

LINK Parliamentary Briefing:

Proposed amendments to the Agriculture and Rural Communities (Scotland) Bill

March 2024

Briefing
on
proposed
amendments to the Agriculture and Rural
Communities Bill



Scottish
Environment
LINK

Summary

Bill objectives

- Rewrite and replace the existing Section 1 with a clear purpose clause.
- Replace the objectives under 1(a) and (b) with the objective “the production of high-quality food using sustainable and regenerative agricultural practices”.

Targets

- Introduce a duty on Ministers to set and achieve measurable targets in relation to the Bill’s overarching objectives.

Rural Support Plan

- Introduce requirements on Ministers to include specific details in the Rural Support Plan, including indicative multi-year budgets.
- Require that the first draft Rural Support Plan be laid before Parliament before 31st December 2024.
- Require that the Rural Support Plan be subject to parliamentary approval. Require the completion of a baseline assessment on the state of Scottish agriculture and the rural environment.

Duty to seek advice

- Introduce a duty on Ministers to commission an independent mid-term review of the first Rural Support Plan.
- Introduce a duty on Ministers to seek advice from an expert body or bodies, such as the *Climate Change Committee*, in the process of preparing future Rural Support Plans.

Consistency with the Rural Support Plan

- Introduce a requirement for support schemes to be consistent with the Rural Support Plan

Distribution of payments

- Introduce a requirement for support schemes to be consistent with the Rural Support Plan
- Introduce a duty on Ministers to outline the distributional impact of funding schemes, and to consider methods of redistribution within scheme design, such as through “frontloading” of payments.
- Introduce a specific power to allow for “frontloading”, alongside the stated powers to cap and taper payments.

This briefing outlines Scottish Environment LINK’s proposed amendments to the Agriculture and Rural Communities (Scotland) Bill at Stage 2, as developed by the LINK Food and Farming Group. The Food



and Farming Group works to achieve a vision of sustainable agricultural systems that produce safe healthy food, protect natural resources and enhance wildlife, habitats and cultural heritage, and provide jobs in rural areas, contributing to a diverse rural economy.

1. Bill Objectives

Replace existing Section 1 with a clear purpose clause

Section 1 of the Bill seeks to set out the overall purpose of the Bill. As drafted, however, the objectives within Section 1 are a mix of outcomes and processes to seek to achieve these amendments. The links to the implementation of policy to achieve these outcomes is also unclear. Here we are proposing to re-write and replace the current Section 1 with a clearer purpose clause.

The Bill as introduced has four objectives. These are broadly appropriate, though the separation of “sustainable and regenerative agricultural practices” from “the production of high-quality food” is problematic. Our amendment proposes that sustainable food production becomes a clear overarching purpose of agricultural policy, through the first objective of: *“the production of high-quality food using sustainable and regenerative agricultural practices”*.

The current wording of objective 1(c) is to ‘facilitate’ though, this is a process or activity, not an objective. The objective should be to mitigate climate change etc. Also, the current wording of objective (c) refers to “on-farm nature restoration”; this is flawed in two respects. It is limited to restoration – but protection is also important and a valid objective. It is also limited to “on-farm” – while the activities that may be supported will generally be “on-farm”, the impacts, consequences and objectives of those activities may be wider.

Further detail and clarity on the overarching objectives

Evidence given to the Rural Affairs and Islands Committee suggests stakeholder concern over the narrowly drawn list of objectives. Beyond the overarching objectives, more detailed purposes are set out in Schedule 1. In comparison, the Agriculture (Wales) Act 2023 similarly includes four overall objectives but is complemented by a longer list of 15 purposes for which support can be provided.

Our amendment recognises that detailed purposes are set out in Schedule one – but adopts a “Welsh Act approach” of providing further explanation on how the overarching objectives should be interpreted.

Duty to act on objectives

Our amendment proposes that a duty be introduced on Ministers to act in accordance with the Bill objectives when exercising any function in the Bill, including when preparing the Rural Support Plan.

It is insufficient that in Section 1 the objectives of agricultural policy apply only “for the purposes of this Act”. This should be amended to ensure the objectives apply “for the purposes of this Act, any enactments made under this Act, and any relevant provisions related to agriculture, or to relevant land management or other activities that receive support under the Rural Support Plan”.



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2. Targets

A duty should be introduced on Ministers to set and achieve specific targets and indicators in relation to the Bill's overarching objectives. The duty should be in the Bill, while the targets themselves should be set in secondary legislation. These should include targets to increase the proportion of agricultural land achieving official organic certification, the reduction of harm from pesticides, and the reduction of nitrogen loss and waste. The Rural Support Plan should be required to set out how it will meet any targets.

3. Rural Support Plan

Strengthening of detail required in the Rural Support Plan

As the Bill is framework legislation, policy relating to the Bill will be set out in secondary legislation and the Rural Support Plan. It is important that stakeholders and parliamentarians have a clear understanding of what the Rural Support Plan will include and how it will interact with the objectives set out in law.

The Bill should be amended to set out in greater detail what Ministers are required to include in the Plan, including indicative multi-year budgets; details of each payment scheme, including objectives, intervention logic and expected uptake; detail on what alternatives had been considered for delivery of specified objectives; the overall rationale of the Plan, and detail on how the impact of funding will be monitored. Requiring such detail will ensure that industry has a clearer view of the direction of travel of policy, particularly as it relates to spending over the course of the Plan.

The Plan should also be subject to a Strategic Environmental Assessment.

Requirement for the first of the draft Rural Support Plan to be laid before Parliament by a specified date

The Bill should require the first Rural Support Plan to be produced and laid before Parliament by a specified date. This is important because Parliament should be sighted on the Rural Support Plan before approving secondary legislation on specific schemes – which are expected to come forward for consideration and approval during 2025. For this, LINK would propose 31st December 2024 as that deadline.

Requirement for parliamentary approval

The Bill should require the Rural Support Plan to be subject to parliamentary approval and include a date by which the first draft plan is laid before Parliament, which we suggest should be as soon as possible in 2025. Parliament should be sighted on, and allowed to scrutinise, the Rural Support Plan before approving secondary legislation on specific schemes.

4. Duty to seek independent advice and mid-term review



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In preparing the Rural Support Plan, the draft Bill requires Ministers to “have regard to” both the objectives established in section 1 of the Bill and other factors, including the climate change plan and other statutory duties, which will include nature targets established through the Natural Environment Bill.

There is precedent set in the Climate Change Act 2009 for a duty on Ministers to “seek advice from the relevant body”, allowing for independent expert advice to help shape policy making. Due to the importance of agriculture funding in meeting our climate and biodiversity targets, as well as food production, we believe a similar duty to seek independent advice should be adopted in this Bill. Any advice received should be published alongside the Plan and a statement of how Ministers have responded to this advice. This would require Ministers to commission and publish advice from an appropriate independent body or bodies, such as the Climate Change Committee, SNH, SEPA, Food Standards Scotland, Historic Environment Scotland.

Due to compressed timescales, we accept that it is unlikely that Ministers can now commission and publish such advice in advance of preparing the first Rural Support Plan. Therefore this duty should apply to all subsequent plans. However, the first Rural Support Plan should be subject to an independent mid-term review to consider both value for money and delivery of objectives in the Bill.

Within one year of the first Rural Support Plan, Ministers should be required to publish a baseline assessment of the state of Scottish agriculture and the rural environment.

5. Requirement for support schemes to be consistent with the Rural Support Plan

Currently, the Bill provides a framework for agricultural policy – including overarching objectives, a Rural Support Plan and the power to provide support. The Plan has to have regard to the objectives but the framework is incomplete as support powers are limited only to purposes in Schedule 1 – but with no link to either the plan or the objectives. Therefore, there is a case for an improved linkage between the plan and the support schemes. This amendment would ensure that support provided is consistent with schemes or other policies set out in the Rural Support Plan, though allowing for exceptional circumstances during which departing from the plan is necessary.

6. Redistribution or ‘frontloading’ of payments

Duty to consider distributional and income effects

The Common Agricultural Policy 2023-27 includes a mandatory redistribution of income support, with EU countries required to dedicate at least 10% of their direct payments to the redistributive income support tool, increasing the income of small and medium sized farmers. We do not propose a similar requirement in legislation, but instead that the Bill requires Ministers to consider the distributional impact of funding decisions. This could be achieved through a duty to outline the distributional and income effects (by farm size, type etc) of funding schemes, and to consider methods of redistribution within scheme design.

The Bill should also include wider equity measures through requiring the distributional impact of future support to be assessed and transparent, in relation to budgets and to farm size/incomes, and



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to ensure the application of the Fairer Scotland duty. This would contribute towards a Just Transition towards a more sustainable and equitable agricultural system.

Power to frontload payments

Under 9(1)(a) and (b), the Bill gives Ministers the power to either cap payments or to taper payments. These are important tools which could be used to address long-standing distributional issues which disadvantage smaller farmers and crofters. An additional tool would be a frontloading approach, with a higher rate paid for the first hectares in a farmer or crofters claim under Tier 1. This is in addition - and with a different purpose - to powers to taper and cap payments which we support.

The Bill would be strengthened by adding a specific power to introduce such a frontloading approach.

Targeting capping powers effectively

The long-standing demand for agricultural payments to be capped has referred to area-based basic payments, which see large landowners receive a disproportionate amount of current agricultural funding. These are the payments which will be made under Tier 1 of the new system, and are distinct from the payments made under higher Tiers where it may be appropriate for larger landowners to receive uncapped payments (for example, for landscape scale nature restoration). The power under 9(1)(a) should be amended to specify that the capping can be applied only to payments that have an intended purpose to support farm business incomes and not to payments for environmental purposes.

This response is supported by the following LINK member organisations:

Bumblebee Conservation Trust
Butterfly Conservation Trust
Fidra
Nature Friendly Farmers Network
Plantlife
RSPB Scotland
Scottish Badgers
Scottish Wildlife Trust
Soil Association Scotland
Woodland Trust Scotland
WWF Scotland

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 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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