

Agriculture and Rural Communities (Scotland) Bill – call for views by Scottish Parliament Rural Affairs and Islands Committee

Link to call for views: https://yourviews.parliament.scot/raine/agriculture-rural-communities-bill/consult_view/

Link to Bill: <https://www.parliament.scot/bills-and-laws/bills/agriculture-and-rural-communities-scotland-bill/overview>

General points

1. The RSE supports the policy drive towards more multifaceted use of agricultural land. This is essential if the role of farmers is to be enhanced in the delivery of public goods and services, such as biodiversity gain and climate change mitigation and adaptation. However, the Bill does not give sufficient detail on how these high-level objectives are going to be achieved, including the changes in the way agricultural activity is funded to meet them. This is essential to pave the way for the necessary changes. With the phasing out of the Common Agricultural Policy (CAP), farmers will require rapid clarity on the regime that will replace it to allow them to plan ahead confidently and ensure the survival of their businesses. The potential skewing of support towards the higher tiers of the new system will not help this transition.
2. Agriculture is by far Scotland's most dominant land use and therefore has a disproportionately strong influence on the delivery of climate and environmental policy, such as the Strategic Framework for Biodiversity (and related Delivery Plan) as well as the proposed provisions in the upcoming Natural Environment Bill. These links need to be made much more explicit, with a clear understanding of how the Agriculture and Rural Communities (Scotland) Bill contributes to their delivery. Although biodiversity and environmental protection are cross-cutting issues, policy development is unfortunately still taking place in silos. The Bill's provisions will unquestionably have a strong bearing on the delivery of the Strategic Framework for Biodiversity as well as on the forthcoming provisions in the Natural Environment Bill; the reverse is also true. The Scottish Biodiversity Strategy to 2045 speaks about the importance of mainstreaming biodiversity across policy areas and yet there is little evidence that this mindset shift is taking place if these disjointed consultations and the detailed policy prescriptions are any indication.
3. The RSE is disappointed in the lack of recognition of the need for change in agriculture. In particular, there is a clear need for more support for farmers to achieve the policy goals and especially the switch from the production orientated approach to one delivering a wide variety of public goods and services, of which food is a vitally important component. More focus is needed in the Bill to give recognition of the stewardship role expected of farmers. In this context, there is surprisingly no reference in the draft Bill or in the Explanatory Memorandum of the implementation of the Scottish Land Rights and Responsibilities Statement of Principles. This may well belong in the Code of Practice on Sustainable and Regenerative Agriculture, but the central role of the Principles in improving stewardship of the land needs to be

included on the face of the Bill. Ensuring that the Principles are implemented will require fulfilment of key changes in approach. This can only be achieved if the Principles are:

- applicable to all owners, tenants and managers as stewards of land; that no public money is provided unless potential recipients adhere to the Principles;
 - that contracts for delivery are used over the longer term; and,
 - that the Responsibilities are strictly monitored and enforced.
4. Developing further the multifaceted advisory service, and ensuring clear linkages between research findings and farming practice, are both essential for the future. The RSE hopes that amendments to the Bill can be made to recognise these necessary changes.
 5. The RSE recognises that the agricultural community is facing very considerable challenges to cope with rising prices of inputs, difficulty in obtaining farm gate prices that will achieve viable businesses, and very complex grant structures. We consider the use of Whole Farm Plans, dismissed in the Scottish Government's review of the earlier consultation, to be essential as the farm is the most logical business unit. The support mechanism should strike the right balance between centralised oversight and local flexibility, with a simple and accessible delivery infrastructure. Collaboration and co-operation between farms in an area should also be encouraged and rewarded where appropriate to ensure climate change adaptation and other environmental objectives can be achieved at the necessary scales. Working together through developing river catchment management plans and processing of food products are ways forward for example.
 6. We are also concerned that the four-tier structure will be overcomplicated for delivering the multiple objectives set out in the Bill. Whilst we recognise that the Scottish Government wishes to retain an approach which delivers the same outcomes as the EU's CAP, we remain concerned that the funding balance between the tiers will not achieve the integrated approach to the multiple objectives sought. This cannot be left to administrative decisions once the Bill becomes law and amendments are needed to secure a more balanced funding scheme to meet all of the government's objectives.
 7. The RSE is surprised that more recognition is not given to the diversity of farming types around Scotland. Alongside this, is the need to recognise the very considerable changes in the use of land currently occurring and highly likely to continue to satisfy other government policies, most especially afforestation and renewable electricity generation. The lack of any mention or use of Regional Land Use Strategies is very surprising. We hope that amendments can be made to recognise the use of this tool as an important mechanism in adjudicating on land use change and in involving the rural community in these important discussions that affect their livelihoods.

General questions:

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

- Yes
- **No**
- Don't know

Please explain your reasons for this answer.

8. The RSE is concerned that a framework bill is not a sufficiently potent legislative instrument to achieve the ambitions that are required to revolutionise agriculture in line with national priorities. Although framework bills do provide a measure of flexibility, there is a risk that they become too diluted and open to interpretation. Significantly, much of the detail regarding enforcement will be embedded in subsequent secondary legislation which is not subject to the same level of parliamentary scrutiny as primary legislation.
9. The RSE would like to see the Bill contain as much detail on the mechanisms for delivering the policy objectives as is practicable at this stage, introduced via the appropriate amendments, in order to give reassurance that it will indeed be capable of achieving the changes that the policies require.

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

- Yes
- No
- **Don't know**

Please explain your reasons for this answer.

10. The RSE considers that the Bill overlooks the economic realities that are key determinants of behaviour change and feasibility. In a European-wide study of farmer sentiment undertaken by the World Economic Forum, farmers see moves towards regenerative farming and other practices as inevitable, but the majority believe it will reduce their profitability and make it harder to farm. Expectations of good environmental stewardship and high-quality produce are becoming normalised across the consumer base, providing a strong financial incentive for corporations to mandate certain practices among suppliers in order to satisfy customer demands and safeguard their reputations. However, this shifts all of the risks and responsibilities to the farmer who, on average across Europe, earn 60% less than non-farming families. Therefore, steps to share risk and provide financial incentives from across the value chain are essential. The European Union is currently trialling border carbon taxes¹ to adequately account for the full environmental cost of carbon-intensive production and incentivise better practices, an idea that could take hold in other regions. If harnessed correctly, these developments could help to lower the cost of certain

¹ <https://www.politico.eu/article/europe-climate-fight-global-carbon-border-adjustment-mechanism-cbam-tax/>

interventions and monetise good practice for the benefit of farmers, as well as making Scottish products more economically competitive internationally. Scotland must position itself in this value chain in a way that captures local economic benefit and sustains a positive brand identity on the global stage.

11. Achieving the ambitions of the Bill will require a unified culture shift in what is an extremely heterogenous sector. Farming operations differ markedly by scale, profitability, activity, geography, and a host of other factors. Patterns of land use and ownership are changing in response to forces such as woodland expansion and reforms to the planning system. Where once farmers would predominantly self-identify as producers of food, new entrants are increasingly guided by new motivations and philosophies. Their appetite for innovation must be encouraged given concerns around depopulation across rural Scotland. The Bill must appreciate the complexity of the agricultural sector and champion regional approaches that are sensitive to local contexts. Localising plan making for productive land and nature coupled with active encouragement of Land Use Strategies, involving all stakeholders, is a way forward. This can be facilitated by resource provision and policy adjustment to allow regional variation, recognising the natural and cultural diversity of Scotland. Indeed, there is a glaring omission of any mention of Local and Regional Land Use Strategies to develop land use change opportunities involving the relevant communities of interest, including owners, managers, and local communities. These and other holistic approaches to land management will be critical in ensuring continued progress towards the Sustainable Development Goals, which Scotland has committed to achieving by 2030.
12. Significantly, the Bill must ensure that it does not lead to unintended consequences (for example, the offshoring of emissions) by compromising yield and creating undue reliance on foreign imports. The agricultural sector should be empowered to both capitalise and drive innovations in the circular economy and food and drink sectors in order to futureproof its place in the Scottish net zero economy.

Purpose and objectives (section 1):

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?

- **Yes**
- No
- Don't know

Please explain your reasons for this answer; if you have answered 'no', please set out what other objectives should be set out in the Bill.

13. The RSE is broadly supportive of these objectives. However, it is important to note that the concepts of sustainable and especially regenerative farming are evolving, contested and uncertain which makes clarity about this goal difficult to achieve. Significantly, the concepts ignore the wide range of agricultural good practices that farmers already undertake. It will be necessary to give clear definition to these terms in the Bill and not to lose sight of the fact that there is much good environmental management practice in existing agri-environment management and organic farming systems. Ideally, any code should be outcome-based and allow management approaches to be progressively optimised to local contexts through knowledge sharing and better (two-way) connections between science and farming.

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**
- No
- Don't know

Please explain your reasons for this answer.

14. The requirement placed on the Scottish Government to produce a Rural Development Plan and revise it every 5 years is a welcome step forward, as are the breadth of activities that are eligible for support as outlined in Schedule 1 (for example, assistance to promote, protect, or improve soil health and quality). In the light of our earlier concerns about this being a framework Bill, we suggest that more specificity is provided in this Schedule to guide the development of the new Codes of Practice and the detailed grant prescriptions. Similarly, to ensure that the sector can continue to evolve with Scotland's ambitions for the future, the Bill should be coherent with related policies and clearly embody the principles of the Sustainable Development Goals and National Performance Outcomes.

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

- Yes
- No
- Don't know

Please explain your reasons for this answer; if you have answered 'no', please set out what other matters you think should be considered by the Scottish Ministers when preparing or amending a rural support plan.

[Key provisions \(Part 2 of the Bill\)](#)

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?

- Yes
- No
- Don't know

Please explain your reasons for this answer.

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

- Yes
- No
- Don't know

Please explain your reasons for this answer; if you have answered 'no', please set out what purposes you think should be set out in Schedule 1.

15. Schedule 1 mentions the role of agricultural land in increasing flood resilience downstream, but there are no specific proposals given to suggest how this valuable approach would be implemented. The last two Programmes for Government (2022/3 and 2023/4) included a commitment to consult on a new Flood Resilience Strategy for Scotland. Securing the support of land owners and managers operating in catchments with demonstrated or potential flood risk will be critical and it is therefore suggested that the Scottish Government do not approve the precise allocation of capital to local council schemes until the new strategy is in place and pipeline projects have retrofitted their schemes to meet wider Scottish Government objectives

around biodiversity and climate change, specifying the role of, and support for, owners and managers of land in the delivery.

3. Do you have any other comments on the provisions in Part 2?

Please provide your response in the box provided below.

16. The proposed four-tier system certainly has the potential to deliver genuinely positive outcomes for nature and climate alongside agricultural needs, but this will depend on the scheme's final parameters and budget distribution.
17. The scope of Tier 2 will be especially crucial because this Tier could ensure that all farmers and crofters are delivering meaningful environmental benefits. Achieving this will be contingent on careful scheme design and targeting of measures to ensure that Tier 2 expenditure is actually delivering impact. Also, in the higher Tiers (2-4), resources need to have some explicit element of targeting to High Nature Value farming systems, rather than the broader Less Favoured Area approach which does not have a good track record of targeting resources in ways that optimise nature and climate benefits. A strong, well-funded, agri-environment scheme (AES) at Tier 3 will be essential if the tier structure is retained. This should be populated with evidence-based measures and good advisory/knowledge exchange/training and collaborative application support that builds on the best of previous AES in Scotland.
18. It appears that Tiers 1 and 2 would in practice receive the bulk of the financing (80%) while Tier 3 and 4 stand to receive comparatively little. Allocating funding on this basis deprioritises outcomes such as biodiversity gain, natural capital gain, and climate action. This should be mitigated. In addition, certain key activities, such as tree planting and woodland management as well as peatland restoration, appear to be missing from Tier 3.
19. Capping could be damaging if it constrains the use of resources to help deliver real impacts for climate and nature outcomes in the higher Tiers.
20. Similarly, Tier 4 is weakly defined and appears to exist only to encompass peripheral activities that do not fall into a previous category.
21. There will be a need to rigorously customer test the support schemes to ensure it is accessible and functioning effectively.
22. With so much public money being allocated to supporting agriculture, there should be robust and independent evaluation mechanisms in place to ensure that funding is being spent to best effect. Currently, there is an apparent lack of any clear requirement to regularly monitor and report on overall outcomes in the interests of adaptive management and continuous improvement. Spot checks are listed as the primary means of enforcement, but we consider this approach to be too lax. Similarly, there is no detail on how breaches will be disciplined and rectified.

23. Monitoring is often prohibitively expensive and remains the biggest obstacle to implementing Nature-based Solutions at scale. Scotland should seek to maximise the broader value of monitoring. For example, regular monitoring can create significant opportunities for knowledge exchange between farms and the scientific community. Demonstrating the efficacy of different initiatives could help to increase sectoral buy-in, which could also be advantageous to industry.

Key provisions (Part 3 of the Bill)

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?

- Yes
- No
- Don't know

Please explain your reasons for this answer.

24. It is not clear whether the present system of payments to farmers on a unit area payment basis will be continued. It would be retrogressive to perpetuate this approach as it favours larger scale operations rather than supporting defined outcomes and the variety of land holdings that make up Scotland's agricultural sector. Mimicking EU changes, such as the Farm to Fork strategy allied to the European Green Deal, would help to align with ongoing EU agricultural policy and the overall vision for Scottish agriculture.

Key provisions (Section 26 of the Bill)

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?

- Yes
- No
- Don't know

Please explain your reasons for this answer.

25. It is potentially worrying that the Code will only set out minimum requirements for environmental protection. This resembles the current cross compliance approach and risks watering down the concept of sustainable or regenerative agriculture just when it needs to be strengthened to ensure that Scottish agriculture plays its part in achieving the environmental policy outcomes. The Code should ideally be outcomes-based and allow the means to deliver these outcomes to evolve through knowledge sharing and enhanced synergistic interactions between science and farming.

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?

- Yes
- No
- Don't know

Please explain your reasons for this answer.

Key provisions (Section 27 of the Bill)

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?

- Yes
- No
- Don't know

Please explain your reasons for this answer.

26. In principle, the RSE is supportive of these provisions. However, this continuing professional development (CPD) must be meaningful and provide genuine upskilling. It should also be as accessible as possible, particularly given the current economic climate that could further preclude smaller or less profitable holdings from seeking help.

27. Farmers can access advice and support from various bodies. However, much of this guidance centres on helping farmers access financial support, such as assisting with grant applications. While this is a vital service, particularly given the aging demographics of the farming sector, it is important that this support also focuses on capacity building. Pursuing net zero and nature restoration – alongside the myriad other outcomes that have been identified – will place immense and immediate demands on the sector and farmers must be properly equipped to manage this agriculture.
28. It would also be beneficial if support could be integrated across different activities rather than farmers needing to seek separate advice from different agencies depending on the type of land use (for example, flood prevention versus tree planting).
29. Some of the changes that farmers will need to enact will be radical and require support from professionals with an understanding of emerging technologies and practices. The current advisory workforce should ensure its expertise remains fit for purpose through regular training and close engagement with the science and research community, particularly with respect to rapidly operationalising new innovations.
30. The pace of change in the agricultural sector can be at odds with the urgency of the climate and nature crises. Combatting this inertia will require more effective and two-way collaboration between the scientific and agricultural communities. The European Union's 'A Soil Deal For Europe' has already begun to take this approach by establishing 100 Living Labs and Lighthouses: farms or regions where multiple stakeholders co-create innovation for jointly agreed objectives. We are aware of similar initiatives in Scotland, but believe these should be scaled up, particularly in the wake of anecdotal evidence that suggests a huge demand for knowledge and support. Such co-creation will help to engender trust in a sector that has historically been reticent to accept imposed change.
31. Similarly, Scotland is fortunate to hold a wealth of data on agriculture, which could be better deployed.

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.

[Visit the Agriculture Bill consultation \(opens in a new window\)](#)

Please provide your response in the box provided below.

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

- Yes
- No
- Don't know

Please explain your reasons for this answer.

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

Please provide your response in the box provided below.

Further comments

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