 31). Therefore, 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, or restorative justice practices. Indeed, 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. Based on such an assessment, sanctions should include measures (e.g. appropriate community service, financial contributions) to contribute to the restoration.

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

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.

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**

Legislating for ecocide in Scots law is compatible with [the UN resolution on the human right to a healthy environment](#), as it will provide punishment and/or deterrent in upholding the substantive right to a healthy environment.

SCCS recognises that 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)?

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.

10. Final Comments

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



By criminalising severe environmental destruction, the proposal would contribute to addressing the triple planetary crisis of climate breakdown, biodiversity loss, and increasing pollution of air, land and water. The [State of Nature report 2023](#) demonstrates that pollution and changing sea and land use are some of the most important drivers of accelerating biodiversity loss in Scotland. By criminalising financial gain from severe destruction of nature, the law would contribute to ensuring that the economic decisions of individuals and corporations are in line with sustainable development of Scotland.

To many, the scale, significance and existential nature of the climate crisis may be considered as *an* ecocide – given its potential to ‘kill’ (-cide) our ‘home’ (eco-). The climate change challenge is therefore an example of “severe and either widespread or long-term damage” to the environment. However, the cause of the climate crisis is not one “unlawful or wanton” act, but rather many individual acts which, while some of the most significant especially by corporates and/or governments may be described as “wanton”, are in general lawful – and, indeed, often supported or encouraged by governments.

Thus, the Ecocide Bill would be unable to address most of the acts that contribute to the climate crisis. Nevertheless, it still has potential to contribute, including by:

- Providing a deterrent against the occasional individual and wanton (or negligent?) acts that may lead to significant emissions of climate-changing gases; and
- Indicating that Scotland (and, in due course, the UK) is supportive of including ecocide in the [Rome statutes](#), leading to the potential for states to be held to account for acts or omissions resulting in ecocide (this might include failure to act to reduce emissions sufficiently).