

**Guidance to Forestry Commission Scotland staff on  
implementing the Scottish Government's Policy on  
control of woodland removal**

*March 2010*

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## Introduction

The Scottish Government's policy on control of woodland removal<sup>1</sup> ('the Policy') provides policy direction for decisions on woodland removal in Scotland. It applies to all woodland and is intended to further the Scottish Forestry Strategy<sup>2</sup> in a manner consistent with the Government's Purpose<sup>3</sup>, and the Climate Change (Scotland) Act 2009<sup>4</sup>. It also recognises the duty placed on public bodies by the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity and to have regard to the Scottish Biodiversity Strategy.

Statutory guidance on woodland removal is contained in the Scottish Government's second National Planning Framework<sup>5</sup> (see Annex 2). The Scottish Government's policy on land use planning and the intended outcomes of the planning system are set out in the consolidated Scottish Planning Policy<sup>6</sup> (see Annex 2).

The Policy is not about tree felling *per se* but rather it is about the removal of woodland with the specific intent of changing the land use.

Woodland removal through illegal felling is addressed by Forestry Commission Scotland (FCS) through the Forestry Act 1967 (as amended).

## Purpose of the guidance

**This guidance is aimed at FCS staff** involved with felling licences, Environmental Impact Assessments (EIAs) and development management. Its purpose is to help them facilitate implementation of the Policy. Others are welcome to use the advice if they find it helpful in implementing the Policy or in addressing the guidance on woodland removal in the second National Planning Framework and the Scottish Planning Policy.

The guidance:

- aims to support, rather than replace, EIA processes and case-level judgements by FCS staff, and is set mainly at a strategic level. Where required, specific advice can be sought from FCS National Office, Forest Research, SEARS<sup>7</sup> partners and relevant Scottish Government Directorates.
- is based on current policy mechanisms, namely the Forestry Act, EIA Regulations, planning legislation and support measures such as the SRDP.

## Review

This guidance will be updated as case experience grows and will be reviewed formally by 30 June 2011.

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<sup>1</sup> [www.forestry.gov.uk/woodlandremoval](http://www.forestry.gov.uk/woodlandremoval)

<sup>2</sup> [www.forestry.gov.uk/sfs](http://www.forestry.gov.uk/sfs)

<sup>3</sup> [www.scotland.gov.uk/About/scotPerforms/purposes](http://www.scotland.gov.uk/About/scotPerforms/purposes)

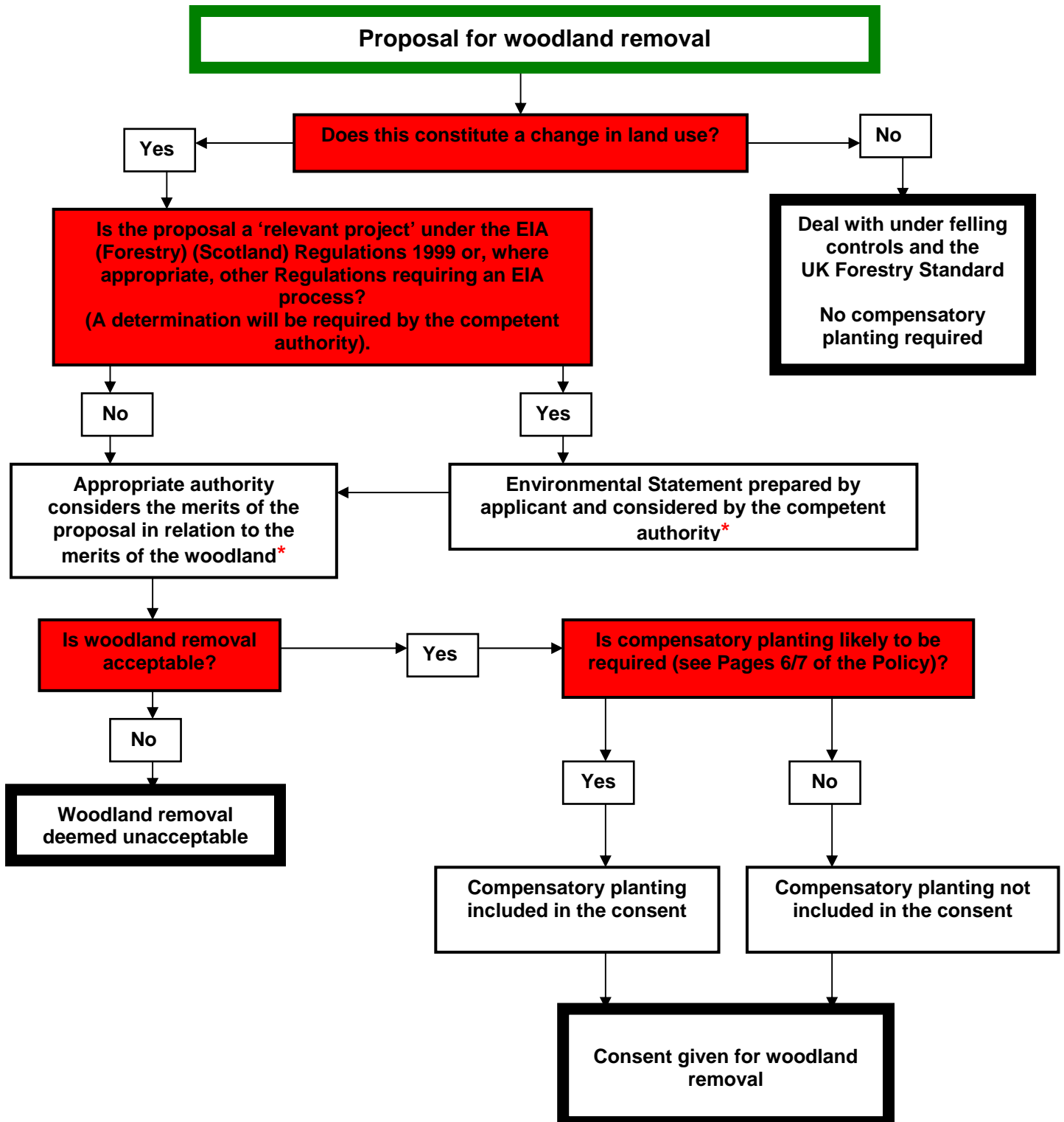
<sup>4</sup> [www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/climatechangeact](http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/climatechangeact)

<sup>5</sup> [www.scotland.gov.uk/Publications/2009/07/02105627/0](http://www.scotland.gov.uk/Publications/2009/07/02105627/0)

<sup>6</sup> [www.scotland.gov.uk/Publications/2010/02/03132605/0](http://www.scotland.gov.uk/Publications/2010/02/03132605/0)

<sup>7</sup> Scotland's Environmental and Rural Services: [www.sears.scotland.gov.uk/](http://www.sears.scotland.gov.uk/)

## INDICATIVE DECISION PROCESS



\* Under the EC Habitats and Birds Directives competent authorities may need to prepare an 'Appropriate Assessment' for proposals likely to have a significant positive or negative effect on European sites.

## Guidance

The following guidance uses the same broad headings, and in the same sequence, as that used in the Policy.

Each broad heading is prefaced with general comments followed by a boxed section to amplify what is meant by key Policy descriptions.

Where it is felt that Policy statements are self-explanatory no further amplification is given.

### 1. Guiding Principles

(See Policy page 6)

Given Scotland’s history of extensive deforestation, the threat of climate change and the Government’s wish to expand our woodland area, all woodlands are likely to have some intrinsic value, both now and into the future.

**The first consideration for all woodland removal decisions should be whether the underlying purpose of the proposals can reasonably be met without resorting to woodland removal – for example by changes to forest design, woodland type or management intensity<sup>8</sup>.**

Policy description	Further guidance
<p><b><i>Significant and clearly defined additional public benefits.</i></b></p>	<ul style="list-style-type: none"> <li>• Determining and weighting the significance of public benefits is implicit in the development management process. For woodland removal not associated with development, the structured approach used for forestry-related EIAs should be followed<sup>9</sup>. This will usually enable proposals to be categorised as of low, medium or high significance, enabling comparison with the potential loss of public benefits resulting from woodland removal.</li> <li>• When assessing the potential public benefits of existing woodland, its potential future development, as well as its current attributes, should be considered. For example, in even-aged/single-species, first rotation plantations this will normally require a forward look to their realistic, post-restructuring potential<sup>10</sup>. Potential alternative futures for the woodland should also be considered (e.g. conversion to low management intensity native woodland) as these may enable proposals to proceed satisfactorily without the need for woodland removal.</li> <li>• The assessment of the potential public benefits associated with compensatory planting should recognise that it may take many years to match those associated with the woodland being removed. For example, the creation of woodland micro-climates, or the provision of woodland-related ecosystem services such as water quality improvements, may take decades to establish fully.</li> </ul>

<sup>8</sup> E.g. by increasing the area of open-space in the forest area (as required by the UK Forestry Standard); changing tree species (e.g. from conifers to broadleaves or a mixture); or changing from intensively managed forest to lower intensity, dispersed woodland.

<sup>9</sup> The FC Forest Practice Guide “Undertaking an Environmental Impact Assessment and preparing an Environmental Statement” provides useful information on the type of information that would help support a woodland removal proposal. See : [www.forestry.gov.uk/pdf/EIAPractical09.pdf/\\$FILE/EIAPractical09.pdf](http://www.forestry.gov.uk/pdf/EIAPractical09.pdf/$FILE/EIAPractical09.pdf)

<sup>10</sup> Achieving the requirements of the UK Forestry Standard is a requirement of regulated woodland in the UK.

<b>Conditions conducive to woodland regeneration</b>	<ul style="list-style-type: none"> <li>• Professional judgement will be required on the management actions needed to create and maintain the conditions necessary for woodland perpetuation. The suggested default is set out in Endnote 'x' of the Policy.</li> <li>• The focus should be on maintaining the conditions suitable for woodland regeneration rather than the absolute speed of regeneration. However, the proposals must be silviculturally competent and capable of enforcement.</li> <li>• Tree/shrub species must be suited to the site and the objectives of management.<sup>11</sup> The likely future climate is also an important consideration<sup>12</sup>.</li> <li>• Care will be required to avoid non-native, invasive species becoming a problem through lack of appropriate management interventions.</li> <li>• In all cases, a long-term plan should be requested, this setting out the objectives, the actions required to deliver them within a specified time-period, the monitoring process (with key milestones) and contingency plans for remedial work.</li> </ul>
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## 2. Criteria for determining the acceptability of woodland removal

(See Policy pages 6-7)

The Policy lists the circumstances in which woodland removal, with or without compensatory planting, is most likely to be appropriate. Other circumstances should be considered on their merits. In all cases the 'applicant' should be required to justify woodland removal.

A pragmatic view should be taken on the appropriate level of evidence required for sound decisions to be taken about woodland removal (see footnote 9 on page 5).

For ease of reference, potential acceptability criteria have been 'categorised' into broad policy descriptions in sections a) and b) below. However, judgement will be required on the overall net public benefit of the proposal rather than simply its net benefit to a single policy category<sup>13</sup>.

All proposals should be accompanied by: a clear statement of the woodland and other significant environmental features present on the site; a rationale for what is being proposed; and a plan showing how the objectives will be achieved.

<sup>11</sup> See, for example: Ecological Site Classification ([www.forestresearch.gov.uk/esc](http://www.forestresearch.gov.uk/esc)).

<sup>12</sup> See, for example: Forest Research Note "Impacts of climate change on forestry in Scotland" ([www.forestresearch.gov.uk/pdf/fcrn101.pdf/\\$FILE/fcrn101.pdf](http://www.forestresearch.gov.uk/pdf/fcrn101.pdf/$FILE/fcrn101.pdf))

<sup>13</sup> For example, a proposal that might significantly enhance a priority habitat might also have a significant negative impact on water quality or flood risk.

**a) Woodland removal without a requirement for compensatory planting**  
(See Policy page 6)

<b>Policy description</b>	<b>Further Guidance</b>
<p><b><i>Enhancing priority habitats and their connectivity</i></b></p>	<ul style="list-style-type: none"> <li>• Priority habitats are those listed in the EC Habitats Directive<sup>14</sup> Annex 1 and the UK Biodiversity Action Plan (UKBAP)<sup>15</sup>. These include priority woodland habitats. In line with the overarching Guiding Principle highlighted on page 5, it will therefore be important to review the options for converting the existing woodland to a priority woodland type so that the <u>comparative</u> ecological advantage of conversion to priority open ground habitat can be assessed.</li> <li>• Woodland presence within or adjacent to open ground priority habitats is not, in itself, a justification for woodland removal. It is the nature and degree of the woodland's impact on the priority habitat(s) or dependent priority species that will inform the need or otherwise for removal.</li> <li>• For <u>designated</u> open ground habitats, SNH's Site Condition Monitoring reports can be used to assess woodland impacts but direct advice from SNH should also be sought.</li> <li>• For undesignated areas of UK priority open ground habitats, consideration should include the effects of woodland removal on the quality, size and coherence (such as de-fragmentation and habitat mosaic benefits) of the open habitat area, particularly in relation to the specific requirements of, and evidence of impact on, priority species.</li> <li>• Consideration can be given to woodland removal proposals adjacent to the boundary of open ground priority habitats if there is strong evidence that the woodland is having a significant impact on their conservation status or where the public benefits of extending that habitat significantly outweigh the public benefits of retaining the woodland.</li> <li>• The current woodland site should be capable of restoration to the desired habitat types, the latter including the creation of important linking areas that increase functional connection or add important habitat features for species associated with the target priority open ground habitat.</li> <li>• Extension or improvement of undesignated, open ground priority habitats should not, other than in exceptional circumstances, be to the detriment of priority woodland habitats, ancient woodlands or areas where native woodland expansion is a priority for the development of forest habitat networks (maps and guidance on such networks are available).</li> </ul>
<p><b><i>Enhancing populations of priority species</i></b></p>	<ul style="list-style-type: none"> <li>• Priority species are defined in endnote xi of the Policy and include those species listed in the EC Habitats Directive and the EC Birds Directive, and other priority species listed under the UK BAP.</li> <li>• The nature of woodland impacts (positive and negative) on priority species will depend on which species are present. The principle is that proposals would need to demonstrate a significant net benefit for those species.</li> <li>• The net benefits to priority species should be assessed in terms of the significance of woodland removal to their conservation status.</li> <li>• Where woodland priority species are present, consideration of the impact of woodland removal on their wider conservation status will be necessary. The strong presumption against woodland removal where such species are present (see page 7 of the Policy) should apply where losses would be of conservation significance to one or more of those priority species. This should be considered in terms of the potential loss of population and /or range and number of species. (See also section c on page 11).</li> </ul>

<sup>14</sup> [www.jncc.gov.uk/page-1374](http://www.jncc.gov.uk/page-1374)

<sup>15</sup> [www.ukbap.org.uk/](http://www.ukbap.org.uk/)

	<ul style="list-style-type: none"> <li>Exceptionally, woodland removal may be justified if the gains from that removal will provide a clear and significantly greater net benefit to open ground priority species compared to the woodland priority species that would be lost.</li> </ul>
<b>Enhancing nationally important landscapes, historic environment and geological Sites of Special Scientific Interest (SSSI)</b>	<ul style="list-style-type: none"> <li>The main consideration is whether woodland (in its current or future condition) is, or is likely to become, significantly detrimental to such designated sites. This should include appearance/condition, context, understanding and interpretation.</li> </ul>
<b>Improving conservation of water resources</b>	<p><b>water quality</b></p> <ul style="list-style-type: none"> <li>The main consideration is whether, based on good evidence, removal of woodland (rather than a change of woodland type/management intensity) would be the most effective way of addressing significant water management issues identified in River Basin Management Plans<sup>16</sup>.</li> <li>In most cases, adherence to the Forests &amp; Water Guidelines<sup>17</sup>, coupled with the safeguards provided by the Water Environment (Diffuse Pollution) (Scotland) Regulations 2008<sup>18</sup> and The Water Environment (Controlled Activities) (Scotland) Regulations 2005<sup>19</sup>, is expected to suffice without the need for woodland removal.</li> </ul> <p><b>water quantity</b></p> <ul style="list-style-type: none"> <li>The main consideration is whether a catchment has a high water demand (high regional population or significant demand for regionally important irrigation) in an area of inherently low rainfall (generally only in the east of Scotland) and where there is strong evidence to suggest that woodland will have a significant impact on water yield.</li> <li>Woodland removal to address the above must not have a significant impact on water quality or to current/predicted downstream flooding risk to people or key infrastructure.</li> </ul>
<b>Improving conservation of soil resources</b>	<ul style="list-style-type: none"> <li>Woodland removal will only rarely be justified for the purposes of soil conservation as changes to woodland type or management intensity, coupled with adherence to the Forests &amp; Soils Conservation Guidelines<sup>20</sup>, will usually be expected to suffice.</li> <li>Currently, the main consideration is whether woodland can be shown to be having, or is likely to have, a significant detrimental impact on greenhouse gas emissions, or slope stability.</li> <li>In assessing releases of greenhouse gases the <u>net</u> above ground and below ground releases (including allowance for product/fossil fuel substitution) over the lifetime of the woodland should be assessed (tree-growth will usually provide a positive greenhouse gas balance in the longer term). Field data to validate soil releases of greenhouse gases are currently limited, but case-specific advice can be sought from Forest Research.</li> <li>Woodland removal to aid slope stability will require evidence to show that woodland-induced instability is causing, or is predicted to cause, significant negative impacts on transport networks, communities or water quality, and that changes to the woodland type or management intensity, particularly in conjunction with a reduction in grazing pressure, would be unlikely to suffice.</li> </ul>

<sup>16</sup> [www.sepa.org.uk/water/river\\_basin\\_planning.aspx](http://www.sepa.org.uk/water/river_basin_planning.aspx)

<sup>17</sup> [www.forestry.gov.uk/pdf/FCGL002.pdf/\\$FILE/FCGL002.pdf](http://www.forestry.gov.uk/pdf/FCGL002.pdf/$FILE/FCGL002.pdf)

<sup>18</sup> [www.opsi.gov.uk/legislation/scotland/ssi2008/ssi\\_20080054\\_en\\_1.htm](http://www.opsi.gov.uk/legislation/scotland/ssi2008/ssi_20080054_en_1.htm)

<sup>19</sup> [www.opsi.gov.uk/legislation/scotland/ssi2005/20050348.htm](http://www.opsi.gov.uk/legislation/scotland/ssi2005/20050348.htm)

<sup>20</sup> [www.forestresearch.gov.uk/website/publications.nsf/WebpubsbyISBN/0855383682](http://www.forestresearch.gov.uk/website/publications.nsf/WebpubsbyISBN/0855383682)

Note that a revised, draft "Forests & Soils Guidelines" is currently undergoing consultation: see: [www.forestry.gov.uk/pdf/FCGL008consultation.pdf/\\$FILE/FCGL008consultation.pdf](http://www.forestry.gov.uk/pdf/FCGL008consultation.pdf/$FILE/FCGL008consultation.pdf)

<b>Public safety</b>	<p>Justifications could include:</p> <ul style="list-style-type: none"> <li>• A significant, proven risk to road users. The speed and volume of traffic are relevant considerations.</li> <li>• An agreed need to reduce significant fire hazard to people, homes and business premises.</li> <li>• An identified need for emergency service access.</li> <li>• The safe functioning of infrastructure such as electricity supplies and oil/gas/water pipelines.</li> </ul>
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**b) Woodland removal with a need for compensatory planting**  
(See Policy page 7)

For guidance on compensatory planting – see Annex 1.

<b>Policy description</b>	<b>Further guidance</b>
<b>Helping Scotland mitigate and adapt to climate change</b>	<p><b>Renewable energy</b></p> <ul style="list-style-type: none"> <li>• To maximise climate change mitigation and adaptation benefits, integration of the Government’s renewable energy and forestry policies should be sought.</li> <li>• The highlighted paragraph under ‘Guiding Principles’ on page 5 is particularly relevant to proposals for renewable energy development. Alternative options, such as the use of low-height woodland, (e.g. some types of native woodland, short rotation coppice or short rotation forestry), or increased hub-height (subject, of course, to other technical and environmental considerations) might enable proposals to proceed without the need for woodland removal.</li> </ul> <p><b>Sustainable flood management</b></p> <ul style="list-style-type: none"> <li>• The intention is to support the Flood Risk Management (Scotland) Act 2009<sup>21</sup>.</li> <li>• Appropriate types of woodland/woodland management will normally benefit sustainable flood management. It is unlikely that woodland removal would be essential for ‘soft engineering’ associated with sustainable flood management but it might be justified for ‘hard engineering’ solutions to existing and predicted flooding issues likely to affect communities or essential infrastructure.</li> </ul> <p><b>Priority habitat connectivity</b></p> <ul style="list-style-type: none"> <li>• Proposals that assist the adaptation and resilience of species or ecosystems to climate change, but which do not fully satisfy the criteria for woodland removal without compensatory planting, should be considered if woodland removal would make a significant net contribution to Scotland’s biodiversity objectives. This could include measures that would significantly increase the resilience of priority open ground ecosystems (e.g. by increasing their size and/or quality) or significantly enhance the movement of important species to new areas (e.g. where woodland removal would clearly aid the connectivity and/or quality of suitable habitats). This should be judged mainly in relation to designated sites and priority species but other well justified proposals can also be considered.</li> </ul>

<sup>21</sup> [www.opsi.gov.uk/legislation/scotland/acts2009/pdf/asp\\_20090006\\_en.pdf](http://www.opsi.gov.uk/legislation/scotland/acts2009/pdf/asp_20090006_en.pdf)

	<ul style="list-style-type: none"> <li>Options for converting the existing woodland into another type of woodland (or management intensity) should be reviewed so that the <u>comparative</u> advantage of conversion to priority open ground habitat can be assessed in terms of the net benefits to habitat connectivity.</li> </ul> <p><b>Reduction in net greenhouse gas emissions</b></p> <ul style="list-style-type: none"> <li>Consideration can be given to proposals to remove woodlands of intrinsically low public benefit and replace them elsewhere with a woodland capable of significantly greater carbon sequestration potential (and with at least the equivalent other public benefits of the existing woodland).</li> </ul> <p><b>Maintenance of long-term wood supply for industry</b></p> <ul style="list-style-type: none"> <li>Woodland removal can be considered for woodlands of intrinsically low public benefit and which are also comprised of low yielding crops, particularly where continued public road access for subsequent cycles of timber harvesting will be disproportionately expensive. The sites would also need to be capable of conversion to an appropriate replacement habitat. The compensatory planting would need to be capable of producing a significant and viable wood supply to known and easily accessible markets.</li> </ul>
<p><b>Enhancing sustainable economic growth or rural/community development</b></p>	<p><b>Economic development</b></p> <ul style="list-style-type: none"> <li>The Government’s central purpose is to increase sustainable economic growth. Proposals that would significantly support that aim are likely to be acceptable [but see section c) on page 11]. Examples could include the provision of new housing or infrastructure to meet identified local or regional needs.</li> </ul> <p><b>Temporary greening strategies</b></p> <ul style="list-style-type: none"> <li>Where woodland has formed part of agreed temporary greening strategies<sup>22</sup>, subsequent woodland removal, consistent with those aims, would be acceptable.</li> </ul> <p><b>Community aims</b></p> <ul style="list-style-type: none"> <li>Where a proposal meets the needs of a democratically formed community aim (e.g. supporting or providing significant local facilities) and is judged to be in the net public interest, woodland removal with compensatory planting is likely to be acceptable [but see section c) on page 11].</li> </ul> <p><b>Reduction in damage to weak but essential public roads</b></p> <ul style="list-style-type: none"> <li>Woodland removal with compensatory planting can be considered where it would prevent significantly expensive, unavoidable and repeated damage to weak but essential public roads. Significant ‘through routes’, and the presence of schools, essential infrastructure and significant community facilities would point towards a road being essential.</li> </ul>
<p><b>Scotland as a tourist destination</b></p>	<ul style="list-style-type: none"> <li>Proposals should be considered where the subsequent enhancement would be of significant direct or indirect benefit to an important existing, or proposed, tourism facility.</li> <li>See also ‘<b>Economic development</b>’, above.</li> </ul>

<sup>22</sup> Here meaning the agreed creation of ‘temporary woodland’ to improve the local environment and hence attract inward investment (together with other public benefits) on the understanding that some or all of the woodland may need to be removed in later years to enable that investment (e.g. new housing or factory units) to proceed. Such measures can encourage potential developers to improve environmental conditions without that improvement subsequently jeopardising later planning applications (i.e. it avoids ‘planning blight’).

<p><b>Encouraging recreational activities &amp; public enjoyment of the outdoor environment</b></p>	<ul style="list-style-type: none"> <li>• Only rarely is woodland removal, over and above re-design<sup>23</sup> necessary to meet the requirements of the UK Forestry Standard, expected to be the most effective way of delivering public benefit enhancements of this nature.</li> <li>• See also ‘<b>Community aims</b>’ above.</li> <li>• See also ‘<b>Economic development</b>’ above.</li> </ul>
<p><b>Reducing natural threats to forests or other land</b></p>	<ul style="list-style-type: none"> <li>• Only rarely is woodland removal expected to be the most effective way of reducing natural threats to forests and other land. Proposals would need to be particularly well justified.</li> </ul>
<p><b>Increasing the social, economic or environmental quality of Scotland’s woodland cover</b></p>	<ul style="list-style-type: none"> <li>• Where the existing forest does not currently meet the UK Forestry Standard, has low potential to do so and the land can be restored to the desired future condition, woodland removal is likely to be acceptable, particularly if the compensatory planting will have significantly greater public benefits.</li> <li>• Where the current woodland meets the UK Forestry Standard but otherwise has low public benefits and the land can be restored to the desired future condition, a proposal for woodland removal should be considered if the compensatory planting would have significantly greater public benefits than the existing woodland.</li> </ul>

**c) Woodlands with a strong presumption against removal**  
(See Policy page 7)

The Policy lists the types of woodland where their intrinsic environmental value indicates a strong presumption against removal.

Policy query	Further guidance
<p><b>Is there any flexibility in overriding the <u>strong</u> presumption against removing the types of woodland listed on page 7 of the Policy?</b></p>	<p>Proposals to remove the types of woodland listed on page 7 of the Policy should be judged on their individual merits. However, only in <u>exceptional</u> circumstances should the strong presumption against woodland removal be overridden. All such cases will require a <u>high level of supporting evidence</u> and compensatory planting should be regarded as mandatory.</p> <p>A <u>particularly</u> strong presumption against woodland removal should be applied to the following:</p> <ul style="list-style-type: none"> <li>• Sites designated for their woodland features (habitats) or woodland-related species under EU or national designations.</li> <li>• Other nationally designated sites<sup>24</sup> where woodland is a significant contributory feature of the designation.</li> <li>• Woodland types listed in the EC Habitats Directive.</li> <li>• UK BAP priority woodland types in areas mainly composed of ancient, semi-natural woodland (ASNW), ancient woodlands planted with native species, or well-established semi-natural priority woodland types.<sup>25</sup></li> <li>• Woodlands covered by TPOs (in the case of individual woodland trees covered by TPOs, judgement will be required on the potential impact of removing woodland adjacent to those trees).</li> </ul>

<sup>23</sup> Such as the creation of 10-20% permanent open space to encourage the development of wildlife habitats.

<sup>24</sup> For example: National Scenic Areas and National Parks.

<sup>25</sup> The Native Woodland Survey of Scotland will give data on ecological condition and this will help to define the nature conservation value of native and ancient woodlands.

	<p>Within the overarching strong presumption against removing the types of woodland listed on page 7 of the Policy, <u>slightly</u> more flexibility can be applied to the following:</p> <ul style="list-style-type: none"> <li>• Other areas of priority native woodland habitats, normally of lower biodiversity value, including recently<sup>26</sup> established semi-natural woods and planted native woods.</li> <li>• Non-native Plantations on Ancient Woodland Sites (PAWS) with very few remnant ancient woodland features.</li> <li>• Other woodlands supporting EU or UK priority species reliant on woodland. These should be assessed in terms of the conservation significance of the possible losses and gains in terms of number of species and the proportions of populations and/or range affected from converting to open habitat. (N.B. for European Protected Species there are licensing requirements under the Habitats Regulations 1994).</li> <li>• Areas forming parts of key forest habitat networks (maps and guidance are available for such networks) and stakeholder agreed network plans in specific areas e.g. the Central Scotland Green Network.</li> </ul>
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### 3. Managing the process

(See Policy page 8)

Implementation of the policy will be based on existing processes, namely EIA, felling licensing, development management procedures and management agreements.

Policy description	Further guidance
<p><b><i>Annual expert review &amp; transition plan and formal monitoring</i></b></p>	<ul style="list-style-type: none"> <li>• Approval of woodland removal should be conditional on a clear, concise and time-limited transition plan. This should include the means by which the transition of the land to its desired future state will be delivered and how the process will be monitored to ensure the objectives of the proposed land use change are achieved.</li> <li>• The formality of the transition plan and monitoring procedures should be proportionate to the significance of the proposals.</li> <li>• For complex or difficult aftercare conditions, expert review may be necessary to help ensure the project's objectives are achieved satisfactorily. The frequency of such reviews should be documented in the transition plan and will vary depending on the degree of difficulty/complexity of the aftercare and the time-scale over which it will take place.</li> </ul>

### 4. Monitoring

(See Policy page 10)

By its nature, monitoring of woodland removal will be a long-term process as it can take many years for subsequent land use change to become evident. It is also recognised that woodland removal to meet the requirements of the UK Forestry Standard, or temporary removal of tree cover associated with rotational felling/replanting, will not always be readily distinguishable from the types of woodland removal to which the Policy applies.

<sup>26</sup> Within about the last 20-25 years.

The principal, long-term monitoring of woodland removal will therefore be accommodated through the periodic National Forest Inventory of Great Britain (0.5 ha resolution).

Currently, annual monitoring against Rural Development Contracts (RDCs) and felling licences is not possible without disproportionate expense. However, data capture systems for both are currently under discussion.

To help monitor trends in woodland removal a simple, cost-effective system of monitoring by Conservancy staff is envisaged. This will rely on annual records of forest plan and felling licence approvals in which felling area and replanting area are collated. Additional information will be collected from approved development cases known to Conservancy staff. By June 2010 a standard spreadsheet for recording woodland removal will be finalised.

Compensatory planting will not count towards the Government's annual targets for woodland creation and will, therefore, need to be recorded separately by Conservancies.

# Compensatory planting

## 1. General

The second National Planning Framework (see Annex 2) gives statutory guidance on compensatory planting. It will be a matter for Scottish Ministers (in the case of Section 36 or 37 applications) or the planning authority to determine the need for compensatory planting, its type and extent, and the most appropriate way of securing its delivery. However, FCS should be proactive in offering help and advice on the delivery of compensatory planting requirements, including encouragement to planners and developers to forge appropriate relationships with potential 'compensatory planting providers'.

The purpose of compensatory planting is to secure, through new woodland on appropriate sites elsewhere, at least the equivalent woodland-related net public benefit embodied in the woodland to be removed.

Although direct planting will normally be preferable, proposals for the use of natural regeneration should be considered where this is silviculturally feasible and capable of enforcement.

Where compensatory planting is eligible for SRDP support (but see page 8 of the Policy) it will be aligned to restructuring rates of support rather than the rates applicable to new woodland creation.

## 2. Principles

- To achieve the highest net public benefit, compensatory planting can, subject to the relevant conditions/agreements/approvals, be undertaken on appropriate sites anywhere in Scotland.
- Compensatory planting must be carried out in accordance with good forestry practice<sup>27</sup>.
- Compensatory planting should be completed as soon as possible after (or before) woodland removal. The relevant time-scale should be specified as part of the approval. Subsequent establishment should be completed within the period for which enforcement action can be taken.
- The default position is that compensatory planting should be of an equivalent woodland area<sup>28</sup>, on appropriate site types and with at least the equivalent, woodland-related net public benefits. A reduction in area may be acceptable if it can be justified in terms of net public benefit (the principle being that woodland with a higher net public benefit than the woodland being removed may justify a reduction in area – see next page for indicators of public benefit).

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<sup>27</sup> As set out in the UK Forestry Standard and associated Guidelines.

<sup>28</sup> NB - This does not necessarily mean the same number or density of trees.

## Potential indicators of public benefit

### High public benefit

- Appropriate native woodlands in/around designated woodland sites
- Native woodlands contributing to woodland habitat networks
- Riparian native woodland (especially those contributing to natural flood management or erosion control)
- Woodlands in and around towns
- Woodlands important for recreation, tourism and cultural heritage
- Woodlands with high potential for carbon sequestration and storage

### Medium Public benefit

- Other native and mixed woodland
- Other productive woodland (appropriate to site)
- Other woodland with recreation facilities

### Low Public benefit

- Low yielding, non-native woodland, particularly if distant from markets

Characteristics of compensatory planting that may justify a reduction in equivalent area

## 3. Delivery mechanisms

### a) Development management

This is a complex area and only superficial details can be provided here.

#### i) Planning conditions

These can be imposed through a local authority planning permission or through a deemed planning issued by the Scottish Ministers with a Section 36 or 37 Consent. They are more likely to be appropriate where there is a straightforward situation e.g. where a known piece of land is available for compensatory planting. Monetary payments should not be secured through conditions.

Conditions may be phrased positively (i.e. requiring the developer to do 'x') or suspensively (i.e. preventing the development until the developer has done 'y'). Positive conditions can only be applied on land for which the applicant has control. Suspensive conditions are not subject to the same restriction and where meeting the terms of a suspensive condition requires the co-operation or consent of a third party it becomes known as a 'Grampian condition' (after a Court case in 1984).

As a matter of policy, planning conditions should only be imposed where they are:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects.

Details of these tests, each of which must be met, are set out in Circular4/1998<sup>29</sup>.

<sup>29</sup> [www.scotland.gov.uk/Publications/1998/02/circular-4-1998/circular-4-1998-](http://www.scotland.gov.uk/Publications/1998/02/circular-4-1998/circular-4-1998-)

### Planning agreements

Where compensatory planting cannot be secured by a condition, two forms of planning agreement are available:

- Section 75 agreements under the Town and Country Planning {Scotland} Act 1997
- Section 69 agreements under the Local Government {Scotland} Act 1973

Use of one or other of these agreements can be expected to cover the remainder of circumstances in which compensatory planting is required. Unlike conditions, planning agreements can include monetary payments to the planning authority. It will be for local authorities to determine which form of agreement is best suited to their needs.

As with Conditions, planning agreements must be necessary, relevant to planning, relevant to the development, and reasonable.

Where payment for compensatory planting is requested in advance of a suitable site/project being available, the level of payment should be based on a like-with-like replacement of the area and type of woodland being removed (net of any woodland removal that would have been necessary to meet the requirements of the UK Forestry Standard, and net of those areas of woodland removal for which compensatory planting would not be required). Costs should be based on 100% of the validated, agreed standard costs used in the Scotland Rural Development Programme's Rural Development Contracts – Rural Priorities, and should include fencing costs and Farmland Premium, but not the price of the land.

If payment is to be made by a developer to the local authority for compensatory planting the tests of 'relevance' and 'reasonableness' would suggest that payment is likely to be recoverable by the developer if not spent within an agreed time-frame.

### **b) Felling licences**

Where woodland removal and associated compensatory planting is not associated with development it can be 'conditioned' through a felling licence under the Forestry Act 1967.

A felling licence can only be issued to a person who either owns or who has a 'competent' legal interest in the land (such as a lease) on which felling is to take place. However, enforcement action on meeting the conditions of such a licence can only (in Scotland) be served on the owner of the land for which the licence was granted. Accordingly, for compensatory planting associated with a felling licence condition this restricts such planting to land in the ownership of the person(s) for whom the felling licence was granted. In other words it is not permissible to condition compensatory planting on land belonging to a different landowner to that for whom the felling licence was issued.

# Planning guidance

### Extracts from the second National Planning Framework (published June 2009)

#### Paragraph 93

“The Scottish Forest Strategy highlights the fact that climate change and the need to develop renewable sources of energy have become major drivers for extending woodland cover. It also draws attention to the contribution which forestry can make to urban regeneration and the benefits it can offer in terms of biodiversity, amenity, community involvement and better health. It aims to expand woodland cover from 17% to 25% of Scotland's land area and sets the forestry sector a target of delivering annual carbon savings of 1.0 MtC (Million tonnes of carbon) by 2020. Woodland expansion is likely to be focused on poorer quality agricultural land. Research for the Forestry Commission indicates that there is potential to increase woodland cover in a wide range of rural and urban fringe areas throughout Scotland. Local authorities will have a key role to play in guiding woodland expansion locally through a new generation of forestry and woodland strategies. Strategic forest resources are shown on Map 4.”

#### Paragraph 94

“Realisation of Scottish Forest Strategy objectives will require new planting of around 10,000 ha per annum and a significant reduction in the loss of existing woodland. ***The Scottish Government will therefore only support the removal of woodland where it would achieve significant and clearly defined public benefits. Where woodland is removed in association with development there will be a strong presumption in favour of compensatory planting.*** It is important that woodland expansion is managed so that the environmental benefits are not reduced as a result of adverse impacts on other assets, including water resources, landscape and cultural heritage.”

### Extract from the consolidated Scottish Planning Policy: (Published February 2010)

#### Paragraph 146

“Ancient and semi-natural woodland is an important and irreplaceable national resource that should be protected and enhanced, as should other native and long established woodlands with high nature conservation value. The Scottish Forestry Strategy identifies the protection of woodlands of high biodiversity value as an important consideration in the development management process. Woodland of high nature conservation value should be identified in development plans along with relevant policies for its protection and enhancement. Planning authorities should consider preparing woodland strategies as supplementary guidance to inform the future development of woodland and forestry in their area. Advice on planning for forestry and woodlands will be issued by the Forestry Commission Scotland in early 2010.”

#### Paragraph 147

“Other woodlands, hedgerows and individual trees, especially veteran trees, may also have significant biodiversity value and make a significant contribution to landscape character and quality so should be protected from adverse impacts resulting from development. If a development would result in the severing or impairment of connectivity between important woodland habitats, workable mitigation measures should be identified and implemented, potentially linked to the creation of green networks. Where appropriate planning authorities should seek opportunities for new woodland creation and planting of native species in connection with development schemes. Tree Preservation Orders can be used to protect individual and groups of trees considered important for amenity or because of their cultural or historic interest.”

#### Paragraph 148

“The Scottish Government's control of woodland removal policy includes a presumption in favour of protecting woodland resources. ***Woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases compensatory planting may form part of the balance. The criteria for determining the acceptability of woodland removal and further information on the implementation of the policy is explained in the Control of Woodland Removal Policy and this should be taken into account when preparing development plans and deciding planning applications.***”