

SCHEDULE 1

Regulations 2(1), 10 and 11

THRESHOLDS FOR THE IDENTIFICATION OF PROJECTS LIKELY
TO HAVE SIGNIFICANT EFFECTS ON THE ENVIRONMENT

Interpretation

1. In this schedule—

“AMPP area” means the accumulated material past project area, being, in relation to an extending project, the total area covered by—

- (a) all material past projects; and
- (b) every other forestry project which—
 - (i) is on land adjoining or near to the area of any material past project; and
 - (ii) fulfils the conditions in paragraphs (a) to (c) of the definition of material past project;

“deep peaty soil” is organic soil which contains more than 60 per cent of organic matter and exceeds 50 centimetres in thickness;

“extending project” means any forestry project on, or proposed to be on, land which adjoins land on which one or more material past projects has, or have, been carried out;

“material past project”, in relation to a particular extending project, means a forestry project which—

- (a) is of the same type as that of the extending project;
- (b) was completed after the coming into force of these Regulations; and
- (c) was completed no more than 5 years before the proposed date for beginning work on the extending project;

“sensitive area” has the same meaning as in regulation 2(1) but includes, for the purposes of this schedule only, any area of deep peaty soil;

“type”, in relation to a forestry project, extending project or material past project means one of the following types of forestry project:

- (a) afforestation;
- (b) deforestation;
- (c) forest road works; or
- (d) forest quarry works.

Thresholds for projects in sensitive areas

2.—(1) This paragraph applies to projects other than extending projects where part of the land covered or proposed to be covered by the forestry project is in a sensitive area.

(2) Subject to the exceptions in sub-paragraph (3), there is no threshold in relation to forestry projects where any part of the land covered or proposed to be covered by the forestry project is in a sensitive area.

(3) Where the land covered by a forestry project includes all or part of a National Scenic Area (and no other sensitive area) the threshold in relation to—

- (a) forestry projects of afforestation is 2 hectares; and
- (b) forestry projects of deforestation is 0.5 hectares.

Thresholds for projects outside sensitive areas

3.—(1) This paragraph applies to projects, other than extending projects, where no part of the land covered or proposed to be covered by the project is in a sensitive area.

(2) The threshold in relation to forestry projects of—

- (a) afforestation is 20 hectares;
- (b) deforestation is 1 hectare;
- (c) forest road works is 1 hectare; and
- (d) forest quarry works is 1 hectare.

Thresholds for extending projects in sensitive areas

4.—(1) This paragraph applies to extending projects where part of the land covered or proposed to be covered by the extending project is in a sensitive area.

(2) Subject to the exceptions in sub-paragraphs (3) and (4), there is no threshold where any part of the land covered or proposed to be covered by the forestry project is in a sensitive area.

(3) Subject to sub-paragraph (5), where the land covered by an extending project of afforestation includes all or part of a National Scenic Area (and no other sensitive area), the threshold is the balance in hectares of 2 hectares minus the AMPP area.

(4) Subject to sub-paragraph (5), where the land covered by an extending project of deforestation includes all or part of a National Scenic Area (and no other sensitive area), the threshold is the balance in hectares of 0.5 hectares minus the AMPP area.

(5) Where the balance referred to in sub-paragraph (3) or (4) is zero or less, there is no threshold for the extending project concerned.

Thresholds for extending projects outside sensitive areas

5.—(1) This paragraph applies to extending projects where no part of the land covered by the extending project is in a sensitive area.

(2) Subject to sub-paragraph (3), the threshold in relation to extending projects of—

- (a) afforestation is the balance in hectares of 20 hectares minus the AMPP area;
- (b) deforestation is the balance in hectares of 1 hectare minus the AMPP area;
- (c) forest road works is the balance in hectares of 1 hectare minus the AMPP area; and
- (d) forest quarry works is the balance in hectares of 1 hectare minus the AMPP area.

(3) Where the balance referred to in sub-paragraph (2)(a), (b), (c) or (d) is zero or less, there is no threshold for the extending project concerned.

Exceptional circumstances in relation to forestry projects near to or adjoining other projects

6.—(1) Subject to sub-paragraph (2) and for the purposes of regulation 11(2) and (8), the circumstances of a forestry project may be regarded by the Commissioners (or as the case may be, by the Scottish Ministers) as exceptional circumstances where the forestry project in question—

- (a) is, in the opinion of the Commissioners or, as the case may be, the Scottish Ministers, adjoining or near to the area of another forestry project of any type; and
- (b) does not, for whatever reason, fall within the scope of paragraph 4 or 5.

(2) This paragraph—

- (a) does not affect the application of regulation 11(2) in relation to forestry projects which are within the scope of paragraph 4 or 5; and
- (b) does not limit the generality of the circumstances which may be regarded by the Commissioners or, as the case may be, by the Scottish Ministers, as exceptional circumstances.

SCHEDULE 2

Regulations 11 and 12(4)

SELECTION CRITERIA FOR SCREENING FORESTRY PROJECTS

Characteristics of forestry projects

1. The characteristics of the forestry project must be considered having regard, in particular, to—
 - (a) the size and design of the forestry project;
 - (b) cumulation with other existing forestry projects and/or approved forestry projects;
 - (c) the use of natural resources, in particular land, soil, water and biodiversity;
 - (d) the production of waste;
 - (e) pollution and nuisances;
 - (f) the risk of major accidents and/or disasters which are relevant to the forestry project concerned, including those caused by climate change, in accordance with scientific knowledge;
 - (g) the risks to human health (for example due to water contamination or air pollution).

Location of forestry project

2. The environmental sensitivity of geographical areas likely to be affected by the forestry project must be considered having regard, in particular, to—
 - (a) the existing and approved land use;
 - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) European sites and other areas classified or protected under national legislation;
 - (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure;
 - (vii) densely populated areas;
 - (viii) landscapes and sites of historical, cultural or archaeological significance.

Characteristics of the potential impact

3. The likely significant effects of the forestry project on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 above, with regard to the impact of the forestry project on the factors specified in regulation 5(3), taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing and/or approved forestry projects;
- (h) the possibility of effectively reducing the impact.

SCHEDULE 3

Regulation 6(3)(f)

INFORMATION FOR INCLUSION IN ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

1. A description of the forestry project, including in particular:
 - (a) a description of the location of the forestry project;
 - (b) a description of the physical characteristics of the whole forestry project, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
 - (c) a description of the main characteristics of the operational phase of the forestry project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
 - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of forestry project design, technology, location, size and scale) studied by the applicant, which are relevant to the proposed forestry project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (the “baseline scenario”) and an outline of the likely evolution thereof without implementation of the forestry project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors specified in regulation 5(3) likely to be significantly affected by the forestry project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example

greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5. A description of the likely significant effects of the forestry project on the environment resulting from, inter alia:

- (a) the construction and existence of the forestry project, including, where relevant, demolition works;
- (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
- (e) the cumulation of effects with other existing and/or approved forestry projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the forestry project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

6. The description of the likely significant effects on the factors specified in regulation 5(3) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the forestry project. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project including in particular those established under Council [Directive 92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽¹⁾ and [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds⁽²⁾.

7. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

8. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

9. A description of the expected significant adverse effects of the forestry project on the environment deriving from the vulnerability of the forestry project to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to legislation of the European Union such as [Directive 2012/18/EU](#) of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#)⁽³⁾ or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations⁽⁴⁾ or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of the Directive are met. Where appropriate,

(1) OJ L 206, 22.7.1992, p.7.

(2) OJ L 20, 26.1.2010, p.7.

(3) OJ L 197, 24.7.2012, p.1.

(4) OJ L 172, 2.7.2009, p.18, as amended by Council Directive 2014/87/Euratom (OJ L 219, 25.07.2014, p.42).

this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

10. A non-technical summary of the information provided under paragraphs 1 to 9.

11. A reference list detailing the sources used for the descriptions and assessments included in the EIA report.

SCHEDULE 4

Regulations 8(2)(b) and 29

ENFORCEMENT POWERS

Interpretation of schedule 4

1. In this schedule—

“authorised person” means a person authorised in writing by the Commissioners for the purposes of this schedule; and

“notified person” means a person on whom an enforcement notice has been served under paragraph 3(1) of this schedule.

Powers of entry

2.—(1) Subject to sub-paragraph (4), where an authorised person reasonably suspects, or the Commissioners reasonably suspect, that work is being, or has been, carried out on land in relation to a forestry project and EIA consent has not been granted in respect of that project, an authorised person may, at any reasonable time, enter that land for the purposes of determining—

(a) that such work is being or has been carried out; and

(b) whether the forestry project is an EIA forestry project in respect of which EIA consent is required by virtue of regulation 3(1).

(2) Subject to sub-paragraph (4), where work is being, or has been, carried out on land in relation to an EIA forestry project and EIA consent has been granted in respect of that project, an authorised person may at any reasonable time enter that land for the purposes of determining whether there is compliance with any condition subject to which EIA consent is granted, including (where applicable) any condition to take mitigation measures or monitoring measures.

(3) Subject to sub-paragraph (4) where an enforcement notice served under paragraph 3(1) requires measures to be taken (other than the discontinuance of the forestry project) within a specified time period and those measures have not been taken within that time period—

(a) an authorised person may enter the land to which the enforcement notice relates and take the measures; and

(b) where the authorised person takes those measures pursuant to head (a), the Commissioners may recover from the notified person any reasonable expenses incurred by the taking of them.

(4) An authorised person must, if so requested, produce evidence of authorisation before entering land for the purposes of this paragraph.

Enforcement notices

3.—(1) The Commissioners may serve an enforcement notice on a person who is carrying out, or has carried out, work in connection with a forestry project, where it appears to them that the forestry project is an EIA forestry project and that the work is being, or has been, carried out—

- (a) without EIA consent, where such consent is required by virtue of regulation 3(1); or
- (b) (where EIA consent has been granted) in breach of a condition subject to which the EIA consent was granted.

(2) An enforcement notice may require the notified person to take one or more of the following measures:—

- (a) apply to the Commissioners for EIA consent;
- (b) discontinue work in relation to the EIA forestry project;
- (c) restore the land to its condition before any work in relation to the EIA forestry project was carried out;
- (d) carry out on the land any works or operations specified in the enforcement notice which the Commissioners reasonably consider to be necessary in order to—
 - (i) secure compliance with a condition, subject to which EIA consent was granted; or
 - (ii) prevent, reduce or off-set any significant adverse effects on the environment as a result of the EIA forestry project.

(3) An enforcement notice must specify the time period during which any of the measures in sub-paragraph (2)(a), (c) or (d) must be taken and may specify different time periods for different measures.

(4) Where an enforcement notice is served pursuant to sub-paragraph (1), the Commissioners must serve the notified person with a written explanation of how, to whom and within what time period an appeal may be brought and whether or not the enforcement notice will be suspended while the appeal is pending either—

- (a) in, or accompanying, the enforcement notice; or
- (b) separately but as soon as practicable after service of the enforcement notice.

(5) Where an enforcement notice is served pursuant to sub-paragraph (1)(a), the Commissioners must (in addition to the requirements of sub-paragraph (4)), serve the notified person with a written statement of their reasons for considering that the forestry project is an EIA forestry project either—

- (a) in, or accompanying, the enforcement notice; or
- (b) separately but as soon as practicable after service of the enforcement notice.

(6) The Commissioners may, at any time—

- (a) withdraw an enforcement notice; or
- (b) vary an enforcement notice by means of a further notice served on the notified person.

Appeals against enforcement notices

4.—(1) A notified person may appeal to the Scottish Ministers.

(2) An appeal must be brought before the expiry of the period of 28 days beginning with the date on which the notified person is served with the notice, or within such longer period as the Scottish Ministers may (before the expiry of that 28 day period) allow.

(3) An appeal must be made in writing to the Scottish Ministers and must be accompanied by, or by copies of—

- (a) the enforcement notice;

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- (b) any relevant EIA consent; and
- (c) any other information or representations which the notified person who is appealing (for the remainder of this paragraph, “the appellant”) wishes to provide or make.

(4) Where notice of appeal is given in accordance with sub-paragraphs (1) to (3), the Scottish Ministers must send a copy of the notice of appeal to the Commissioners who must, within a period of 28 days beginning with the date of which they receive the notice of appeal, supply to the Scottish Ministers copies of any representation or information made or provided to them in relation to any relevant EIA consent or EIA application.

(5) The Scottish Ministers must determine an appeal before the expiry of the period of 28 days beginning with—

- (a) the date on which they receive the information and representations supplied to them under sub-paragraph (4);
- (b) in cases where there is no EIA consent nor any EIA application relevant to the enforcement notice, the date on which the Scottish Ministers received notice of the appeal.

(6) Subject to sub-paragraph (9), the Scottish Ministers may determine an appeal by—

- (a) affirming the enforcement notice;
- (b) quashing the enforcement notice; or
- (c) varying any part of the enforcement notice.

(7) In determining an appeal, the Scottish Ministers must take into consideration any environmental information, any representations in relation to the appeal and any other material consideration, including in particular their assessment of the direct and indirect significant effects of the EIA forestry project on the factors specified in regulation 5(3).

(8) On determination of an appeal, the Scottish Ministers must give notice of the appeal decision, including a statement of the reasons and considerations on which it is based to—

- (a) the appellant; and
- (b) the Commissioners.

(9) The Scottish Ministers may not quash an enforcement notice where—

- (a) it was served pursuant to paragraph 3(1)(a); and
- (b) it appears to the Scottish Ministers that EIA consent is required by virtue of regulation 3(1).

(10) Where an enforcement notice requires the taking of measures mentioned in paragraph 3(2) (a), (c) or (d), the giving of notice of appeal against the enforcement notice in accordance with sub-paragraphs (1) to (3) has the effect of suspending the enforcement notice insofar as it relates to any of those requirements until—

- (a) the appeal is determined by the Scottish Ministers; or
- (b) (if the appeal is withdrawn) the withdrawal of the appeal.

(11) The giving of a written statement of reasons under paragraph 3(5) in connection with an enforcement notice given under paragraph 3(1)(a) is not an event for the purposes of regulation 8(2) where—

- (a) an appeal is brought against the enforcement notice to which the written statement of reasons relates; and
- (b) the Scottish Ministers determine to quash the enforcement notice.