



Submitted to Scottish Parliament Rural Affairs & Islands Committee in response to a public enquiry on the draft Agriculture and Rural Communities (Scotland) Bill
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For draft bill see: <https://www.parliament.scot/bills-and-laws/bills/agriculture-and-rural-communities-scotland-bill/overview>

1. Do you think a framework bill is the right approach?

YES

We believe a framework bill is the right approach.

However, this first draft of the Agriculture & Rural Communities Bill is lacking in necessary detail.

2. Does the Bill provide a clear foundation for future rural policy and support?

NO

Whilst we welcome this draft framework bill, in particular the link to the Climate Change Plan, the alignment with European policy, and the inclusion of Rural Communities in the title and scope, the proposed legislation requires a clearer vision and intent in relation to rural communities and the rural economy, including for example through:

- Substantive reference to rural policy, starting with inserting in the title of Section 1 of the draft bill: Overarching objectives of agricultural [and rural] policy
- Removal of terminology that may restrict activities unnecessarily, for example including in para (c) of Section 1 (the facilitation of on-farm nature restoration, climate mitigation and adaptation, and) where the term 'on-farm' is restrictive and should be expanded by the inclusion of 'land-based' so that it reads "the facilitation of on-farm and land-based nature restoration, climate mitigation and adaptation"

Further to this we note that the policy memorandum is silent on critical mechanisms for rural development including the Community Led Local Development network.

We suggest that MSPs question the vision and intent of the bill in relation to rural communities and the wider rural economy and seek to establish clarity on links between the

bill, the Rural Support Plan and other legislation and policy relating to agriculture and rural communities including the Islands (Scotland) Act 2018 and the forthcoming Rural Delivery Plan.

Section 1 sets out ‘overarching objectives’ of agriculture policy. They are:

- the adoption and use of sustainable and regenerative agricultural practices
- the production of high-quality food;
- the facilitation of on-farm nature restoration, climate mitigation and adaptation
- enabling rural communities to thrive

1. Do you think these are the right objectives?

NO

We question the scope of current objectives being limited to the wording of the Scottish Government’s 2022 Vision for Agriculture. The objectives must consolidate reference to rural communities and the rural economy including through:

- expanding the Section 1 title to include “rural” i.e. Overarching objectives of agricultural [and rural] policy;
- expanding the objectives to include reference to the rural economy.

The objectives must amend terminology that may restrict activities unnecessarily, for example:

- In para (c) of Section 1 (the facilitation of on-farm nature restoration, climate mitigation and adaptation, and) where the term ‘on-farm’ is restrictive and should be expanded by the inclusion of ‘land-based’ so that it reads “the facilitation of on-farm and land-based nature restoration, climate mitigation and adaptation”
- In same para (c) to replace ‘nature restoration’ with ‘nature restoration and maintenance’ to acknowledge that not all natural habitats require restoration.

The objectives must link to the realisation of the right to food for Scotland’s people.

The objectives must be explicit about the link to maintaining and enhancing the welfare of farmed animals.

Purpose and objectives (sections 2 and 3)

Section 2 provides that Scottish Ministers must prepare a five-year 'Rural Support Plan' and Section 3 provides that certain matters must be considered when preparing or amending a rural support plan. These matters include:

- the objectives set out in Section 1
- proposals and policies in the climate change plan which relate to agriculture, forestry and rural land use
- any other statutory duty relating to agriculture or the environment
- development of EU law and policy

1. Do you think the requirement that Scottish Ministers must prepare a five-year rural support plan is the right approach?

YES

We welcome this requirement as (alongside multi-annual funding) it will help businesses and communities to plan for the longer term and achieve any objectives set out in the plan.

2. Do you agree with the matters to be considered when preparing or amending a rural support plan, as set out in section 3?

NO

The Bill should prescribe the content of the plan in some detail, as is the case with the Climate Change Plan, including:

- Obligation for co-production with communities (land manager and rural population) and businesses in the preparation of the Plan including on the framing of proposed measures and schemes therein.
- Obligation for Rural Support Plans to have a clear intervention logic for each measure and scheme alongside an elaboration of the interdependencies between these.
- Obligation for Rural Support Plans to set out how:
 - They will meet obligations under the proposed Nature Environment Bill; the Climate Change Plan and contribute to a Just Transition for all.
 - They will support the implementation of policy, (e.g. Rural Skills Action Plan, Rural Delivery Plan, National Islands Plan)
 - They will support the undertaking of obligations e.g., the Islands (Scotland) Act 2018 or Good Food Scotland (Scotland) Act 2022.
- Obligations for Rural Support Plans to set out a budget, % allocation and financial envelope for each key objective and scheme including any caps (maximum direct payments).

- Establishment, role and function of appropriate delivery mechanisms for measures and schemes.
- Establishment, role and function of monitoring body as part of overall governance of preparation, implementation and amendments to the Rural Support Plan.
- Establishment of a monitoring and evaluation framework and performance framework.
- Establishment of a networking function to support co-operation (including with EU partners), communications, engagement, monitoring and evaluation in the preparation and implementation of the rural support plan

Part 2 confers powers on Scottish ministers to, among other things:

- Provide support for the purposes described in Schedule 1 (and by regulations add, amend, or remove purposes in Schedule 1)
- make regulations regarding any guidance that is produced in relation to support
- make regulations to place an upper limit (or ‘cap’) on support and assistance
- provide support under exceptional market conditions
- make regulations about support, including how the amount of support is to be determined, conditions that may be imposed, enforcement, monitoring and administration, eligibility criteria, and payment entitlements.

1. Are the powers in Part 2 sufficient to provide for a new rural support programme?

DON'T KNOW

Without detail of what the programme might involve, it is difficult to comment.

For a rural support programme to work for nature and climate, as well as for food production and wider rural development, it needs to have people’s livelihoods and progression at the heart of it. This means it must be designed to support a populated rural and island landscape, equipped for endogenous economic and social growth, with a progressively more skilful population, in order to contribute to Scotland’s and to global climate and biodiversity targets. In practice, the bill’s provisions must enable:

1. Just Transition principles embedded across all provisions and instruments, not only a Just Transition Mechanism.
2. Accurate categorisation and recognition of land and businesses including, for example, reduction in the minimum area threshold to 1 HA, consistent with CAP and recognition for urban farms.
3. A tailored payments regime to flex with different circumstances, including an elective ‘lite’ Small Recipients Scheme and a replacement for LFASS as a form of Direct Payment in the short to medium term.

4. Proportional conditionality, for example a threshold for access to Tier 2 which can flex over time in acknowledgement that some farmers, crofters and land managers may have a longer or more complex journey towards adaptation.
5. Specific provisions and incentivisation for Generational Renewal, mirroring one of the 2023-27 CAP's ten key objectives.
6. Place-based design and delivery of schemes and measures, as opposed to a centralised, one size fits all, approach to design and delivery. In this regard, for example, it is important to establish whether the provision in Part 5 (para 50) enables place based design and delivery of schemes (i.e. according to the place principle), or whether it merely means that schemes might have different thresholds according to the type and location of land.
7. Investment mechanisms for de-centralised, place-based knowledge exchange and skills development initiatives for all stakeholders involved in farming, crofting and wider rural development which would allow elements of co-design with local land manager stakeholders.
8. Linked to the above, recognition of and support for indigenous land management knowledge and traditional practice, ensuring this is equal to the recognition of and support for 'innovations.'

We suggest that it is necessary to question the detail of Scottish Government's plans for a payment system, as well as seek to understand where these plans may, according to the range of stakeholders, be strengthened, before evaluating whether the powers will be sufficient.

We would particularly emphasise the need to involve a broad range of stakeholders in the derivation of any system of metrics which guide payments.

We would also seek clarity on the transition period to the new programme and how that will be managed so that it does not place overwhelming bureaucratic pressure on both land managers and public services.

Finally, we note that a range of powers are likely to be required by Ministers to deliver on agricultural and rural policy objectives which, however, are contained within other Acts or proposed legislation including legislation around planning and land reform.

We would seek clarity on whether additional, necessary powers, such as creating new forms of tenancies, will be adequately provisioned through existing or proposed legislation.

2. Do you agree with the purposes as set out in Schedule 1?

YES

Overall, we agree with the purposes as set out in Schedule 1.

However, we would like to see a purpose introduced under either Rural Communities or Knowledge, Innovation, Education and Training for resourcing of the public participation necessary to shape the measures and schemes that will arise from this bill.

We also wish to note that critical to achieving positive results across the four objectives, but in particular with regards to the high quality food objective, is increasing local access to infrastructure including, but not exclusively, abattoirs, community butcheries, larders, blast freezing, deep cold storage, machinery rings and transport solutions.

We suggest that MSPs question how local food production infrastructure will be supported through the mechanisms and powers within the Bill.

2. Do you have any other comments on the provisions in part 2? Please provide response

YES

We have highlighted the need for inclusion of greater detail, particularly on the scope and contents of a Rural Support Plan.

Additionally, in Section 10, it would be helpful to have clarity on what constitutes the public interest. Part of the public interest is transparency and in this respect it is important that the ultimate beneficiaries of financial assistance are identified. This could be for example through the Register of Controlled Interests, the People with Significant Control Register, or the Register of Overseas Entities. As well as preventing the use of land in Scotland for money laundering, this allows the public to see who is benefiting from taxpayer assistance.

In due course, the issue of land ownership by overseas residents, land taxation and eligibility for subsidies should be part of wider land reform.

Part 3 confers powers to modify existing legislation relating to support. The policy memorandum states that there should be a “smooth transition” from the current Common Agricultural Policy (CAP) rules to the future support schemes and, to achieve this, the Scottish Ministers need “suitable powers” to modify current CAP rules, including making more extensive changes and repealing them when the time is right.

Part 3 enables the Scottish Ministers to, among other things:

- **Simplify, improve or update relevant retained EU law relating to the Common Agricultural Policy**
- **continue or end the operation of that legislation**
- **modify the financial provisions in that legislation**

1. Do you agree with the Scottish ministers' powers in Part 3 relating to retained EU law?

DON'T KNOW

While it is the stated aim of the Scottish Government to maintain alignment - where possible - with the European Union Common Agricultural Policy (CAP), there remain untapped opportunities for further powers and mechanisms that would enable greater alignment, with regards, for example, to the CMO targets and to knowledge exchange activities that would enrich both the Scottish and the wider international approach. If Scotland's vision is to be a global leader in sustainable and regenerative agriculture, its agricultural, food & drink and community sectors must be present and active on the global stage. This activity goes beyond the EU, to include countries in various networks and forums including the OECD and the Arctic peripheries.

We suggest MSPs seek clarity as to how the framework bill's powers will enable Scotland's agriculture and related sectors to remain visible and active in global forums.

Section 26 provides that Scottish Ministers must prepare and publish a 'Code of Practice on Sustainable and Regenerative Agriculture'. There is no deadline for producing this. Regulations made under Section 7 (on guidance) may require this Code of Practice (or any other guidance about support) to be laid before the Scottish Parliament, require certain people to follow or pay attention to the guidance, or specify that following the guidance is important to ensure that a person has met a statutory duty or condition of support.

1. Do you agree with the provisions on a Code of Practice on Sustainable and Regenerative Agriculture?

DON'T KNOW

A Code of Practice on Sustainable and Regenerative Agriculture was not included in the original bill consultation, nor does it have its provenance in the consultation response document. While we are in principle supportive of clear and helpful guidelines for sectors, a "code" implies something more than guidance and therefore requires careful planning and extensive consultation.

We question the provenance of the Code and seek reassurance that any Code will be developed in proper consultation with stakeholders.

2. Do you agree with the power – set out in section 7 – for the Scottish Ministers to make regulations about the guidance contained in a Code of Practice on Sustainable and Regenerative Agriculture?

DON'T KNOW

A Code of Practice on Sustainable and Regenerative Agriculture was not included in the original bill consultation, nor does it have its provenance in the consultation response document. While we are in principle supportive of clear and helpful guidelines for sectors, a “code” implies something more than guidance and therefore requires careful planning and extensive consultation.

We question the provenance of the Code and seek reassurance that any Code will be developed in proper consultation with stakeholders.

Section 27 of the Bill gives Scottish Ministers the power to make regulations about continuing professional development for certain people or professions. ‘Continuing professional development’ typically means things like attending a training course or otherwise developing knowledge and understanding within a sector. The policy memorandum states the policy objective of this power is to “support delivery of knowledge, innovation, education and training in agriculture and land use or related sectors”

1. Do you agree with the provisions around continuing professional development?

DON'T KNOW

It is not possible to provide a definitive answer without understanding the detail of proposals for CPD programmes. We are in principle, supportive of plans to introduce high quality CPD.

We would like to see:

1. More clarity on future plans regarding how CPD will strengthen skills, knowledge transfer and innovation in wider rural development and in non-agriculture land management such as forestry and nature conservation management, rather than just focusing on the agriculture industry.
2. More clarity on how future plans regarding CPD will support education and skills training for the wider public, especially for young people – potential new entrants - in formal and informal education settings.
3. More clarity on how the CPD agenda will link with support for access to land – we know that place based rural skills, accredited skills etc. produce young adults with a passion who would want to work the land and experience extreme and derailing difficulties in securing tenure or ownership of any meaningfully sized parcels of land.
4. More clarity on how the CPD programme will interact with the forthcoming Rural Skills Action Plan and also clarity on future plans for the delivery structure for any CPD services which, ideally, must be locality-based, person-centred and promote bespoke peer learning and support opportunities..

2. Is there anything missing from the Bill that you expected or wanted to see? You may wish to consider issues discussed in the Agriculture Bill consultation which are not explicitly referenced in the Bill.

YES

We suggest there are opportunities through the Scottish legislation to mirror provisions in the Agriculture (Wales) Act 2022 which better support culture and languages.

3. Is this Bill an appropriate replacement for the EU's CAP regime in Scotland?

NO

Amongst other considerations, the current draft would require:

- Stronger focus on rural policy and the rural economy as per the EU context;
- More detail and commitment around a multi-annual financial framework;
- Greater clarity around how activities under proposed Rural Support Plans will connect with successors to the structural funds and how rural support plans connect to a wider programme of research and knowledge exchange than currently outlined (as per Horizon Europe)

4. Are there any issues arising from the interaction of this Bill with other UK and Scottish legislation?

From a UK perspective, there are likely to be matters around market competition and the impact of legislation including the UK Internal Market Act and Subsidy Control Act. Without specific detail on the provisions however, it is difficult to assess this.

From a Scotland perspective, in addition to climate change legislation already mentioned in the draft framework bill, there are synergies with a range of legislative initiatives including the Planning (Scotland) Act, the Islands (Scotland) Act 2018, the Good Food (Scotland) Act 2022 and forthcoming legislation on Land Reform, Community Wealth Building, Natural Environment and Circular Economies. Whether these synergies are enabling or negative depends on the consultation/co-production and governance elements of this framework bill which will guide development of the secondary legislation and related schemes and measures.

Further comments

1. Please use the text box below to set out any further comments you wish to make about the Bil:

No comments