

**Submission to the Joint Oireachtas Committee on Agriculture, Food and the Marine on
the Forestry Bill 2013 by the Society of Irish Foresters.**

Introduction

The Society of Irish Foresters would like to thank the Joint Oireachtas Committee for the invitation to make a submission on the Forestry Bill 2013 and to meet with the Joint Committee on Tuesday 11th February.

By way of background, the Society of Irish Foresters was founded in 1942 ‘to advance and spread the knowledge of forestry in all its aspects’. It fulfils this role by organising field days, study tours, workshops, lectures and symposia. The Society also publishes “Irish Forestry”, the sole technical publication on forestry in Ireland, a bi-annual newsletter “The Irish Forester”, policy position papers, and other books of both historical and technical interest.

The Society of Irish Foresters represents the interests of more than 700 members, predominantly professional foresters, but including, through its associate and student membership a wide cross-section of people involved in or with an interest in the forest and timber industry. Members of the Society work across all areas of the Forest Industry – State Sector, Semi-State Sector, Private Forestry Companies, Forestry Consultants, Forest Contracting, Nurseries and the Timber Processing Sector.

The Society of Irish Foresters places great emphasis on promoting professional standards in forestry among its members, and the regulation of the forestry profession. To this end, members of the Society of Irish Foresters are bound by its Code of Ethics and Professional Conduct. The Society of Irish Foresters also influences forestry education in Ireland with a view to maintaining the highest professional standards. A system of Continuous Professional Development (CPD) is maintained for its professional members.

Irish Forest Policy Review

The Forestry Bill should support the implementation of the strategic actions arising from the Irish Forest Policy Review process. This Review is only at draft phase for public consultation. In that context the Bill may be somewhat premature as it is unknown what changes, if any, will be made to the draft. Nevertheless one has to assume that an expansion of the Forest Resource Area will continue.

Research

One should also assume that good forestry practice and the protection of the environment are grounded on contemporary research in forestry and related matters. This is a notable omission from Section 5 of the Forestry Bill. The Society recommends that the following subsection is inserted in Section 5 ‘To collect and disseminate information and statistics and to promote, undertake or cause to be undertaken, research relevant to forests, forestry and forest based industry.’ Insert in subsection (h) of Section 6 ‘undertake, cause to be undertaken, participate in and promote research relevant to forests, forestry and forest based

industry'. A new heading could then be given to Section 29, Subsection (3) (1) which would read ' forest and forest product research and statistics'

Planting Targets

In 1996 the Government published 'Growing for the Future', a strategic plan for the development of the forestry sector in Ireland up to 2035. This envisaged increasing the forest estate to 17% of land area by 2030 so as to provide a sustainable supply of raw material to support a broad based, internationally competitive forest products industry. However between 1996 and 2012, only 53% of the planting target was achieved, with a cumulative shortfall of 143,952 hectares. Last year 6,200 hectares were planted. The Draft Review states that the afforestation target will be 10,000 hectares up to 2015 and 15,000 hectares thereafter up to 2046 when forest cover would then be 18%.

Given the failure to achieve planting targets up to the present, the Society recommends that the Forestry Bill should state that '*The Minister shall set and review annual planting targets until such time the critical mass of sustainable roundwood timber supply is achieved*'. This could be included in Section 5 of the Bill.

By including a commitment to set annual planting targets to achieve a critical mass to support a sustainable forest products industry, the barriers to achieving this target will need to be addressed. The Society would like to address a number of issues with the Forestry Bill which it views as barriers to the development of the Forestry Sector in Ireland.

Amendment of Plans, Approvals etc.

Uncertainty is a major factor in the reluctance of people to plant. The proposed powers of the Minister to revoke licences or approvals as proposed under Section 7 and to reject/revoke/add conditions to management plans at any time will become a major inhibitor. This essentially hands over decision making for one's property to the Minister without taking into account the management objectives of the owner. It also does so without any recourse to compensation for the forest owner for an investment that will last up to perhaps 40 years in the case of conifers and multiples of this time for an investment in broadleaves. A person's investment could be rendered useless or severely restricted without any compensation. This uncertainty also extends to the issue of felling licences.

Fees

The Forestry Bill also envisages the introduction of fees. This again is a new concept in the Forestry sphere and appears to run contrary to the explanatory memorandum whereby the Forestry Bill will not result in any significant cost to the Exchequer of business. Potential forest owners will fear that fees will only go in one direction and that is upwards.

Management Plans and Felling Licences

The Society would like to link management plans with felling licences. A management plan for a forest is best practice and the Society would support the production of such plans. An approach similar to safety statements could be adopted. Initially in the 1989 Safety Health

and Welfare at Work Act the detailed requirements of the safety statement were set. This was modified in the 2005 Safety Health and Welfare Act to take account of the requirements of small businesses. The principles were maintained for all safety statements and all businesses. A similarly approach to forest management plans could be adopted. Given the extent of very small parcels of forest in the private sector, a minimum size requirement or a modified simplified plan should apply. The key is that forest management would be prepared. The management plans should also be prepared to meet the objectives and principles of sustainable forest management.

These plans should reflect the objectives of the forest owner and should form the basis of all forest operations including thinning cycles. This should trigger a felling licence for the duration of the crop up to clearfelling. A system of notification of the commencement of operations to the Minister should be sufficient to allow the Minister to exercise his/her regulatory function and concentrate on areas of particular importance. A separate felling licence should be required for clearfelling. This would greatly reduce the administrative burden on the Minister. The current proposal is unworkable given that there are already inordinate delays in issuing some licences and the forecast ten-fold increase in private timber supply in the next 10 years.

Registration of a Burden on a Folio

Another area of concern is the power of the Minister to register a licence or replanting order as a burden on a property's folio and later to remove such a burden when he/she is satisfied that the conditions of the order/licence have been met. Any threat to have a burden registered on a folio will negatively impact of a landowner's decision to plant and will also add to the costs for the landowner contrary to the explanatory memorandum set out above.

Replanting

While the Society has an open mind in relation to the replanting requirement and would be wary of deforestation proposals, the powers of the Minister to specify in detail the replanting requirements is in its own right excessive as again it does not take account of the owners objectives. Such detailed prescriptions will increase the administrative burden. The Minister may wish to retain an input in some particularly sensitive areas. If so, this exceptional circumstance should be reflected in the wording of the Bill and should follow consultation with the forest owner.

The blanket requirement for replanting reflected the thinking in 1946 when the 1946 Act was drafted. The danger then was that the country could be deforested. If the issue of the replanting requirement is now an inhibitor, then the rules relating to replanting would need to be reviewed. Section 29 allows the Minister to make regulations in relation to reforestation. The replanting obligation could be governed through such regulations.

Timescales

Some of the timescales set out in the Bill are unrealistic. For example, it may not be possible, within a period of 28 days, to supply the information sought in Section 13. A 12 week period would be more realistic as a starting point. Furthermore, In the Bill deadlines apply only to industry players and not to the Minister. If the aim is to become an internationally

competitive industry, then efficiencies must be present across all sectors. There is ample anecdotal evidence of inordinate delays in issuing some planting approvals and felling licences. This is not addressed in the Bill. Timeframes should also be set for the Minister in the performance of his/her duties and in default, compensation or other remedies should be stated as failure to act promptly may cause a loss the forest owner.

Statute of Limitations

Section 32 has the potential to cause further uncertainty. This relates to the setting aside of the statute of limitations and allowing proceedings for recovery to be instituted within 20 years. Work can be done in good faith, a claim for a grant made, approval given after inspection and payments made in good faith. Yet up to 20 years later proceedings can be instituted to recoup the money paid because, for example, of some update in technology. This provision will cause enormous difficulties for forest owners and consultants/companies providing professional services as there may be a liability to repay money paid in good faith for 20 years. Work completed to the required standard and to measurements consistent with the available technology at the time of the work, should be signed off as meeting the standard without any further claw-back in the event of technology improvements.

Enforcement

Part 5 deals with enforcement. This part gives authorised officers inordinate powers of entry to land and premises other than a dwelling house. There is no mention of any notification to the property owner. The approach is that which you would expect in a criminal investigation. The overall approach to penalties is quite draconian with Class A penalties throughout.

Committees

The Society welcomes the appointment of committees. Members of the Society have been very pleased to have served on various committees over the years and have done so from a sense of commitment rather than remuneration. However the Society is dismayed by the tone of Section 9 on the prohibition on unauthorised disclosure of confidential information. Members who themselves often represent substantial groups would be very slow to expose themselves to the reputational damage that would arise in the event of an investigation into a leak of questionable confidential information from a committee, not to mention exposure to a class A fine and/or six months imprisonment.

Vermin Control

Section 15 should be amended with the words 'in so far as is reasonably practicable' as it may not be possible to totally exterminate vermin as is set out. This would allow a control mechanism rather than total extermination which may be impossible. The classification of Sika and hybrid deer remains a problem.

These are just some of the inhibitors to the expansion of the forest estate. There are two further omissions from the Bill which the Society believes should be included.

Policy Review

The Bill does not appear to refer to any power of the Minister to propose or review policies. This should be included in Part 2, Section 5 in the section which specifies the ‘General Functions of the Minister’.

Annual Report

The Bill should require the Minister to prepare and publish annual reports of the Department’s activities. This annual report should contain information on issues such as afforestation and other schemes, felling licences granted, deforestation statistics, and other measures such as support to industry, research and development, promotion, number of legal actions, penalties etc. This could be included in Part 2, Section 6 dealing with the ‘Specific functions of the Minister’.

Other Issues

There are a number of other topics which are outside the scope of the Bill but are no less important and might be considered in the context of the bill.

Land Availability

Land availability and land use policy. There are numerous constraints placed on the expansion of the forest estate arising from the classification of and competing demands on land which is a scarce and finite resource. The most recent National Forest Inventory shows that 51% of forests have one of more environmental constraints. Food Harvest 2020 may also put more pressure on land that, in the past, might otherwise go into forestry together with alternative schemes such as REPS.

Tax

Income from forestry was once tax exempt. However the change to the tax laws whereby forest income is taxed as income in the year in which it is realised without any reference to the growing period required to realise that income. This also has potential to derail the planting programme.

Changes in Grant/Premium Payments

Confidence in the sector is also impacted by changes in grant and premium rates. Given the long term nature of forestry, confidence in the long term commitment of funding is equally important.