

23 June 2011

Jan Davidson
Department of Agriculture and Rural Development
Policy and Legislation Branch, Forest Service
Room 20
Dundonald House
Upper Newtownards Road
Ballymiscaw
Belfast BT4 3S

Re: Consultation on Forestry Land Byelaws

Dear Jan

Mountaineering Ireland* (MI) wishes to make the following observations regarding the draft bye-laws for forestry land in Northern Ireland:

5.1 Exclusion of the right of public access between sunset and sunrise is excessive. Responsible recreational enjoyment of Forest Service lands commonly takes place during the hours of darkness without any negative consequence arising, e.g. hillwalkers regularly come off the hills late in the evening, hillwalkers also use darkness to train and practice navigation skills, mountain-bikers and runners often take their exercise early in the morning, or in the evening after work. MI recognises that there are issues of anti-social behaviour which need to be controlled, but to make it illegal to be on Forest Service land between sunrise and sunset is unworkable. It is MI's view that this is inconsistent with Section 31.4.c of the Forestry Act (Northern Ireland) 2010 which provides for reasonable use of forestry land by the public for the purposes of recreation.

5.2 Recreational enjoyment of forestry land is not always incompatible with initiatives for management of wildlife, flora and fauna or the harvesting of trees. Restrictions on access should be kept to the minimum necessary, e.g. by asking people to keep to forest roads and major tracks.

11.1.c states that a person shall not organise any event without the permission of the Department. The bye-laws do not define an event; many walking clubs organise events on a weekly basis on forestry land. These are non-commercial, recreational events, and to make them subject to permission is both unnecessary, impractical and potentially reduces opportunities for participation in recreation activities. An alternative solution might be to state that the Department's permission is required for larger events, i.e. those involving more than a specified number of participants.

11.1e states that a person shall not bathe or swim in waters on forestry land. We assume this arises from concerns about Occupiers Liability. Case law recognises the responsibility of participants in outdoor recreation activities to take measures to ensure their own safety, with Lord Hoffman's judgment in the case of Tomlinson v Congleton Borough Council (2003) most commonly quoted "*I think it will be extremely rare for an occupier of land to be*



under a duty to prevent people from taking risks which are inherent in the activities they freely choose to undertake upon the land. If people want to climb mountains, go hang-gliding, or swim or dive in ponds or lakes - that is their affair."

12 states that camping is only allowed with permission of the Department and in designated areas. MI feels strongly that this draft bye-law places an unreasonable restriction on public enjoyment of forestry land. As stated under 5.1, MI recognises that there are issues with anti-social behaviour on forestry land, some of these associated with camping. It is MI's view that this bye-law would be ignored by those it is aimed at, and that it would restrict the freedom of responsible campers. Instances of poor camping behaviour tend to be localised and this may provide a key to addressing the issue. MI urges the Forest Service to initiate a process of dialogue, perhaps through CAAN's Outdoor Recreation Group and possibly in conjunction with Coillte and Leave No Trace Ireland, to consider how this difficult issue could be tackled.

17.1.b states that dogs should be kept on a lead at all times. Again this is not practical or easily enforced. In certain areas of forestry land where a lot of people are present this bye-law might be appropriate, but dogs require off-lead exercise and forestry land provides a suitable place for this. It also takes the pressure off private farmland, where it is not appropriate for dogs to be off-lead due to the presence of livestock.

Forest Service land delivers significant health and well-being benefit through providing opportunities for a range of outdoor recreation activities. As there is no legal right of access to private land in Northern Ireland for purposes of recreation, Forest Service and other public lands play a vital role in reducing recreational pressure on private lands.

There is a role for bye-laws in the management of public activity in certain areas of forestry lands, but it is neither practical nor necessary to apply this approach across all forestry lands. MI supports and promotes the Leave No Trace approach, which encourages recreational users to be aware of the potential impacts from their activities, and to make choices when doing their activities that will minimise those impacts. MI would like to see the Forest Service adopt this approach, which acknowledges that the majority of recreational users are responsible, but that we can all do better. Coillte's adoption and promotion of the Leave No Trace message, in tandem with the introduction of bye-laws, provides a positive and relevant example.

It is MI's view that to be effective, the forestry bye-laws must be reasonable and practicable; they should also encourage responsible public use of forestry lands. We hope that you will take our concerns on board; should you require any further information please do not hesitate to contact me on 00 353 1 6251115 or karl@mountaineering.ie

Yours sincerely,

Karl Boyle



Chief Officer

* **Mountaineering Ireland** is the representative body for hillwalkers and climbers on the island of Ireland. MI is recognised as the National Governing Body for the sport of mountaineering by both the Irish Sports Council and Sport Northern Ireland. The term mountaineering refers to a spectrum of activities that includes summer and winter hillwalking, rock and ice-climbing, rambling, bouldering and alpinism. Mountaineering Ireland (April 2011) has 10,500 members comprising 145 clubs and over 1400 individual members.

The work of Mountaineering Ireland includes: promoting mountaineering activities in Ireland; providing a range of services to members; promoting safety and training to hillwalkers and climbers and encouraging responsible use of the mountain environment.