

Response ID ANON-XEE5-9T7M-8

Submitted to Delivering our Vision for Scottish Agriculture. Proposals for a new Agriculture Bill
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1. Future Payment Framework

1 Do you agree with the proposal set out above, in relation to the Agriculture Bill including a mechanism to enable payments to be made under a 4 tiered approach?

Yes

Please give reasons:

Scottish Rural Action agrees that the Agriculture Bill should include a mechanism to enable payments. However, there is insufficient information in the consultation document for us to reach a conclusion as to whether the proposed 4 tiered approach will deliver on the Bill's stated purpose - to "enable flexibility whilst ensuring that Scotland's people are able to live and work sustainably on our land" - and on the Bill's four stated key outcomes:

- high quality food production;
- climate mitigation and adaptation;
- nature restoration; and
- wider rural development.

We would have expected to see explicit in the Bill consultation document the following:

- Proportionate conditionality - while conditionality is important to deliver on food and environmental outcomes, Tier 1 in particular must be delivered through an unbureaucratic, proportionate and fair mechanism. Without support for farmers and crofters, the proposed production of a 'Whole Farm Plan' is likely to put significant resource burdens, including financial burdens on small-scale businesses (with the caveat that crofters and farmers below a certain scale threshold could be except - ie. Proportionate conditionality. Excessive conditionality is likely to translate to excessive bureaucracy which in turn will put enormous pressure on the entire system, leading to delays in payments and potential detrimental impacts on land, food production, communities, farmers, land workers, crofters etc.
- Continuation of the Less Favoured Area Support Scheme specifically, or more generally a replacement mechanism within the Bill that allows for payments to be tailored to distinct area categories.
- Specific provisions for new farming entrants, with an aim to support more young and marginalised voices into agriculture in Scotland. This could include four outcomes to be augmented by something similar to CAP's Objective for 'generational renewal'. This must be targeted, and could include payments to reward older farmers and crofters to pay their units to suitably qualified, younger and more active entrants.
- A robust approach to including different activities under different Tiers. It is concerning that where the consultation document is specific about activities, for example by including Tree Planting and Peatland Restoration under Tier 4 "support services", this specificity does not appear reasoned. Another example area where the consultation document is specific without an obvious reasoned approach is by limiting Tier 2 activities to support for businesses that are "highly effective" in reducing greenhouse gas emissions and restoring nature without an explanation of how "highly effective" is defined in practice and whether it will recognise businesses that deliver ongoing good practice in environmental management. Areas where the draft lacks specificity are equally concerning. For example, the draft is not clear which Tier 'wider rural development' may fall under and what this will involve.
- Linked to above comments, greater acknowledgement of the importance of planning farm progression between Tiers, especially between Tier 1 and Tier 2, so that each Tier is not seen as a silo, but as an integrated and supportive approach to giving all farmers, crofters and land managers an opportunity to explore and introduce activities under the four outcomes listed above. Just Transition principles must be embedded across this approach from the outset in addition to including a separate "Just Transition Mechanism" in the legislation.
- Greater clarity regarding how the distribution of payments between Tiers will be prioritised. The consultation document contains a statement that at least 50% of funding will be predicated on 'enhanced conditionality' but there does not appear to be a link between this statement and the narrative on the Tiers.

Additional concerns with the current proposal (or lack of detail within the proposal) include:

- Conceptual and language inconsistencies across the contents of this consultation document and, also, between this consultation document and other Bills/proposed Bills including the Land Reform Act, Good Food Nation Bill and other policies/draft policies including the National Planning Framework 4. Any new agricultural legislation and resulting changes must reflect the role of the planning system.
- Lack of clarity regarding exactly how the Scottish Government envisages the interactions between the proposed agricultural bill and the UK Internal Market Act and Subsidy Control Act insofar as both could significantly impact on the ability of the Scottish Government to fully implement its policy ambitions.
- Lack of mention of co-production structures for development of secondary legislation relating to the Bill and resultant policies. It is critical that organisations representing rural and island community interests, beyond just agriculture, are included in the co-production structures.
- Lack of mention of future governance and delivery structures which will oversee and deliver Bill/secondary legislation/policy implementation. We would expect the Bill to be clear on the governance and delivery structures that will replace previous EU structures, especially given the significant resources that will be required to put these in place.

Underpinning all these matters, we are also concerned about the lack of an overarching and long-term strategic approach for agriculture and wider rural development in Scotland which would frame and guide Bill implementation. The lack of detail at this level not only engenders great concern across the agriculture and wider rural development sectors, as can be seen in media releases by the various organisations, but the lack of a narrative on the interconnectivities between the four outcomes (food, climate, nature AND rural development) risks creating silos which will prevent the kind of joined-up work we need the Bill to support.

Finally, it is disappointing to see that redistribution and fairness, core principles for the CAP, which Scottish Government claims to wish to align with, and yet we find these principles almost entirely lacking in this consultation. Thus, the new CAP says that 'The new CAP places a greater priority on fairness for farmers and workers' and seeks to achieve this by means of a 'Complementary Redistributive Income Support for Sustainability (CRISS)' payment element. The term 'redistribution' is entirely lacking in the vision document, and 'fairness' is only apparently relevant to the proposed reforms for tenant farmers. Since this is a Scottish Government which generally tries to uphold principles of social and economic equality in most other spheres in its policies and its vision for Scotland, it is disappointing to see these concepts apparently discarded and irrelevant in the sphere of agriculture and rural development.

2 Do you agree that Tier 1 should be a 'Base Level Direct Payment' to support farmers and crofters engaged in food production and land management?

Yes

Please give reasons:

Yes, we agree that Tier 1 should be a Base Level Direct Payment to support farmers, subject to our previous comments about the need for proportionate conditionality (i.e. introducing a simple assessment and compliance regime which gives all farmers and crofters equal opportunities to eventually explore and introduce practice eligible under Tier 2). Further, conditionality must take into account multiple factors including farm size and land type (10 ha of Black Isle land could be more productive than 100 ha of rough grazing for whom the LFAS scheme is a life saver) and the outcomes that are expected .

We agree with the intention that Tier 1 should support "active farming and food producers." What this statement means in practice and how the Tier will be designed and implemented must be defined through co-production with relevant stakeholders from agriculture and from wider rural development.

We also feel that it is important that there be a more consistent approach than has been taken in the past (see excerpted Law Society comment re gorse and scrub below in response to B(c)) in avoiding the penalising of area-based payment claimants who allow scrub or other biodiversity-rich habitats (even including rock exposures, perhaps, to a certain limit) to exist or even expand on their 'hectares', thus making area-based payment logic and objectives directly contradictory to the logic inherent in other elements of the eventual Bill which are designed to incentivise carbon sequestration and increase areas of natural habitats.

It would also be very desirable, this time from the standpoint of food security, local food production support and rural community resilience, to abandon the practice of removing smaller areas from area-based payment eligibility which are intended to be used for small-scale horticulture, e.g., vegetable and fruit-growing plots and polytunnels.

We also note that, while changes and challenges to the existing models of farming and crofting are both inevitable and necessary, government should be mindful that a substantial proportion of current claimants do not currently receive any payments outwith the framework of area-based, greening, coupled and LFASS 'schemes' and to shift 'overnight' to a system which relegated these payments to small fractions of their current levels could lead to locally devastating detrimental impacts on income levels for smaller scale producers in particular, and have negative knock-on effects on the often economically weak and relatively undiversified communities in which they're based.

3 Do you agree that Tier 2 should be an 'Enhanced Level Direct Payment' to deliver outcomes relating to efficiencies, reducing greenhouse gas emissions and nature restoration and enhancement?

Yes

Please give reasons:

Yes, we agree that Tier 2 should be an Enhanced Level Direct Payment to deliver outcomes relating to efficiencies, reducing greenhouse gas emissions and nature restoration and enhancement. The focus on 'enhancement' rather than just 'restoration' is correct and important in the context of the biodiversity crisis and move to a just transition. However, as stated previously, we would caution against the use of language such as "highly effective" where this is not defined relative to a clear baseline.

It is critical that the Bill mechanisms support businesses to continue delivering good practice in land management where such practices MAINTAIN low emissions, low pesticide/fertiliser inputs/high value nature restoration or enhancement rather than just aim to REDUCE IT FURTHER. It is important to recognise the good work happening in Scotland, whilst recognising where this might be strengthened. In this respect we fully support the Law Society's view that "there are particular challenges to ensure that those who have previously made improvements to support climate mitigation and adaptation are not now penalised by being unable to benefit from funding if a scheme is based on making changes, rather than on achieving certain outputs."

While the wording chosen appearing to balance restoration versus maintenance is encouraging, government should still beware a disproportionate focus on the restoration and creation side of the ledger – versus rewarding and sustaining those land managers who already play a crucial role in looking after high nature value areas and practice low-intensity and low-emission forms of agriculture. Any tendency to structure incentives and conditionality mechanisms to become – in practice even if not necessarily in intention or design – more accessible and easier for those who have been among the more damaging producers through the intensity of their methods over the last few decades would be unfortunate. This would perpetuate the inequity of existing systems – especially in the biodiversity/agri-environment area – where the high cost barriers to entry, poor design of schemes for many crofters and smaller units (even with collaboration) and inappropriate weighting towards habitat creation rather than maintenance have cumulatively resulted in the failure of these schemes to be taken up at all across wide swathes of the west and north Highlands, for example. This despite the fact that these areas contain some of the best high nature value farming areas in the country.

The primary and secondary legislation and resultant policies must ensure that provisions are enabling for traditional practices that stimulate biodiversity and enrich the soil, for farming that contributes to the 'human food chain' (as opposed to focusing on grains for distilling with a fallback of animal feed, for example) and for place-based seed diversity and resilience.

Under Tier 2, it is also important to include eligibility of 'wider rural development' activities that crofts and farms take forward which strengthen community resilience to climate change and biodiversity loss as well as contributing to stemming population decline, quite literally giving people the opportunity to grow roots in communities.

Tier 2 also needs to address legacy and succession, for example incentivising crofters and farmers to release a portion of land for a defined period of time to allow younger entrants to use the land to develop within the context of food production in a biodiverse way. This should link with the skills agenda of place-based training and support through the Farming Advisory Service, Lantra, Scottish Crofting Federation and local tradition bearers.

How the Tier is designed and implemented must be defined through co-production with relevant stakeholders from agriculture and from wider rural development.

4 Do you agree that Tier 3 should be an Elective Payment to focus on targeted measures for nature restoration, innovation support and supply chain support?

Yes

Please give reasons:

We agree that Tier 3 should be an Elective Payment and we agree that it should be available to entities that are not necessarily in receipt of Tier 1 or 2 payments. The scope of Tier 3, however, appears ill defined and we therefore cannot reach a conclusion as to whether it will help meet all or any of the four key outcomes of the Bill.

As the (perceived) most flexible Tier in terms of eligible beneficiaries and activities, there is wide expectation that it will cover a range of priorities which are not necessarily just about 'innovation' but about building shared infrastructure for food production, climate change mitigation and nature restoration, strengthening good practice, increasing diversity in the sector and contributing specifically to 'wider rural development' outcomes. Such priorities include:

- Establishing critical infrastructure related to improving production and supply chains in the agriculture, food & drink sectors e.g., abattoirs, community butcheries, larders, blast freezing, deep cold storage and transport solutions. The Greenland model of Kalaaliaraq – establishing designated local slaughtering and trading areas – may have application in Scotland;
- Enhanced provision for groups under-represented in agriculture so they may enter into the sector (i.e., enhanced provision for those who are not already in receipt of Tier 1 payments);
- Recognition of and further support for indigenous land management knowledge and traditional practice, ensuring this is equal to the recognition of and support for 'innovations';
- Community led-local development approaches to achieving the Bill outcomes;
- Partnership approaches to nature restoration – Nature Networks and farm clusters, support for strengthening crofting collaboration in and beyond crofting township scale, for example;
- Similarly to the Welsh Agriculture Bill, programmes that support culture and languages, such as those that were recently explored in the Gaelic and Scots and Scottish Languages Bill consultation.
- Support for urban farms that do not receive other forms of subsidy.
- Scope within this Tier for first piloting and then roll-out of hybrid locally-led and results-based schemes which can achieve significant outcome improvements at a landscape scale for biodiversity, while also providing structures which can dramatically increase take-up in agri-environment and unit productivity measures in areas with hitherto historically-low participation rates – especially crofting and hill farming areas. While the approach taken so far by government and NatureScot has almost entirely emphasised the results-based side of this equation for habitats and species, we believe that it is only when farmers and crofters are empowered to participate in scheme design in an innovative fashion (drawing on Irish, English, Dutch and Welsh experience) and incorporate additional management measures which benefit their management that these schemes can have the desired level of impact and will attain the level of buy-in that can make them sustainable in the long-term. It is critical that the approach taken allows scope for local priorities (as identified by land managers) such as water quality, bracken/scrub control, management to prevent damaging fires, maintenance of archaeological structures etc .

How Tier 3 is designed and implemented must be defined through co-production with relevant stakeholders from agriculture and from wider rural development. It is vital that the innovation elements in this tier are not restricted to initiatives emanating from central government, but allow room for including ideas and proposals coming from farming and crofting communities themselves, which could e.g., be analogous to competitive EIP programmes under the CAP.

5 Do you agree that Tier 4 should be complementary support as the proposal outlines above?

Yes

If so what sort of Complementary Support do you think would be best to deliver the Vision? Please give reasons:

We agree that Tier 4 should be complementary support and advice services. We would like to see this include:

- In person (and person-centred) support to help businesses with application processes and meeting conditionality assessments
- Payments and Inspections Directorate (or similar) staff and locality-based Community- Led Local Development staff
- Training and peer networking services across Scotland and further afield
- Place- based education and land literacy for young people; land-based courses, apprenticeships, internships
- Financial and expert advisory support with soil, carbon and biodiversity audits. Coordination to make these audits and other monitoring requirements more efficient e.g. taking a whole-township approach
- Advisory support to implement learning, tools and initiatives from the National Test Programmes
- Advisory and delivery support for the development of robust Tier 3 partnership and infrastructure.

We see a useful distinction between Tiers 1,2, 3 on one hand, and Tier 4 on the other, being business or community-led programmes (direct payments) in the former and centrally organised structures or programmes (indirect payments) in the latter. The emphasis should be on the centralised structures funded through Tier 4 supporting the place-based Tier 1, 2 and 3 activities.

The inclusion of Tree Planting and Peatland Restoration as an indirect payment indicates a centralised approach to these activities which we do not agree with. There should be a centralised service funded in Tier 4 which supports Tier 2 and 3 place-based planting and restoration activities. We also fear that the potentially more inflexible direction of centralised tree-planting targets, in particular, may lead to consequences which run directly counter to a Just Transition, benefiting a small number of large-scale and capital-rich landowners at the expense of vulnerable local communities and smaller farmers and crofters.

The potential inclusion of both coupled schemes and LFASS/ANC in Tier 4 seems illogical and inconsistent with the apparent internal logic of what it is currently possible to perceive of the eventual new support system, and we would urge government to find a more suitable home within the Tiered arrangement for both of these – perhaps in Tier 2.

How the Tier is designed and implemented must be defined through co-production with relevant stakeholders from agriculture and from wider rural development informed by place-based cultural and land-based knowledge.

6 Do you agree that a 'Whole Farm Plan' should be used as eligibility criteria for the 'Base Level Direct Payment' in addition to Cross Compliance Regulations and Greening measures?

No

Please give reasons:

Proportionate conditionality is vital to help achieve the Vision for Agriculture and the four key outcomes however, based on the limited information provided within the consultation document we have concerns that the requirement of a Whole Farm Plan will place significant burdens both on businesses and on staff responsible for administering Tier 1 and Tier 2 payments which may have unintended, detrimental impacts to the business/practices, individual and community well-being, payments, and so on. We are concerned by processes that may be overly cumbersome to smaller farmers, crofters, producers, etc.

One potential approach may be to only make this obligatory above a certain threshold of either area or activity level, possibly combined with a Small Recipients Scheme.

We strongly recommend that the Bill is not prescriptive about this approach until it is defined through co-production with relevant stakeholders from agriculture (i.e., small-scale farmers, crofters, and indeed managers of larger acreages) and from wider rural development.

7 Do you agree that the new Agriculture Bill should include a mechanism to help ensure a Just Transition?

Yes

Please give reasons:

While we agree that the Agriculture Bill should include a mechanism to ensure a Just Transition similar to European legislation for agriculture and rural development, we wish to highlight that this alone is not enough and that the Bill itself needs to incorporate just transition principles into its designed from the beginning. This would involve programming in, from the outset, flexibility within all measures to support those groups and businesses that we know will be negatively impacted by the kinds of transitions that are needed in the sector to address multiple challenges, including greenhouse gas emission reductions, nature recovery, sustainable resource use, dietary shift and food security.

The specific Just Transition Mechanism may enable swift responses as our understanding of the impacts evolve or in the face of rapidly emerging trends. It is important to clarify whether the Just Transition Mechanism will be used to compensate land owners and tenants in situations such as controlled flooding/sea levels rise defence. Furthermore, whether it will apply to businesses not in receipt of Tier 1 or 2 payments and to explore what this might mean for smaller tenants on large estates.

One of the key challenges for securing a Just Transition is to ensure that conditionality measures are not so designed as to be preferentially available or accessible to applicants with above-average capital resources, e.g., through being able to speculatively employ consultants on plans or applications that may fail, whereas smaller and poorer potential applicants may be deterred from even applying in the first place because of the poor balance between risk and reward for their circumstances.

Government should also beware of unintended consequences through application of entirely laudable principles for e.g., afforestation, habitat creation or restoration, etc which may lead to effects on land values and markets which could have very detrimental effects on the abilities of local communities to take control of their own destinies and reap the benefits of such management themselves rather than, e.g., see the capital generated by carbon credits end up offshore or in the pockets of those who do not themselves live on the land concerned. Again, this could be one of the cases where the effects of the new land use support system runs directly against the principles so enthusiastically espoused in the same government's land reform legislation and policies.

The use, where potentially appropriate, such as for area-based payments in Tier 1 and possibly for other payment types (e.g., coupled payments), of capping should be given serious consideration by government as part of its efforts to secure a just transition. Degression of payments – where certain payment elements are front-loaded to the first tranche of hectares to a certain threshold, and potentially to a second threshold as well, could also be useful in this regard.

We strongly recommend that the Just Transition Mechanism it is defined through co-production with relevant stakeholders from agriculture and from wider rural development.

8 Do you agree that the new Agriculture Bill should include mechanisms to enable the payment framework to be adaptable and flexible over time depending on emerging best practice, improvements in technology and scientific evidence on climate impacts?

Yes

Please give reasons:

Yes, we agree that the payments framework should be adaptable and flexible over time. However, we would like to see effective traditional practices (i.e., not necessarily 'emerging') elevated to the same significance as 'improvements in technology and scientific evidence'.

We are also concerned that, with the lack of an overarching strategic approach for agriculture and wider rural development in Scotland, there is no framework against which to assess the potential impact of existing and emerging practice, including for mitigating climate change or for contributing to the economic resilience of rural and island communities.

We strongly recommend that a long-term strategic approach to agriculture and wider rural development is defined through co-production with relevant stakeholders from agriculture and from wider rural development.

9 Do you agree that the new Agriculture Bill should include mechanisms to enable payments to support the agricultural industry when there are exceptional or unforeseen conditions or a major crises affecting agricultural production or distribution?

Yes

Please give reasons:

Yes, we agree with this approach.

2. Delivery of Key Outcomes: Climate Change Adaptation and Mitigation

1 Do you agree with the proposal set out above, in relation to the new Agriculture Bill including measures to allow future payments to support climate change mitigation objectives?

Yes

Do you have any views on specific powers and/or mechanisms that could support such alignment? Please give reasons:

Yes, we agree that the Bill should include measures to allow future payments to support climate change mitigation objectives.

There needs to be wide and robust debate on how such measures will be identified, implemented and their impact measured (see also answer to question B(b) on conditionality). This will be crucial to identifying which practices must be incentivised, supported, or, where appropriate, discontinued or banned. We have limited evidence at the moment of the impact of mitigation options and it would be easy to cause irreparable damage to the industry and to rural and island communities by focussing on unproven principles.

Furthermore, certain opportunities for decarbonising agriculture such as micro-hydros and other micro-renewables, which are accessible to a wide constituency of farmers and crofters (and contribute to social, economic and environment outcomes) are being progressively disincentivised compared to large-scale or offshore installations which do not directly benefit the sector.

What research does consistently show is that the impact of any mitigation option will be dependent on regional or local conditions. This requires the Agriculture Bill to adopt a place-based approach to framing the agenda. It also requires the Bill to elevate, as we have noted previously, indigenous and traditional practices to the same level of importance for consideration as technological innovations.

We feel that it is very important that the Bill, along with its secondary legislation and resultant policies, must fully align with land reform legislation and with planning legislation and policy and ensure simplicity and clarity across the Agricultural Bill Payments System and the planning system. Major issues in both climate change mitigation and adaptation such as the classification of agricultural land, agri-diversification, drainage schemes, flood risk management infrastructure, rural energy proposals, farm dwellings, agricultural buildings etc. are addressed by planning policies and are subject to planning consent.

Specific powers and measures may include:

1. Establishing clarity around the boundaries of the sector 'agriculture' across all legislative and policy areas that relate to it. Also, clarity around the definition of 'wider rural development.'
2. The power to set specific and ambitious but achievable targets around climate change mitigation with the caveat that these targets must be co-produced with stakeholders from the agriculture and wider rural development sectors. Any targets should form part of a long-term strategic approach to agriculture and wider rural development. This strategic approach is currently lacking in Scotland.
3. Measures to ensure that just transition principles are embedded across payment schemes and monitored appropriately. Such measures need to reside with a governance body for Bill policy development and implementation, a necessary safeguarding structure which is concerningly absent from this consultation document.
4. Measures to align formal education, training and advisory services with payment processes so there is wrap-around support for farmers, crofters and

wider rural development practitioners, including new or interested entrants into the system.

Furthermore, whilst there is limited detail in the proposal on financing natural capital as one way of mitigating climate change impacts, we are concerned by dramatically increased private investment in agricultural areas, incentivised by the soaring market in carbon offsets. This is exponentially increasing land values and, in some cases, prices local communities out of land that has been, or could be, used for food production. In the proposal, it is stated that 'A Green Finance Institute Report from 2021 outlined the nature finance gap of £20 Billion that Scotland is facing this decade. We also recognise that private investment in Scotland's natural capital needs to be responsible [our modification].'

We strongly recommend co-production relevant stakeholders from agriculture and wider rural development to ensure that local communities have a say on how the region's natural capital is used and managed.

2 Do you agree with the proposal set out above, in relation to the new Agriculture Bill including measures to allow future payments to support climate change adaptation objectives?

Yes

Do you have any views on specific powers and/or mechanisms that could support such alignment? please give reasons:

Yes, we agree that the Bill should include measures to allow future payments to support climate change adaptation objectives. Farmers/crofters etc could play a huge role in supporting nature-based solutions to CC adaptation. For example, soil management, grassland management, river management, woodland management can all help with localised flooding and landslides. It is really important that land managers can receive the appropriate support to do this.

Farmers etc could also be supported to trial new crop and livestock species to give a helping hand to nature. Species will migrate naturally to adapt to new climate but 'we' can help speed that process up.

As per the previous question, the Bill must:

1. Adopt and enable a place-based framework for implementing such measures
2. Adopt and enable an evidence-based approach to identifying and measuring the impact of such measures
3. Fully align with land reform and planning legislation and policy
4. Pave the way for a co-production approach to addressing the above points and to setting climate-related targets for agriculture and wider rural development within the context of a long-term strategic approach
5. Embed just transition principles across all measures

Integrate payment regimes with formal education, training and advice services so there is a wrap-around package for farmers, crofters and those involved in wider rural development.

3 Do you agree with the proposal set out above, in relation to the new Agriculture Bill including a mechanism to enable payments to be made that are conditional on outcomes that support climate mitigation and adaptation measures, along with targeted elective payments?

Yes

Please give reasons:

Yes, we agree that Tier 1 payments must have some level of conditionality attached with Tiers 2 and 3 having greater expectation of conditionality. However, across all Tiers, conditionality must be proportionate to multiple factors including farm size and land type (10 ha of Black Isle land could be more productive than 100 ha of rough grazing for whom the LFAS scheme is a life saver) and the outcomes that are expected. It is important that the Bill is flexible to enable farmers, crofters and those involved in wider rural development to progress in their practice (and therefore be subject to more ambitious conditions and outcomes) in an evidence-based way and this will take time. It is also important to ensure, as we have mentioned before, that maintaining good practice is rewarded as much as improvements in practice.

When setting the carbon-related parameters of conditionality for payments, it is important to note the changing nature of climate science and its continuous development. There is still considerable debate around the role that specific agricultural techniques, for example permanent pastures, play in climate change adaptation and mitigation and it would be easy to cause irreparable damage to the industry and to rural and island communities by focussing on unproven principles. It is also important to ensure as the Law Society notes, "that those in the sector are not penalised by differing/conflicting approaches within the wider land management context. For example, for upland framers, gorse and scrub have had to be cleared off the land in the past in order to qualify for subsidy payments, however, now flood management and Riverwoods projects are looking at the provision of gorse and scrub."

One of the confounding issues at the moment is that current carbon audit methods fail to capture (either adequately or at all) the contribution to carbon sequestration represented by permanent grasslands – which obviously constitute a huge proportion of all agricultural land in Scotland – especially hill farming, marginal agricultural land and croftland. An approach which – as currently seems to be the case – appears to regard peatland and woodland as 'the only fruit' for carbon sequestration would be short-sighted, unscientific and, ultimately, very likely to fail to meet Just Transition tests. Wet heath is also frequently overlooked in such more simplistic approaches, despite the fact that it makes up a very substantial proportion of upland areas under extensive agricultural management throughout the north and west of Scotland.

Payment mechanisms must be futureproofed to mitigate against pressure for carbon to be 'bought back' later in order to retain eligibility for claiming carbon-rated credit and associated funding packages.

Mechanisms for payments must be embedded within the provision of education, training and advice so that farmers, crofters and those involved in wider

rural development receive effective, wrap-around support to deliver on climate change mitigation and the reversal of the biodiversity crisis.

As mentioned previously, we would also expect to see clarity regarding attribution of responsibility and ownership in relation to conditionality. For example, in situations where carbon credits are linked to tenanted land (including croftland) there needs to be clarity as to the position of both the landowner and the tenant(s) and due care taken to ensure that any incentive structures do not inadvertently end up skewed in favour of a landowner who has e.g., no involvement in the management of said land, or part in any proposed woodland planting or peatland restoration should not be placed in a position where they would be able to 'profit from the labours of others'.

4 Do you agree with the proposal set out above, in relation to the new Agriculture Bill including measures that support integrated land management, such as peatland and woodland outcomes on farms and crofts, in recognition of the environmental, economic and social benefits that it can bring?

Yes

Please give reasons:

Yes, we agree that the new Agriculture Bill should include measures that support integrated land management such as peatland and woodland outcomes on farms and crofts. However, we are concerned about placing these activities within Tier 4 of the payment framework, indicating a centralised, blanket approach is likely to be adopted which would be detrimental to local areas, particularly islands and remote rural places.

As with all climate change mitigation and adaptation options, there needs to be wide and robust discussion on how peatland and woodland related outcomes will be identified, implemented and their impact measured. In an island community, for example, hand-cutting peat, a practice which is carried out in a restorative manner and usually located less than a mile from usage, may have more positive environmental, economic and social benefits than other forms of fuel or energy generation mechanisms.

As in the previous response, we are also concerned that undue and exclusive emphasis may ultimately be placed in measures relating to woodland and peatland, at the expense of e.g., wet heath, montane areas and grassland, all of which have important roles to play in the mosaic of habitats and soil types which make positive contributions to better carbon sequestration on land in Scotland. Ignoring grassland management – in particular – runs the risk of both allowing current detrimental (in greenhouse gas emission terms) practices to continue unabated and failing to reward those land managers whose practices contribute to carbon sequestration.

Approaches to integrated land management must be identified through co-production with relevant stakeholders from agriculture and wider rural development.

2.1 Nature Protection and Restoration

1 Do you believe the new Agriculture Bill should include a mechanism to protect and restore biodiversity, support clean and healthy air, water and soils, contribute to reducing flood risk locally and downstream and create thriving, resilient nature?

Yes

Please give reasons:

Yes, we agree that the Agriculture Bill should include a mechanism to protect and restore biodiversity, support clean and healthy air, water and soils and contribute to reducing flood risk locally and downstream and create thriving, resilient nature.

We wish however to seek clarity as to why this question places nature protection/restoration and reversing biodiversity loss under a single mechanism. In the consultation document itself, multiple mechanisms are proposed, and we feel this is far more suitable given the potential need for multiple specific targets and approaches to conditionality.

We would expect the Bill, for example, to set discrete targets in line with EU legislation around the reduction of chemical inputs in farming, especially if the government is serious about a) enabling pollinator populations to increase and recover to a substantial degree, i.e., not just reversing declines, and b) restoring water quality and concomitant higher levels of biodiversity in water bodies which would also result through significant reductions in nitrates.

As previously stated, any mechanisms must ensure there is protection and promotion of businesses which are already supporting nature and preserving high nature value areas rather than focusing on continuous improvements. Mechanisms must also be developed through co-production with relevant stakeholders from agriculture and wider rural development.

We would reiterate our concern, already expressed above, that any new approach to nature protection and restoration avoid the previous mistakes of being too top-down, inflexible and effectively inaccessible to the great majority of crofters and smaller farmers who nonetheless occupy the land with the highest 'nature values' in the country.

2 Do you believe the new Agriculture Bill should include a mechanism to enable payments that are conditional on outcomes that support nature maintenance and restoration, along with targeted elective payments?

Yes

Please give reasons:

Yes, we agree with this approach however we would strongly recommend proportional conditionality.

This is where we think it important to emphasise that any schemes which incorporate results-based principles should be flexible and incorporate scope for substantial input from farmers and crofters at the design stage, learning from the successful models in Ireland, the Netherlands and England, for example .

Schemes developed in this way have been proven to result in far higher rates of participation than the likes of AECS – and surely maximising participation in work to improve habitats and species outcomes is one of the core objectives of the new Bill.

3 Do you believe the new Agriculture Bill should include a mechanism to enable landscape/catchment scale payments to support nature maintenance and restoration?

Yes

Please give reasons:

Yes, we agree.

It is however important that sufficient flexibility is applied within this approach to allow developments to progress in circumstances where the majority landowners/stakeholders agree with them. For example, if only 80% of stakeholders in a landscape/catchment sign up to a scheme, this should still be eligible for funding. Collaborative, unanimous actions are difficult to coordinate, and it is important that the Bill creates an enabling regime for as many businesses as possible to engage with positive change rather than putting up barriers due to unrealistic expectations of participation levels.

The Iscpc-scale approach has great potential to bring much higher numbers of farmers and crofters into schemes supporting the maintenance and improvement of important habitats and species, but again it is vital for these schemes to succeed that they be co-designed with local land managers and that elements be included which may be priorities for these – as long as they are not detrimental to the government's core objectives, in the way that the Burren Project, Hen Harrier Project and other results-based and locally-led schemes in Ireland have built e.g., stone wall maintenance, firebreak creation, bracken control, access improvements, support for common land governance, etc into the fabric of such schemes, thus giving participants a stake and empowerment in the resultant models which strengthens their commitment to the wider national objectives as well.

It is important to note that the inclusion of a landscape/catchment scale mechanism will require dedicated resourcing under Tier 4 training and advisory services to help farmers, crofters and those involved in wider rural development to deliver them in practice. The Highland Good Food Partnership is taking forward work on farm clusters and crofting collaboration that may inform secondary legislation and the policy approach.

2.2 High Quality Food Production

1 Do you agree that the powers in the Agriculture and Retained EU Law and Data (Scotland) Act 2020 should be extended to ensure Scottish Ministers have flexibility to better respond to current, post exit, circumstances in common market organisation and easily make changes to rules on food?

Yes

Please give reasons:

Yes, we agree. However, in the absence of detail within the Bill consultation document of any future governance structures for the oversight and implementation of the Bill and its associated legislation and policies, we are concerned about the centralisation of control with Scottish Ministers and how this will shape decision-making.

We are particularly concerned that the voices of small-scale producers and growers, as well as the voice of rural and island communities, will not be heard or acted upon.

We are also concerned about the lack of a long-term strategic approach for agriculture and wider rural development in Scotland beyond the vision for agriculture and the framework offered by this Bill. This means changes, which may be 'easily' made, might also miss vital opportunities to strengthen cross-cutting policy initiatives such as those delivered under the auspices of the Good Food Nation (Scotland) Act 2022.

Finally, it is important to note that the CMO is currently incorporated into primary legislation. The Scottish Government needs to clarify what aspects of the CMO it wants to retain in Scottish law and the extent to which it wishes to mirror EU law. These proposals should also be setting out what is possible under Scottish law given the reserved nature of issues around competition etc.

2 Do you agree that Scottish Ministers should have powers to begin, conclude, or modify schemes or other support relevant to the agricultural markets?

Yes

Please give reasons:

Yes, we agree, however we would like to see more detail about governance structures for Bill oversight and implementation and more commitment to co-production embedded in processes to inform the Bill and to shape the processes it gives rise to.

3 Do you believe the new Agriculture Bill should include a mechanism to enable payments that support high quality food production?

Yes

Please give reasons:

Yes, we do. However, we wish to emphasise that it is critical the Bill mechanisms prioritise a DIVERSE as well as high quality programme of food production where that food can support local populations, where it maximises contributions to the human food chain (as opposed to the whisky industry with animal feed as fallback), shortens food supply chains and increases food security and resilience as opposed to boost export profits. In this way, the Bill and its implementation must fully commit to putting its stated Vision (see below) in practice and fully align with the requirements and principles in the Good Food Nation (Scotland) Act 2022. The Scottish Government has stated its ambition to have a wellbeing economy, and the principles embedded within this must be considered and legislated for within the Agriculture Bill.

Relevant statement in Vision - "high quality, nutritious food locally and sustainably produced is key to our wellbeing – in economic, environmental, social and health terms. We will support and work with farmers and crofters to meet more of our own food needs sustainably and to farm and croft with nature."

4 Do you believe the new Agriculture Bill should include a mechanism to provide grants to support industry in the agri-food supply chain to encourage sustainability, efficiency, co-operation, industry development, education, processing and marketing in the agri-food sector?

Yes

Please give reasons:

Yes, we agree with this proposed mechanism and would strongly recommend it is designed to support small scale businesses. For example, in the agri-food processing category we would like to see support for local abattoirs, community butcheries, larders, blast freezing, deep cold storage, machinery rings and transport solutions that are essential infrastructure in our agri-food sector.

While the contribution of big agri-business and academic institutions are important to the rural and island agri-economy, it is the thousands of smaller businesses that give it resilience, that enable balanced food production with environmental and community outcomes and that contribute to community wealth building and ecological integrity . It is critical that Tier 4 support and advice services are designed to enable these small-scale business to have fair and straightforward access to grants alongside other groups that struggle to receive investment including younger people, women and people from BME backgrounds.

We also recommend that grants should be accessible to businesses that have proven a supply of diverse food (e.g., market gardens and horticultural businesses). It is worth noting that horticulture businesses are often operating on an area of land that has previously not been recognised through direct payments and we would advocate that this peculiar disincentive to food production be addressed and removed from the new payments system.

5 Do you believe the new Agriculture Bill should include powers for Scottish Ministers to declare when there are exceptional or unforeseen conditions affecting food production or distribution?

Yes

Please give reasons:

Yes, we agree with this approach.

6 Do you believe the new Agriculture Bill should include powers for Scottish Ministers to provide financial assistance to the agri-food sector and related bodies whose incomes are being, or are likely to be, adversely affected by the exceptional or unforeseen conditions described in the declaration referred to above?

Yes

Please give reasons:

Yes, we agree that Scottish Ministers should have these powers.

We do, however, repeat our call for clarity on the governance structures that will oversee the implementation of these powers and we also repeat our call for the Bill to require consultation and co-production with relevant stakeholders from the agriculture and wider rural development sectors when making decisions about all aspects of the Bill delivery, including when it comes to setting financial assistance levels to the agri-food sector and related bodies in times of crisis. It will be important, for example, to consider how financial assistance may be offered to those who lose out on things that offer environmental and social value, rather than exclusively on marketable products.

7 Do you agree that the new Agriculture Bill should include the powers to process and share information with the agri-food sector and supply chains to enable them to improve business efficiency?

Yes

Please give reasons:

Yes, we agree with this approach.

2.3 Wider Rural Development

1 Do you agree that the proposals outlined above should be included in the new Agriculture Bill?

Yes

Please give reasons:

Yes, we agree that proposals on wider rural development should be included in the new Agriculture Bill. This would better enable, as the Vision intends, an integrated, 'whole-land' approach to supporting the agriculture and wider rural and island community and industry development sectors which are all co-dependent.

We strongly recommend however that the Bill offers greater clarity on what constitutes 'wider rural development'. If it is a mechanism (i.e. an integrated model) for delivery of a 'whole-land' approach, then it should be treated as a discrete area with very specific activities and principles relating to maximising the combined contribution of communities, agriculture and other rural and island sectors, including forestry, through a community-led local development approach building on the best of the LEADER legacy and emerging Scottish participatory platforms such as the Scottish Rural Parliament . '

As it reads now, the 'wider rural development' section is a repository for activities that do not fit neatly into other sections of the document which completely dilutes its potential. We would suggest reviewing this approach and removing forestry and any other specific land-based industries that are identified within this consultation into their own specific sections of the Bill, especially if these industries already have a robust legislative framework. In relation to forestry, for example, there is already-existing policy and legislation in place which will require alignment from the Agriculture Bill.

There is, however, no already-existing legislation or long-term strategic framework for wider rural development, with the exception of the Islands (Scotland) Act 2018 and the National Islands Plan. We would expect this Bill to pave the way, as mentioned earlier, for such a framework.

An issue that has been raised repeatedly by our members in this consultation process, is the definition of 'rural' itself and how this definition may impact on the geographic boundaries of the Agriculture Bill's 'wider rural development' provisions. There are concerns that the positive impacts of the Bill may not extend to accessible rural areas that do not have strong presence from the agriculture or forestry industry.

Overall, we strongly recommend that to address these points and to develop a robust Bill and subsequent secondary legislation and policy, the Scottish Government fully commits to a co-production approach with stakeholders from agriculture and wider rural development.

2 Are there other areas relating to non-agricultural land management such as forestry that you would like considered for support under the Agriculture Bill to help deliver integrated land management and the products produced from it?

Don't know

Please give reasons:

The term 'non-agricultural land management' is not defined and at this stage may conceivably include a range of areas such as forestry, the recreational industry, agri-tourism industry, the circular bio-economy industry, renewables sector and the national parks/reserves. There would need to be clear criteria for including any such industries as a discrete section in the Bill or for assuming their inclusion in already-existing sections.

Common Land (as distinct from Common Grazings under Crofting Tenure) may also be an area for inclusion as it offers an opportunity for communities to contribute to local food production linking into local food plans and contribute to community wellbeing.

Further to this, the issue of diversification needs to be clearly addressed within the Bill, its secondary legislation and resulting policies. This includes diversification on a single-farm level or diversification of larger tracts of agricultural land towards non-traditional agricultural activities, such as tree planting, hospitality services or the generation of renewable energy. These activities may play an important role in the resilience of the agriculture sector and the resilience of rural and island communities but need to be balanced with protecting and restoring land for nature conservation and high quality food production.

3 What other powers may be required to enable rural development in Scotland's rural and island communities?

Not Answered

Please give reasons:

We have recommended that Scotland must align with European Union policy and develop an overarching and long-term strategic approach for agriculture and wider rural development which would frame and guide the Agriculture Bill implementation and the implementation of wider government legislation and policy around critical areas such as planning, economy, housing, health and wellbeing. This alignment with European policy may also help with future events including whether Scotland may wish to enter the European Union again.

We wish to clarify that we are not necessarily calling for a Rural Strategy or a Rural Plan, however we are calling for a mechanism that puts a requirement on all government departments to pay due regard to rural and island opportunities and constraints. An option would be that the Agriculture Bill enables Ministers to introduce statutory requirements around 'rural-proofing' or 'applying a rural lens' which has previously been proposed in a private members Bill lodged by now ex-MSP Gail Ross.

We have also strongly recommended that the Bill paves the way for robust governance arrangements involving relevant stakeholders from agriculture and wider rural development.

Finally, we strongly recommend that the Bill offers clear commitment to resourcing the infrastructure necessary to enable wider rural and island

development including the community-led local development network and the structures of the Scottish Rural Parliament. This would align Scottish policy with European policy where a resourced LEADER network and the European Rural Parliament are acknowledged as partners in the delivery of the long term vision for rural areas.

Critically, the Agriculture Bill must pave the way, where possible, for ongoing relations with the rest of Europe. Already, on the back of the most recent European Rural Parliament in Poland, Scotland has been invited to participate in the European CAP network. There are opportunities for cooperation at all levels – community, business, education and academic – that must not be missed.

4 What potential social, economic or other impacts, either positive or negative, would such powers have on Scotland's rural and island communities?

Please give reasons:

Successful delivery on the vision for agriculture requires, as the Vision document states, that Scotland's people are able to live and work sustainably on our land. Agriculture is dependent on vibrant rural and island communities and to support vibrant rural and island communities, we need tailored policy interventions and co-production with rural and island stakeholders.

It is, however, recognised that government, including Scottish Government policy, with the exception of certain initiatives such as the National Islands Plan, frequently fails to respond to the opportunities and constraints of rural and island communities. A statutory requirement for rural proofing, drawing on the approach proposed by ex-MSP Gail Ross, would go some way to raising awareness amongst policy makers and delivery agencies of the need to tailor interventions to the places where they are deployed.

2.3.1 Animal Health and Welfare

1 Do you agree that the new Agriculture Bill should include powers to establish minimum standards for animal health, welfare as a condition of receiving payments?

Yes

Please give reasons:

Yes, we agree the Bill should include powers to establish minimum standards for animal health and to pursue an approach similar to the English Agriculture Bill to strengthen provisions for animal welfare in the context of recognising it as a 'public good.'

2 Do you agree that the new Agriculture Bill should include powers to make payments to support improvements in animal health, welfare and biosecurity beyond legal minimum standards?

Yes

Please give reasons:

Yes, we agree with this approach, however we wish to emphasise the importance of rewarding and maintaining existing good practice rather than focusing exclusively on improving 'bad' practice.

3 Do you agree that the new Agriculture Bill should include powers to collect and share livestock health, welfare and biosecurity data?

Yes

Please give reasons:

Yes, we agree with this approach but it needs to be proportionate i.e. not disadvantage small producers.

2.3.2 Plant Genetic Resources and Plant Health

1 Do you agree that Scottish Ministers should have powers to provide support for the conservation of Plant Genetic Resources, including plants developed and grown for agricultural, horticultural or forestry purposes and their wild relatives?

Yes

Please give reasons:

We do not have expertise on this subject and will defer to others .

2 Do you agree that Scottish Minister should have the power to provide support to protect and improve plant health?

Don't know

Please give reasons:

We do not have expertise on this subject and will defer to others.

3. Skills, Knowledge Transfer and Innovation

1 Do you agree that support should continue to be provided in this area?

Yes

Please give reasons:

Yes, we agree that support should continue to be provided in this area.

2 Is there any particular gaps in delivery that you can identify?

Yes

Please give reasons:

Overall, what this Bill appears to be proposing is a continuation of what has been in place since 2007 in Scotland without due regard to emerging practice, domestically or in the European arena. This would have been an opportunity for the Scottish Government to articulate how new powers will help different elements of the system – including support services, education services, the Rural Skills Action Plan structures, the community led local development network and the strategic research programme - be better integrated and enable knowledge exchange (rather than knowledge transfer). Links to European institutions and initiatives have also not been addressed.

While farmers, crofters and land managers are mentioned within this section of the consultation document, it is unclear whether or not the support will seek to strengthen skills, knowledge transfer and innovation in wider rural development and in non-agriculture land management such as forestry, or whether it will just focus on the agriculture industry with some elements of diversification also explored.

It is certainly important that specific programmes of support are tailored to the different parts of the agriculture industry, from food production to processing and marketing, however a 'whole-land' approach to supporting agriculture will also require a 'whole-land' approach to skills development, knowledge transfer and innovation. Critically, this approach may help integrate farming and rural development and address the barriers farmers face to being involved in activities under the latter area.

A second gap is in relation to education and support for the wider public, especially for young people in formal and informal education settings, around farming, land management and food production. Young people need to be inspired by the potential of becoming involved in a land-based industry, and it is important they start exploring relevant skills early on, during their schooling. The current proposals do offer additional and tailored support for new entrants, however young people need to be encouraged to become 'new entrants' in the first place. Ensuring resilience and continuity of skills requires an extension beyond the existing skills silo of the sector.

Finally, it is important to note that the changes to the current system proposed in this document, including the additional conditionality, will demand significant extra resourcing in terms of support for farmers, crofters, land managers and those involved in wider rural development. Unless there is careful planning, the most likely 'gap' risks being the sheer number of advisors and other providers needed to keep the system operational.

3 Are there any alternative approaches that might deliver better results?

Yes

Please give reasons:

We do not wish to propose an alternative approach at a systems level, however certain key elements need to become embedded in the system if they are not already. These include:

1. Locality-based services with staff working from different parts of Scotland rather than centrally based
2. Person-centred advice and support similar to the micro-enterprise support package offered by Growbiz Scotland and the social enterprise support package offered by InspirAlba. Also of importance is the Crofting course, Community Land Scotland's course, and SQA's Rural Skills courses for the farming sector, which collectively contribute to the skills agenda along with Lantra courses which offers progression.
3. Farmer and crofter-led initiatives, especially in relation to academic initiatives where the tendency is still to do research "to" farmers and crofters rather than co-producing the research.
4. Specific support to underpin partnerships and the development of collective structures such as cooperatives

4 Do you have any ideas as to how engagement/participation in advisory services, knowledge transfer or skills development might be improved?

Yes

Please give reasons:

Locality-based and person-centred services are proven to increase engagement and participation in advisory and skills development services. Peer learning approaches are also effective.

5 Do you agree that Scottish Ministers should have the power to establish a national reserve and regional reserve if/when required to ensure the equal treatment of farmers and to avoid distortions of the market and of the competition?

Yes

Please give reasons for your answer:

Yes, we agree with this approach but it needs to be proportionate.

4. Administration, Control, and Transparency of Payment Framework Data

1 Do you agree that Scottish Ministers should have the power to create a system that provides for an integrated database, to collect information in relation to applications, declarations and commitments made by beneficiaries of rural support?

Yes

Please give reasons:

Yes, we agree with this approach however the proposed system needs to allow for smaller land parcels to be recognised and change the current method where an area of more than 0.01ha must be removed from agricultural production if fenced off but cannot be claimed as its own parcel until it is 0.1ha. This is prejudicial against small units, diversification and horticulture and penalises many attempts to improve management.

2 Do you agree that Scottish Ministers should have the power to create a system that collects and shares information for the purposes of carrying out management, control, audit and monitoring and evaluation obligations and for statistical purposes, subject to General Data Protection Regulation (GDPR) requirements?

Yes

Please give reasons:

Yes, we agree with this approach.

3 Do you agree that Scottish Ministers should have the power to share information where there is a public interest in doing so, and subject to complying with the General Data Protection Regulation GDPR?

Yes

Please give reasons:

Yes, we agree with this approach.

4 Do you agree that Scottish Ministers should have the power to create a system that provides a mechanism that aligns with the principles of the Scottish Public Finance Manual?

Yes

Please give reasons:

Yes, we agree with this approach.

5 Do you agree that Scottish Ministers should have the power to create a system that provides the data required to undertake administrative checks on applications / claims made by beneficiaries for rural support?

Yes

Please give reasons:

Yes, we agree with this approach.

And there needs to finally be a marker for crofters integrated into the system so that accurate and reliable statistics on this can be generated! This is instead of the current setup where only indirect counts can be made of how many claimants have crofting status.

6 Do you agree that Scottish Ministers should have the power to create a system whereby on-the-spot-checks should be undertaken to further verify applications / claims made by beneficiaries for rural support?

Yes

Please give reasons:

Yes, we agree with this approach but it needs to be proportionate i.e. not disadvantage small producers. Any penalties for non-compliance also need to be proportionate, otherwise many smaller and poorer producers will be deterred from entering such schemes at the outset - as is often currently the case.

7 Do you agree that Scottish Ministers should have the power to create a system that would provide for cross compliance, conditionality that covers core standards in relation to sustainable environment, climate, Good Agricultural and Environmental Condition (GAEC), land, public and animal health, plant health and animal welfare, Soil health, carbon capture and maintenance?

Yes

Please give reasons:

Yes, we agree with this approach but it needs to be proportionate i.e. Not disadvantage small farmers and crofters.

8 Do you agree that Scottish Ministers should have the power to create a system that provides a mechanism to support the delivery of practices aligned to receipt of elective payments, for targeted outcomes?

Yes

Please give reasons:

Yes, we agree with this approach.

9 Do you believe that Scottish Ministers should have the power to monitor and evaluate outcomes to ensure they meet the agreed purpose and help better inform future policy?

Yes

Please give reasons:

Yes, we agree with this approach.

10 Do you believe that Scottish Ministers should have the power to seek independent assurance that outcomes are delivered appropriately?

Yes

Please give reasons:

Yes, we agree with this approach.

11 Do you agree that Scottish Ministers should have the power to enable the publication of details pertaining to recipients who receive payments including under the future payment model (outlined above) and set a level above which payment details will be published?

Yes

Please give reasons:

Yes, we agree with this approach.

12 Do you agree that technical fixes should be made to the Agriculture and Retained EU Law and Data (Scotland) Act 2020 to ensure Scottish Ministers have all requisite powers to allow CAP legacy schemes and retained EU law to continue to operate and be monitored and regulated and also to ensure Scottish Ministers have flexibility to better respond to current, post exit, circumstances?

Yes

Please give reasons:

Yes, we agree with this approach.

5. Modernisation of Agricultural Tenancies - please read before answering 5.1- 5.5

5.1 Agreement to Diversification

1 Do you agree that Scottish Ministers should have a power to be able to determine what is an acceptable diversification?

Don't know

Please give reasons:

We do not believe such a system should be introduced without checks and balances, including a fair appeals process, to ensure the best possible outcomes for local businesses and communities.

We draw your attention to the fact that under current planning legislation, Scottish Ministers' decision-making, when matters are referred to them, frequently disadvantages local communities over large developers.

2 Do you think that if this power is given to Scottish Ministers that the Tenant Farming Commissioner should have the ability to issue guidance to assist tenant farmers and landlords understand this.

Yes

Please give reasons:

Yes, we agree with this approach.

5.2 Waygo and Schedule 5 of the Agriculture Holdings (Scotland) Act 1991

1 Do you agree that Scottish Ministers should add new activities and items onto Schedule 5 of the Agricultural Holdings (Scotland) Act 1991; to enable tenant farmers to support biodiversity and undertake climate change mitigation and adaption activity on their tenant farms?

Yes

Please give reasons:

2 Do you agree that Scottish Ministers should have a power to amend Schedule 5 of the Agricultural Holdings (Scotland) Act 1991 by secondary legislation to enable Schedule 5 to be changed to meet the future challenges?

Not Answered

Please give reasons:

3 If you do not agree that Scottish Ministers should have the ability to vary the activities and associated items listed on Schedule 5 of the Agricultural Holdings (Scotland) Act 1991 please explain why, including any alternative approach you have to address this issue.

Please give reasons and alternatives:

4 Do you agree that when an agricultural tenancy comes to an end a tenant farmer should have certainty about the timescale by when they will receive any money due to them, and their landlord should also have a similar certainty?

Not Answered

Please give reasons:

5.3 Amendment to Rules of Good Husbandry and Good Estate Management

1 Do you agree that the Scottish Ministers should be able to amend the rules of good husbandry and good estate management defined in the Agricultural Holdings (Scotland) Act 1948 to enable tenant farmers and their landlords to be able meet future global challenges?

Not Answered

Please give reasons:

5.4 Rent Reviews

1 Do you agree that adaptability and negotiation in rent calculations are required to meet the global challenges of the future? Please explain why.

Don't know

Please give reasons:

2 Are there any other relevant considerations that should be included in part of a rent review? Please explain why including any practical examples.

Don't know

Please give reasons:

6. Scottish Agriculture Wages (Fair Work)

1 Do you agree that Fair Work conditions, including the real Living Wage, should be applied to all Scottish agricultural workers?

No

Please give reasons:

In principle, we agree with supporting Fair Work conditions and while we agree with the application of the seven elements of the Fair Work First (FWF) conditions to public funding and contracts, we however do not believe that a blanket directive specifically on the real Living Wage (which is not mandatory in itself within the FWF) should be applied through this primary legislation without first examining further the impact of the implementation of this policy on the sector. Concerns have been raised both by the National Farmers Union Scotland (NFUS) and bodies representing crofters regarding potential unintended negative consequences which require mitigation and a supportive approach to introducing new measures.

2 What do you consider the implications would be on individual businesses and the Agricultural sector more broadly, if the minimum wage for agricultural workers was to align with the real Living Wage?

Don't know

Please give reasons:

There is no Scottish research or modelling on the impact of introducing the real Living Wage in the agricultural sector. Questions such as these need to be explored through specific consultation with stakeholders in the agriculture, crofting and wider rural development sector.

Assessing the Impact

1 Are you aware of any potential costs and burdens that you think may arise as a result of the proposals within this consultation?

Please give reasons:

Given there is a lack of detail in the proposals, as previously noted, we cannot comment specifically on potential costs and burdens that may arise but we are concerned about complicated processes within the Tiered system that may systematically exclude smaller producers, crofters, farmers or those in rural and island communities with a lack of capacity/staff time/capital to respond to certain policy mechanisms. We are concerned by any proposal that supports large-scale business intervention without due and significant consideration of place-based local communities and enterprises.

Furthermore, we are concerned that should there not be sufficient alignment with the EU CAP principles (of which there are 10), Scotland may find itself in a difficult situation in years to come should, as a country, we wish to re-join the European Union. We want to ensure that throughout the development of this Bill, and its associated legislation, there is due flexibility and a commitment to co-production along with land workers, managers, crofters, farmers, communities in the agricultural and rural development sectors.

2 Are you aware of any examples of potential impacts, either positive or negative, that you consider that any of the proposals in this consultation may have on the environment?

Please give reasons:

Whilst again there is a lack of specific detail, we are concerned by a lack of specific monitoring processes and the focus on "improving" land and processes without due consideration of the good practices already in place, how these may be strengthened, and how to operate on principles embedded in a Just Transition. We are concerned by increasing land market values, where agricultural land values (even in the case of poor agricultural land) are exponentially increasing and systematically excluding communities. We are wary of a movement towards holding land in assets for carbon credits without due consideration to food security and locally-led initiatives that use land, and use it in ways that are sustainable and support community resilience and wellbeing.

The proposals have not explicitly outlined how to better support this, but again we recommend drawing upon proposed Bills such as the Land Reform Bill and working across silos to ensure vibrant futures for all.

3 Are you aware of any examples of particular current or future impacts, positive or negative, on young people, of any aspect of the proposals in this consultation? Could any improvements be made?

Please give reasons :

There is insufficient detail in the document to assess the impact of specific proposals on young people.

In communicating about this legislation and in communicating any future provisions under this legislation, it is important to ensure a level playing field including consideration of the following:

1. The need to reach out and inspire young people from both agricultural ****AND**** non-agricultural families in rural communities (retaining local population, etc.). We shouldn't apply a broad brush over rural & island communities and assume access and knowledge to agriculture is equal.
2. Sufficient support put in place for new entrants in order to encourage people into the sector and to ensure their chances of success are maximised. Specific schemes and sufficiently attractive incentives introduced to ensure that more young, suitably-qualified entrants can become crofters and farmers – in the spirit of the 'generational renewal' objective under the new CAP.
3. Viewing agriculture more holistically - taking consideration of the diversity in the sector - and highlighting that there is a lot more than meets the eye.

4 Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

Please give reasons :

5 Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

Please give reasons :

There is insufficient detail in the document to assess the impact of specific proposals on groups with protected characteristics.

6 Are you aware of any examples of how the proposals in this consultation might have particular positive or negative impacts on groups or areas experiencing socioeconomic disadvantage? These could be households with low incomes or few resources; families struggling to make ends meet; people who experienced poverty while growing up; or areas with few resources or opportunities compared with others.

Please give reasons :

There is insufficient detail in the document to assess the impact of specific proposals on groups or areas experiencing socioeconomic disadvantage. We do however wish to highlight the impact this may have of marginal crofting and hill farming areas, where rural poverty, demographic changes with depopulation, and a lack of capacity and capital combine to hamper both growth and development. We look forward to working with the Scottish Government on this particular point.

Again, we wish to reiterate that it is disappointing to see that redistribution and fairness, core principles for the CAP, which Scottish Government claims to wish to align with, and yet we find these principles almost entirely lacking in this consultation. Thus, the new CAP says that 'The new CAP places a greater priority on fairness for farmers and workers' and seeks to achieve this by means of a 'Complementary Redistributive Income Support for Sustainability (CRISS)' payment element. The term 'redistribution' is entirely lacking in the vision document, and 'fairness' is only apparently relevant to the proposed reforms for tenant farmers. Since this is a Scottish Government which generally tries to uphold principles of social and economic equality in most other spheres in its policies and its vision for Scotland, it is disappointing to see these concepts apparently discarded and irrelevant in the sphere of agriculture and rural development.

7 Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

Please give reasons :

There is insufficient detail in the document to assess the impact of specific proposals on island communities.

About you

1 What is your name?

Name:
Scottish Rural Action

2 What is your email address?

Email:
catriona@sra.scot

3 Are you responding as an individual or an organisation?

Organisation

4 What is your organisation?

Organisation:
Scottish Rural Action

5 What is your occupation?

Third sector (including charities)

6 The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

7 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

8 I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent