



Q1. What are your views on the policy statement? See: <https://www.parliament.scot/-/media/ede6ec7e12574a7c8e34927b03ccf1b0.pdf>

- Scottish Environment LINK welcomes the draft policy statement on the exercise of the ‘keeping pace power’ included in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. We consider the keeping pace power to be a necessary and practical tool that can enable the maintenance and progress of environmental standards in Scotland outwith EU membership, as well as key human and social rights.
- During the Act’s passage in late 2020, LINK members argued for guidance to be provide direction on the use of the keeping pace power to shape future decision-making and to aid decision-making as to when to (or, in some cases, when not to) align with developments in EU law.
- The draft guidance reasserts the Scottish Government’s welcome commitment to align with the EU “in a manner that contributes to maintaining rights and standards across a range of policy areas.” We would like to see explicit mention that this includes environmental standards, in line with the wording of the Act.
- We agree with the approach set out on p.2 of the guidance but ask that more detail is provided on how the “existing policy development process” operates in order to more fully understand how decisions on whether or not to keep pace will be made.
- We agree with the assertion that primary legislation is not always the most appropriate vehicle for maintaining alignment with EU law. We would welcome greater clarity on how government will inform parliament and the public of why a decision for primary legislation, secondary regulation, or other means (such as guidance or case law) is made in each case.
- We agree with the list of factors to be taken into account on page 3 of the guidance.
- We ask that the final version of the guidance contains much greater clarity on the process of “gathering information to support, assess and consider” areas with which to align as stated on p.4. The current draft is light on detail that would make the process clear to stakeholders outwith government. A decision-making framework would be helpful to see.
- We agree with the proposal to keep the statement of policy under review and hope that the points raised in this response can be considered in future drafts.

Q.2 What are your views on the annual report? See: <https://www.parliament.scot/-/media/79b5e10f79be4010995893669b422084.pdf>

- We are content with the format of the report, though note it is difficult to fully assess whether it will provide sufficient information to stakeholders and parliament in future given that the keeping pace power has not yet been used.
- It would be helpful if under part 9, the government could provide a forecast of changes to EU law and policy it anticipated needing to consider in future years. For example, legislative proposals emerging from implementation of the EU Biodiversity Strategy (e.g. nature recovery targets and commitments to protect 30% of land and sea by 2030) and proposals arising from the EU Circular Economy Action Plan (2020).

This response represents the collective view of LINK's Governance Group. Members may also respond individually in order to raise more detailed issues that are important to their particular organisation.

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with 42 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

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