

## Forestry Bill (NI) – Notes for the Committee stage

### Part 1 Functions of the Department

#### General Duty of the Department

- **In Clause 1 (1) the Department has ‘the general duty of promoting forestry’.** We do not feel this is strong enough. **New forestry must be appropriately located and designed to ensure priority habitats, species and designated sites are conserved; and that ancient and long-established woods are protected.** Forestry needs to be managed in a sustainable way that benefits native woods and biodiversity.
- **Clause 1 (2)** definition of “forestry land” needs to include as all other woodland belonging to any person, body or body corporate. **The proposed definition of “forestry land” is too narrow** as this excludes woodland that is owned by other NI or UK government departments, public bodies such as local authorities, as well as by private individuals or bodies corporate. Northern Ireland’s sustainable forest management commitments must apply to all woodland.

#### Principal Powers of the Department

- Concern has rightly been raised about the wide nature of these powers and the lack of qualifications on their use. In Clause 2 (1) would benefit from the Department being subject to a public benefit test. Our concern is that without this caveat FS may be able to dispose of sites that although no longer profitable; might in fact deliver on social and environmental commitments. FS should have the power to dispose of sites or alter land use but only in accordance with rigorous public benefits tests. This could also apply to Clause 4, ‘**Use or development of forestry land**’ and clause 5, ‘**Compulsory acquisition of land**’.
- We understand and share the concerns of private landowners in relation to the proposed **compulsory purchase powers outlined in clause 5**. We are not convinced that the Department has articulated with sufficient clarity why it should be bestowed with these extensive powers.
- **Clause 6 Inquiries, information, etc** gives FS the authority to lead inquiries and publish and disseminate material that could be of use to it under the function of this Act. Such material should include, as paragraph ‘c’ specifies, the **compiling of a woodland inventory** for Northern Ireland. The 2001 Biodiversity Strategy identifies FS as the lead agency – yet it has

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not taken place. Northern Ireland is one of the few European countries without an inventory – GB and the Republic of Ireland both produce inventories – and a statutory obligation would ensure that this is rectified. By creating an inventory the Executive will have a baseline to measure protection and expansion of woods and trees; and the private sector will be able to evaluate where it might be most appropriate to target its activities.

- **Paragraph (3)** allows the Department to **exploit** any intellectual property or intangible assets arising from its activity; including patents and trademarks. We do not think FS should charge for information, especially if they have received public money. It is worth noting that the Woodland Trust received its funding for the Ancient Woodland Inventory on the provision that the final document be publicly available without charge.
- **Incidental powers**, clause 7 (1), gives the Department the power to ‘do anything which it appears to be conducive or incidental to the discharge of its general duty under this section 1 (1)’. Potentially this gives the Department carte blanche to alter its functions, and to override other clauses in the legislation. FS need to clarify why they need these powers; if no explanation is given the provision should be removed.

#### **The establishment of a *National Forestry Advisory Committee***

- In addition to the general duty and powers outlined above we believe there should be the establishment of a **National Forestry Advisory Committee that would advise the Minister and their Department on matters of sustainable forest management practice, regulation and policy**. Tasks could include advising on contentious cases related to Felling Licensing, forestry Environmental Impact Assessments and forest plans, as well as the design of forest planting and management grants, and development of national forestry policy.

#### **Part 2 Protection of Forest Trees from Damage**

- All the clauses in this section appear to offer FS absolute power to enter private land that has ‘either 0.2 hectares’ or ‘forestry or land used for the production of timber’. By allowing the Department such unqualified powers it could have serious ramifications for the notion of private ownership in the province. Before the Bill is passed, the Committee should seek assurances in relation to how, and in what circumstances, this power might be applied.

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- From our own vantage point there is concern that clause 10, **Removal or destruction of vegetation on adjoining land** might negate environmental priorities. For example, the Woodland Trust could be managing dead wood on an ancient woodland site. Under the provisions of this Bill the FS could enter our site and remove the deadwood; causing significant environmental damage. FS cannot arbitrarily remove habitats on other people's land under the premise that they are a hazard.

### Part 3 Felling of Trees

- Clause 14 (1). Ancient and long-established woodland is one of the most diverse terrestrial habitats in Northern Ireland, an equivalent of the rainforest, and once lost it cannot be recreated. There should therefore be a presumption against its removal. Indeed, it need not be an onerous commitment on the Department, Forest Service or private landowners as sites on the **Ancient Woodland Inventory amount to a mere 10,000 hectares, or 0.08 per cent of the NI land area.** Tree felling consented through Felling Licensing to improve the biodiversity value of ancient and semi-natural woodland should be permitted, in accordance with appropriate guidance and Felling License conditions. This could be needed to meet Northern Ireland Biodiversity Strategy and UK Biodiversity Action Plan targets.
- Clause 14 (1) k **does not apply** to **'the felling of trees by a Northern Ireland department or department of the Government of the United Kingdom'**. We strongly disagree with this provision, and the related Clause 28 (3), as it **does not ensure sustainable forest management on the state forest and exempts 70 per cent of the woodland resource in NI from the felling licence regime.** Crucially, the clause also gives a commercial advantage to Forest Service over its private competitors.
- By way of comparison GB legislation exempts the state forests from a licence; nevertheless, FC must produce forest plans – Forest Design Plans – including detailed felling and restocking plans, for their estate and these are then opened to public consultation. For the new felling licence regime to be operable and effective we would expect that it be incumbent on the Executive Departments and local authorities to abide by it in a similar manner to the private sector.
- **Clause 15 (1)** would be more effective if Felling Licence applications were placed on a Public Register. This would involve a 30 day public consultation period and could be added to Forest Service's existing Public Register for Environmental Impact Assessment.

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- We oppose Clause 16, **Compensation on refusal of a felling licence**. At a time when the public pursue is under pressure there can be no justification for paying compensation to landowners for simply obeying the law. Such a mechanism could act as a disincentive to FS to refuse felling licences even if there is a genuine environmental or social reason for so doing. In the rest of the UK, in effect the practice paying of compensation for refusal of a Felling Licence does not take place.
- **Clause 17, Operation and conditions of felling licence** furnish the Department with legislative authority for operating the system by outlining what is, and is not, permitted. Under paragraph (4) (c) we welcome the commitment to prohibit the restocking of open ground habitats. There should be no re-stocking of Ancient Woodland Sites with native conifers.
- **Clause 20, Fees in connection with felling licences**, allows the Department to charge for operating the felling licence system. We can see little justification for the proposed Felling Licensing system operating on full-cost recovery as this may result in unregulated unsustainable forest felling. It would also unfairly burden public and private woodland managers delivering public benefits on non-Forest Service land, as well as giving a significant commercial advantage to FS.

### **Supplementary to Part 3 Felling of Trees**

- The Department believe that FS should be exempted from felling licensing because the agency is audited against the UK Woodland Assurance Standard (UKWAS). However, such an exemption could equally be applied to all other UKWAS certified woodland owners in Northern Ireland, including private owners, NGOs and local authorities. As we support a robust system of Felling Licensing to ensure sustainable practice, both organisations believe that the proposed UKWAS exemption from Felling Licensing should not apply to any woodland manager in NI, including Forest Service.
- **Clause 29, Interpretation of this Part**, defines the various terminologies used. An additional definition of ancient and long-established woodland should be introduced as this will provide clarity and consistency of application should the Bill be amended to offer greater protection. Ancient and long-established woodland is easily indentified. Any site on the Ancient Woodland Inventory.

#### **Contacts:**



## Part 4 Miscellaneous and Supplementary

### Supplementary

- **Under Clause 35, Interpretation**, various terminology used in the Bill is defined for the sake of clarity. Consistency with clause 29 can be achieved by inserting a definition of ancient and long-established woodland defined as above.

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