

Scottish Environment

Submission to joint Environment, Food and Rural Affairs Committee and the Environmental Audit Committee inquiry on scrutiny of the draft Environment (Principles and Governance) Bill

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

This briefing sets out to provide Scottish Environment LINK member views on the following question part of the inquiry's terms of reference: 'Are there any conflicts with other legislators or legislation, for example the Scottish Continuity Bill?'

Given the geographic scope of the Environmental (Principles and Governance) Bill (EPG) and reference to the Scottish Continuity Bill in this question, LINK members wanted to offer the following input.

It is our understanding that, in line with draft clause 34, draft clauses 1-4 on environmental principles apply to the whole of the UK in respect of UK Ministers and their functions only. The provisions on the new Office for Environmental Protection (OEP) will apply to the whole of the UK in respect of matters that are not devolved while as mentioned in the draft Explanatory Notes, the OEP could exercise functions more widely across the UK "subject to the ongoing framework discussions with the devolved administrations".

Scottish Environment LINK members seek clarification on:

- The elements of environmental policy which are considered reserved. Environmental policy is not listed in Schedule 5 of the Scotland Act which states which policy areas remain reserved. The [UK Government document on frameworks](#), which represents UK Government views, provides for a very limited number of areas which are considered reserved: environmental quality - international timber trade (EUTR and FLEGT), ecodesign and energy labelling.
- The implications of the EPG for powers of UK Ministers which are carried out by devolved bodies particularly with respect to areas that are "executively devolved" (e.g. offshore conservation, renewables, SEPA's role in cross-border waste shipments).
- The implications of EPG provisions for issues where UK bodies (such as the Ministry of Defence) operate in Scotland in a way that relates to devolved matters (for example managing land that is a Sites of Special Scientific Interest).

As such Scottish Environment LINK members would like to highlight the following points:

- The reference to the function of the OEP being potentially subject to change following progress on UK frameworks: environmental charities from across the UK, including Greener UK and Wildlife Countryside Link, agree that any UK-wide frameworks need to be commonly developed and agreed. Therefore, any such change in the remit of the OEP should be agreed jointly.
- The Scottish Continuity Bill explicitly requires that Scottish Government proposals and report to Parliament addresses the full spectrum of governance gaps including appropriate arrangements "equivalent to those carried out before exit day by the European Commission, the European

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Court and any other EU institution”. It is also important to note that Scottish Continuity Bill provisions on environmental matters were voted unanimously by all parties in the Scottish Parliament.

- While the Bill has yet to receive Royal Assent, the Scottish Government has confirmed its intention to consult on future proposals on principles and governance on this basis.
- The Scottish Government consultation is expected in February.
- As indicated in submissions by other environmental charities, such as Wildlife and Countryside Link, the current EPG provisions fall short of maintaining EU environmental standards particularly with respect to the functions of the OEP. Given the more robust provisions expected from the Scottish Government consultation, it is possible that this will lead to ambiguity and potential conflict between those and the OEP insofar as the OEP will exercise its functions in Scotland.

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