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Rural Affairs and Islands Committee

Stage 1 report on the Agriculture and Rural Communities (Scotland) Bill



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Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.



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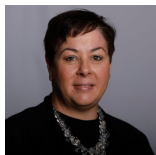
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Introduction

1. The [Agriculture and Rural Communities \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 28 September 2023 by Mairi Gougeon, Cabinet Secretary for Rural Affairs, Land Reform and Islands, and referred to the Rural Affairs and Islands Committee for consideration at Stage 1. [Further information about the Bill is available on the Scottish Parliament's web pages.](#)
2. The Committee ran a call for views on the Bill between 27 October and 24 November 2023 and received 72 responses. The [responses to the call for views are published on the Committee's web pages.](#)
3. The Committee took evidence from the Scottish Government bill team on 29 November 2023. The Committee then held four roundtable discussions with a broad range of stakeholders, with each discussion in part focused on one of the objectives of the Bill. The Committee's evidence gathering concluded with the Cabinet Secretary for Rural Affairs, Land Reform and Islands on 21 February 2024. Further information about the Committee's oral evidence sessions is set out in Annexe A.
4. The Committee held a consultative event with approximately 40 farmers, crofters, other land managers and representatives from rural community and development organisations on 19 February 2024.ⁱ The purpose of the event was to engage directly with agricultural practitioners to hear their views about future agriculture policy and the Bill. A [report from the consultative event is published on the Committee's web pages.](#)
5. The Committee's stage 1 inquiry was preceded by a series of pre-legislative scrutiny evidence sessions to give the Committee a broad understanding of Scottish agriculture and future challenges and opportunities. Further information about the Committee's pre-legislative scrutiny evidence sessions is set out in Annexe B.
6. The Committee has also undertaken a number of fact-finding visits to farms over the course of the pre-legislative scrutiny and stage 1 inquiry. The Committee visited an arable farm in Berwickshire in June 2023, several dairy farms in Kirkcudbrightshire in August 2023 and the Kirkton and Auchtertyre hill farms at the Hill and Mountain Research Centre of Scotland's Rural College in Crianlarich in October 2023.
7. The Committee thanks all respondents for their written evidence and the witnesses for giving evidence.

ⁱ Participants included owner-occupiers, tenant farmers, crofters, rural development practitioners (e.g. involved in LEADER or community-led local development schemes) and integrated land manager from across Scotland and from larger and smaller farms, across farming sectors and with a variety of business approaches.

Consideration by other committees

Consideration by the Delegated Powers and Law Reform Committee

8. A [delegated powers memorandum](#), describing the subordinate legislation provisions included in the Bill and the reasons for seeking these powers, was published with the Bill.
9. The [Delegated Powers and Law Reform Committee \(DPLRC\)](#) published its report on 24 January 2024.

Consideration by the Finance and Public Administration Committee

10. A [financial memorandum](#), setting out the costs expected to be associated with implementing the Bill, was published to accompany the Bill.
11. As with all bills, the Finance and Public Administration Committee (FPAC) invited written evidence on the financial memorandum and 12 responses were received. The FPAC took evidence on the financial memorandum from the Scottish Government bill team on 6 February 2024. [Further information about the FPAC's consideration of the financial memorandum can be found on the FPAC's web pages.](#)
12. The [FPAC wrote to this Committee on 19 February 2024 setting out its views on the financial memorandum.](#)

The Bill

13. The [policy memorandum](#) states that the Bill is the framework “for the measures the Scottish Ministers will use to develop the support that farming and rural communities need in order to adapt to new opportunities and new challenges, and to prosper in a changing world”.
14. The policy memorandum goes on to state that these measures would enable the Scottish Ministers to deliver their 2022 ‘Vision for Agriculture’ and be a “platform for measures” intended to achieve the Scottish Government’s key outcomes of “high quality food production; climate mitigation and adaptation; nature restoration; and wider rural development”.
15. It also states the Bill would replace common agricultural policy (CAP) legislation which was retained after the UK’s exit from the EU by giving the Scottish Ministers the powers to “provide financial support for measures and schemes set up using the ‘framework’, and to set eligibility criteria and conditions for receiving support” and facilitate “a smooth transition from current support measures, which are based on the former EU common agricultural policy scheme”.

Background to the Bill

16. Since the UK left the EU, the Scottish Government has been developing a replacement to the EU’s common agricultural policy for Scotland. A number of stakeholder groups, pilot schemes and programmes have been set up to facilitate a transition to a new policy and system of support for agriculture, land use and rural communities.ⁱⁱ
17. The Scottish Government established five farmer-led groups to develop advice and proposals to the Scottish Government on how to cut emissions and tackle climate change. These groups reported to the Scottish Government over 2020 and 2021. The Scottish Government then established the Agriculture Reform Implementation Oversight Board (ARIOB) in October 2021 to support the implementation of policy reform, incorporating the relevant recommendations from the farmer-led groups.
18. In March 2022, the Scottish Government published its ‘[Vision for Agriculture](#)’ which set out the Government’s ambition for Scotland to become “a global leader in sustainable and regenerative agriculture”. The document also included details for a new ‘national test programme’ to begin a transition to a new system.

ⁱⁱ The Scottish Government formed and sought advice from the following stakeholder groups in relation to the development of a new agriculture policy— four [Agriculture Champions](#); a [National Council of Rural Advisers](#); a [Farming and Food Production: Future Policy Group](#); sectoral groups - the ‘[farmer-led climate change groups](#)’ - focused on policy solutions to climate change within their sector (a group was convened in the [suckler beef](#), [dairy](#), [hill, upland and crofting](#), [pig industry](#), and [arable](#) sectors); and the [Agriculture Reform Implementation and Oversight Group](#) (ARIOB) supported by an [academic advisory panel](#). In addition, the Scottish Government and agencies have run pilot schemes and programmes to explore elements of the transition, such as the [National Test Programme](#), and the ‘[Piloting an Outcome-based Approach in Scotland](#)’ project run by NatureScot.

19. The [Scottish Government ran a consultation on the proposed agriculture bill between August and December 2022](#). The analysis of consultation responses was published in June 2023.
20. In February 2023, the Scottish Government published an '[agricultural reform route map](#)'. The route map sets out the broad shape of a future agriculture policy in Scotland, indicates a timeline for the transition, and illustrates a new four-tiered model for agricultural support (first introduced in the Scottish Government's consultation on legislative proposals for an agriculture bill). The route map also includes an indicative "agricultural reform list of measures", which sets out the types of actions the government may expect from farmers and crofters who wish to receive certain agricultural support payments in the future. The Bill is intended to be the legislative vehicle for delivering the intentions set out in the Vision for Agriculture and in the route map.
21. Further information about the background of the Bill is set out in the policy memorandum. In addition, information about the current system of agriculture support in Scotland, the current and future provisions within the EU CAP and the Scottish Government's Agricultural Reform Route Map for transitioning to a new agriculture policy in Scotland can be found in the [SPICe briefing on the Bill which was published on 24 November 2023](#).

Summary of the Bill's provisions

22. The Bill contains five parts. Part 1 (sections 1-3) relates to the overarching objectives of agricultural policy and the development of a five-year rural support plan. The four objectives of the proposed agricultural policy are set out in section 1—
 - 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; and
 - Enabling rural communities to thrive.
23. Part 2 (sections 4-18) would give the Scottish Ministers powers to provide support for the purposes set out in schedule 1 relating to agricultural activities, food and drink production, forestry, rural investment and development, land management and the environment.
24. Part 3 (sections 19-25) would make changes to the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 by giving the Scottish Ministers the powers to change, extend or end EU CAP legislation as it applies in Scotland.
25. Part 4 (sections 26-29) contains miscellaneous provisions, namely the requirement on the Scottish Ministers to make a code of practice on sustainable and regenerative agriculture, the power to provide continuous professional development for farmers, crofters and land managers and the updating of regulations in relation to animal identification.

26. Part 5 (sections 30-34) relates to interpretative, miscellaneous and general provisions. These are standard provisions included in legislation.

Issues considered by the Committee

A framework bill

27. The Bill is what is commonly called a ‘framework bill’. A framework bill proposes broad powers in primary legislation with the detail about how these powers would be used and implemented set out at a later date, when the powers are exercised through secondary legislation.
28. This framework bill provides for the creation of rural support plans and support schemes for agriculture, forestry and rural communities and development but does not provide for any of the detail of the support schemes themselves.
29. The policy memorandum sets out the reasons for this approach—

” It is not practical to lay out detailed schemes in primary legislation as this would remove the opportunity to create flexibility to respond to future unforeseen changes, which is why this framework Bill is the right way forward. Secondary legislation will lay out detailed schemes which will be within the framework of primary legislation but able to respond to change.
30. As part of its stage 1 inquiry, the Committee considered whether a framework bill is the most appropriate approach to legislate for future support schemes and the implications of not including policy detail on the face of primary legislation.
31. The majority of respondents to the Committee’s call for views agreed with the use of a framework bill to deliver a future policy. A common theme within the responses related to the need for policy flexibility in a changing environment and climate.
32. Many respondents, however, also called for more clarity and certainty around how the Scottish Government would use these powers. In particular, they sought further information about the intended policy direction in terms of how future support schemes would operate, how these would be funded through multi-annual ringfenced funds, and whether the objectives should be more clearly defined.
33. For example, the Scottish Crofting Federation (SCF) told the Committee that, “without comprehensive guidance on how Ministers are expected to use their new powers and clear principles for future rural support, the framework legislation comes down to a set of blank powers subject to political arbitrariness”. The Soil Association Scotland thought that there is scope within the framework bill approach to “also set the broad parameters of future schemes, set targets and outline a mechanism for monitoring and evaluating progress towards stated goals”. Scottish Environmental LINK agreed with this; it recognised “that it is appropriate for many of the functions contained in the Bill to be pursued through secondary legislation” but thought that “it is also important that the Bill sets a clear direction for the future of agriculture policy”.
34. The Committee explored the framework bill approach with the Scottish Government bill team. Officials stated this approach would provide “maximum adaptivity and flexibility” to adapt to future challenges and opportunities. They added that “there is a desire to ensure that future powers will be flexible to be duly deployed, as and

when required, to help mitigate some of those challenges and to adapt to opportunities, in order to support rural communities and producers accordingly”.

35. The Committee heard that such secondary legislation would be developed during a transition period, as set out in the route map. Officials confirmed that “the intention is for secondary legislation to come forward in 2025, which fits the published route map of having, and phasing in, a usable new support model from 2026 onwards”.
36. Responding to concerns about whether the development of the detail of future support schemes in secondary, rather than primary, legislation would lead to uncertainty for stakeholders, the bill team stated that this approach was necessary in order to give the Scottish Government time to develop these schemes in collaboration with stakeholders.
37. In the Committee’s roundtable discussions with stakeholders, most participants agreed that a framework bill was the appropriate approach. Several stakeholders highlighted the need to retain flexibility within primary legislation to allow the exact detail of approaches to be adapted within the secondary legislation and rural support plan. For example, Quality Meat Scotland (QMS) felt the approach should be “about how we frame at a higher level what we are looking to deliver and provide the powers to deliver the rural support plan that links to businesses.” Cairngorms National Park Authority did not feel primary legislation was the appropriate place to detail the proposed level of funding within future support schemes. The National Farmers’ Union Scotland (NFUS) agreed, saying—

” This is a framework bill, as we all know, and there are some who would say that such a bill is not good enough and that we need absolute precision in the primary legislation. I disagree: we need to use the powers to best effect to tackle the issues that we have. In that sense, we need a framework bill that is flexible and adaptable as we go forward.
38. RSPB Scotland noted that the EU CAP also sets out a framework in the main regulations, but that the implementing regulations and delegated acts provide increasing specificity. They suggest that this will also need to be provided for Scotland through secondary legislation and the Rural Support Plan to provide greater detail and clarity—

” In effect, that is what we had with the common agricultural policy; we had the main regulations, the implementing regulations and the delegated acts. We need that same type of hierarchy of specificity in the legislation to replace the CAP in Scotland.
39. The Committee’s roundtable discussions included discussion about the budget for support schemes. The NFUS told the Committee that—

” Right now, it is of paramount importance to seek a multi-annual, ring-fenced commitment from the Westminster Government, whichever party will lead it, from 2025 onwards or the middle of 2024 onwards, whichever is relevant, for at least that parliamentary term to 2029. In addition, we would need funding to be significantly increased as the value of support has eroded in real terms at the same time as the farming and land management sector across the UK is being asked to do more. That is the first ask. We need that commitment on a UK-wide basis.

If that ring-fenced, multi-annual funding commitment is secured for Scotland, we would want to ensure that the Scottish Government adds to that so that the sector can deliver on the outcomes and expectations that the Scottish Government has placed on farming and crofting.

40. The Committee explored the framework bill approach with the Cabinet Secretary. She emphasised that “flexibility is really important” so “we can respond quickly should a crisis emerge in relation to how we make payments and the type of things that we can fund” or to “enable us to make changes and adapt the definitions if there are improvements in science and technology”. The Cabinet Secretary went on: “there will be changes, particularly in the course of the next five years or so, and we need to be able to adapt and to have the flexibility to implement them”.

41. The Cabinet Secretary stated she fully recognised the sector’s concerns around uncertainty about future policy and the detail of the proposed support schemes. She sought to highlight the wider context of the Bill in terms of the information made available by the Scottish Government—

” However, we cannot forget the information that we already have. We are aiming for the bill to deliver on what we set out in our vision for agriculture. We also have a route map—which I have already referenced—that sets out exactly what changes can be expected and when they will take place, and states when more information about each of the changes can be expected. We are trying to provide as much certainty as possible about when more information will come, as well as trying to give more of an idea about what potential measures for the future could look like.

Consultation on secondary legislation

42. The Committee considered the issue of stakeholder and industry engagement over the course of the development of policy and support schemes. The Bill does not include any provisions requiring consultation either when the secondary legislation is to be drafted or when it is to be implemented. Stakeholders expressed strong concerns to the Committee about the need for consultation and co-design with the agriculture sector as secondary legislation, further policy and the details of the support schemes are developed. For example, the Agricultural Industries Confederation Scotland (AICS) recognised that “having flexible legislation is important, both to provide flexibility in the event of rapidly changing circumstances, supply chain shocks, emerging technologies etc and to enable future administrations to modify policy”. At the same time, it urged that “we need to ensure that there are a range of checks and balances in place within the framework to ensure a requirement for industry consultation and co-design in terms of the secondary legislation which will shape the detailed schemes and support

mechanisms”.

43. Scottish Government officials sought to reassure these concerns, stating the Scottish Government would “look to truly co-develop the powers with the industry and with those who will be affected by them, to ensure that the conditions and set-ups that we want to put into secondary legislation will work”.ⁱⁱⁱ
44. In terms of engagement with the agricultural sector as the detailed policy is developed, the Cabinet Secretary stressed that “co-development with farmers and crofters is critical to absolutely everything that we are doing in the bill and to all the secondary legislation that we will bring forward, including the detail of the enhanced measures and the tiers of the future framework”.

Parliamentary scrutiny of secondary legislation

45. The Committee’s stage 1 inquiry also considered the implications of the framework bill approach on parliamentary scrutiny. Concerns relate to the amount of information available during the passage of the Bill about how the proposed delegated powers would be exercised by the Scottish Ministers, as well as the amount of time and information that would be available to Parliament in order to scrutinise the secondary legislation when it is laid.
46. The bill team confirmed that the secondary legislation would be laid in 2025 on a phased basis, in line with the timescales set out in the route map. Officials anticipated that the first use of powers under this framework bill would follow affirmative procedure and said that “we will ensure that the committee has full sight of the draft Scottish statutory instruments and can offer input on those”.
47. The [DPLRC, in its report on the delegated powers memorandum](#), made a number of recommendations relating to the use of a framework bill and expressed some concerns over the implications for parliamentary scrutiny. These will be considered in more detail in the relevant parts of this report.
48. The [FPAC, in its letter on the financial memorandum](#), expressed its “ongoing concerns regarding the increasing use of framework bills and continuing a co-design process during and beyond the passage of primary legislation”. The FPAC concluded this “presents significant challenges for effective scrutiny of cost estimates associated with legislation”.
49. In the Committee’s roundtable discussions, stakeholders agreed that there must be scope for the secondary legislation to be made under the powers proposed in the Bill to be effectively scrutinised. In anticipation of a large volume of secondary legislation that is expected to be required, Professor Steven Thomson of SRUC voiced concerns. He told the Committee that “I do not know how many pieces of secondary legislation will be introduced or how quickly, but, in the space of two or three years, there will be a lot, and things might be missed”.
50. The Central Association of Agricultural Valuers Scotland (CAAVS) also thought that

ⁱⁱⁱ The Agricultural reform route map glossary provides the following definition – Co-design will allow those with an interest in future agricultural policy to share their views and ideas on the development of the Agriculture Reform Programme.

the rural support plan should be subject to parliamentary scrutiny as it will detail how the Scottish Government intends to use the powers provided under the framework to produce secondary legislation.

51. When the Cabinet Secretary gave evidence to the Committee, officials sought to reassure members that the appropriate parliamentary scrutiny procedure would be used. The Committee was told—

” We recognise that, because it is a framework bill, different sets of regulations will have different import, and therefore different levels of scrutiny might be appropriate and would be welcomed by the Parliament. That is why the main regulation-making power in section 13 is what we call an either way power, so that where regulations merit a higher degree of scrutiny—a debate—they would be affirmative. If they are relatively minor and technical, they would be negative.

52. **The Committee’s stage 1 inquiry considered whether the use of a framework bill to provide for future support schemes was appropriate. The Committee agrees with the Scottish Government’s approach that a framework bill is appropriate to establish a long-term basis for future support schemes. A framework bill would provide for, in primary legislation, the powers the Scottish Ministers need in order to give support whilst also providing the flexibility to adapt this support via secondary legislation.**

53. **The Committee’s evidence gathering explored concerns about the implications of a framework bill for parliamentary scrutiny, especially about the lack of detail around how the powers in the Bill would be used and the associated costs. It was felt that this can make it challenging for the Parliament to take a view on whether delegating these powers to the Scottish Ministers is appropriate. In addition, committees often have limited time and resources to scrutinise the secondary legislation implementing a framework bill when they are laid. The Committee notes the comments by both the Delegated Powers and Law Reform Committee (DPLRC) and Finance and Public Administration Committee (FPAC) in relation to the scrutiny of framework bills.**

54. **The Committee heard concerns from across the sector about the lack of information about the direction of, and the time being taken to introduce, future agricultural support. The Cabinet Secretary referred the Committee to the wider information she has made available, including the agricultural reform route map. Some stakeholders also expressed concern about the length of time it has taken the Scottish Government to introduce the Bill. The Committee shares the sector’s concerns around the impact of the delays on farmers, crofters and land managers. The challenges with ongoing uncertainty were also highlighted during the Committee’s consultative event with land managers and rural development practitioners.**

55. **The Committee notes the lack of certainty about the future agricultural and rural support funding from the UK Government and that this is, as stated in the financial memorandum, “the subject of ongoing dialogue” between the**

two administrations. The Committee also notes that funding for support schemes is received ring-fenced and from the UK Government, with the Scottish Government able to allocate additional monies towards agricultural and rural support. The Committee calls on the Scottish Government to ensure there is a multi-year, ring-fenced budget for support schemes and calls on the UK Government to provide clarity regarding future funding in order to make this possible. This approach would give stakeholders a level of certainty in order to plan ahead. The Committee also calls for the Barnett formula not to be applied to future agricultural and rural support funding provided by the UK Government but, instead, a formula to be used which reflects Scotland's agricultural landscape – such as less favoured areas.

56. The Committee shares the views expressed by the sector and stakeholders that any future agricultural and rural support must be developed in full consultation with them. The Cabinet Secretary emphasised the Scottish Government's intention to co-design the agricultural support schemes with the sector and this is welcomed by the Committee. The Committee notes, however, that the Bill does not always provide for statutory consultation and recommends the Scottish Government consider whether amendments at Stage 2 would help give additional reassurances to the sector and stakeholders.
57. In terms of parliamentary scrutiny of the Bill and the delegated power provisions, the Committee will make specific recommendations in the relevant sections of this report. In relation to the future scrutiny of the secondary legislation proposed in the Bill, the Committee is keen to ensure that the Parliament will have the opportunity to scrutinise this effectively, noting that a high number of large or detailed instruments may be laid within a short period of time. The Committee, therefore, calls on the Scottish Government to keep it updated on the number of instruments, policy detail and timetable for the secondary legislation over the course of 2024 and 2025. The Committee would also welcome further information about whether the Scottish Government anticipates laying the secondary legislation as a suite of instruments rather than on an individual basis. The Committee indicates here that it may wish to take evidence from the Scottish Government at any point in anticipation of its scrutiny of the proposed secondary legislation.
58. Recognising the importance of parliamentary scrutiny of secondary legislation made under framework legislation, the Committee asks the Conveners' Group to consider how the Parliament and Government can work together to ensure the Parliament has sufficient time and information to allow effective scrutiny of subordinate legislation brought forward under some framework bills.

Part 1 - Objectives and planning

59. The policy memorandum states that part 1 of the Bill “systemises the broader outcomes of the Vision for Agriculture into clear outcomes required through the use of powers sought”. Section 1 sets out four “overarching objectives of agricultural policy”. Section 2 provides that the Scottish Ministers must prepare a rural support plan to give information about the expected use of the section 4 powers and section 3 sets out various matters which the Scottish Ministers must have regard to in the rural support plan.
60. The policy memorandum states that the objectives and rural support plan have been included in the Bill in response to concerns around a lack of clarity about how the Bill’s powers would be used and a “clear desire expressed for ‘certainty within a flexible model’”.
61. The Committee took evidence on whether the objectives and proposed rural support plan provide the clarity about how the Bill’s powers would be used and the “certainty within a flexible model” which was sought by stakeholders.

Section 1 - Overarching objectives of agricultural policy

62. Section 1 of the Bill sets out four overarching objectives of agricultural policy. Scottish Government officials confirmed to the Committee that the objectives are interlinked but are not listed in the Bill in order of priority.
63. Giving more context for these objectives, the policy memorandum states—

” The Vision for Agriculture is that Scotland will transform how it supports farming and food production in Scotland to become a global leader in sustainable and regenerative agriculture. This commitment will sit at the heart of a robust and coherent framework to underpin Scotland's future agriculture support regime. Scotland will have a support system that delivers high quality food production, climate mitigation and adaptation, nature restoration, and thriving rural and island communities. High quality, nutritious food locally and sustainably produced is key to wellbeing – in economic, environmental, social and health terms. The Scottish Government will support and work with farmers and crofters to meet more of Scotland’s own food needs, sustainably and to farm and croft with nature.
64. The Cabinet Secretary explained that “the overall intention is to have broad objectives and not to be too specific, because we want to ensure that we have objectives that will ultimately work in alignment and do not conflict with each other”.

Objective 1 - sustainable and regenerative agriculture

65. Section 1(a) provides that one objective of agriculture policy is “the adoption and use of sustainable and regenerative agricultural practices”. Neither the Bill nor the accompanying documents give a definition of what is meant by “sustainable and regenerative agricultural practices”. Section 26 would require the Scottish Ministers to publish a code of practice on sustainable and regenerative agriculture, however, and section 26(3)(a) would require this code to include an explanation of the term.
66. Scottish Government officials told the Committee that the objective should be

understood in “its ordinary meaning” but went on to refer to the route map document which “talks about sustainable and regenerative agriculture being a basket of measures and practices that focus on the renewal, health and productivity of the soil”. Officials explained that the reason for using the ordinary meaning of sustainable and regenerative agriculture rather than applying a more exact definition is “so that there is not a specific meaning of it in primary legislation, because scientific advice might change in the years ahead and require amendments to the bill unnecessarily”. Officials also suggested that relevant practices would differ according to agricultural sector and by geographic area as “what is done in an arable context will be quite different from what is done in an upland context, so having a definition in the bill that is too narrowly drawn would potentially be quite unhelpful”.

67. Over the course of its stage 1 inquiry, the Committee explored with stakeholders their views on this objective and how sustainable and regenerative agricultural practices could be defined and interpreted in the context of the Bill.
68. Stakeholders agreed with this being included as an overarching objective of agricultural policy. There were, however, calls for greater clarity on the definition of that objective and what such practices include, although stakeholders recognised that the section 26 code of practice on sustainable and regenerative agriculture would include an explanation of the term.
69. The Committee’s roundtable discussions explored how the term could be defined. This report does not attempt to rehearse all the views put forward by stakeholders but, in summary, stakeholders supported a broad definition to capture the wide range of practices that may be considered sustainable or regenerative across Scotland. For example, the SCF felt that any definition must be broad enough to include local agricultural practices which could be considered sustainable or regenerative in their local contexts, such as livestock grazing and machair cropping practices in crofting areas. Other stakeholders also highlighted the need to measure and evidence the effectiveness of regenerative practices. RSPB Scotland said that “we are seeing a worrying increase of professionals giving anecdotal data that has no scientific rigour to it at all” and the Scottish Organic Stakeholders Group (SOSG) said that “you will get a lot of greenwashing, with people calling themselves regenerative, if you do not measure it”. Stakeholders also asked for any definitions to be agreed after consultation with the industry.
70. The Committee discussed this objective with the Cabinet Secretary and she set out why a definition hadn’t been included in the Bill—

” [...] the problem with being any more specific in the bill is that those could potentially change in the future, so we do not want to be too prescriptive. The words “sustainable” and “regenerative” can also mean different things in different contexts. However, I appreciate the need for further clarity and definitions about what we mean. The code of practice is hugely important in setting that out.
71. The Cabinet Secretary went on to refer to the “broad definition” set out in the route map. The route map glossary sets out a definition for regenerative agriculture—

” Regenerative agriculture is a collection of farming practices with a focus on renewing and conserving soils, landscapes and ecosystems. The method supports nature and social justice in rural communities alongside agricultural outputs. It draws upon decades of scientific and applied research on agriculture and ecology. Key practices include minimising soil disturbance, and maximising crop diversity. Another approach is to integrate livestock and arable farming more closely.

The goals of regenerative agriculture include: improving animal welfare, increasing climate-resilience of production, capturing carbon in soils and vegetation, enhancing water quality and supply in the landscape as well as supporting thriving biodiversity and ecosystem health.

Regenerative agriculture recognises that each farm has different soils, climate, managers, and history. For that reason, there is no definitive list of methods or actions. Instead, farmers and crofters decide the best approaches to achieve desired outcomes. Their choices need to be supported by practical training to select and use these methods effectively.

Objective 2 - the production of high-quality food

72. Section 1(b) provides that another objective of agriculture policy is “the production of high-quality food”. A definition of “high-quality food” is not provided in either the Bill or the accompanying documents. Scottish Government officials told the Committee that, in the context of the Bill, “‘high-quality food’ refers to the ordinary meaning of that phrase”. Officials elaborated that this ordinary meaning of high-quality food would encompass “unadulterated produce that comes out the ground and that is produced under the basic standards and expectations of Scottish agriculture”.
73. Officials stated that the current regulations and standards would give consumers “the reassurance that our farmers and crofters are supported to ensure that the way in which they produce food means that it is of high standard”. Officials stated that regional and local contexts would be taken into account within this objective, with the raising of livestock on less-favoured areas for finishing elsewhere quoted as being “consistent with high-quality food, because they are destined to be high-quality food at the end of their production journey”. However, officials explained that a “breach of cross-compliance regulations” was the key factor in how they intended to “give effect to drawing a line around what is not considered high quality in terms of production”.
74. The Committee took evidence from stakeholders about their views on this objective and how the production of high-quality food could be defined and understood in the context of the Bill. Stakeholders agreed that the production of high-quality food should be an objective of agriculture policy. NFUS shared its view that this objective “is fundamental to the bill’s purpose” and would be central to achieving the other three objectives.
75. Several stakeholders, including NFUS, were content with using the ordinary meaning of high-quality food in the context of the Bill and pointed to compliance with existing regulations and assurance schemes as evidence that this objective is

currently being fulfilled by producers in Scotland. The Scottish Agricultural Organisation Society (SAOS) felt that food producers in Scotland “are already sitting with primary production that is traceable and meets customer expectations” and suggested, therefore, that “we should not put something into the bill if we cannot define it, unless we are going to define it in terms of where we are already”.

76. Other stakeholders thought the Bill should provide a more detailed definition of what would constitute high-quality food in terms of production inputs and standards. Nourish Scotland stated that “we cannot have high-quality food that is made with poor animal welfare or labour standards and, in our view, we cannot have high-quality food that is made in a way that damages the environment, whether through pesticides, nutrient pollution or producing more emissions and using more resources than is best in class”.
77. Moreover, several witnesses suggested that nutritional value should be considered in the definition of high-quality food. For example, Professor Jennie Macdiarmid of the Rowett Institute felt that nutritional value “needs to be covered, because we want to produce food that will lead to healthy outcomes” and contribute towards addressing health inequalities. Witnesses also raised the issue of the wider public’s accessibility to such nutritional and high-quality food. The Sustainable Food Trust noted that “everybody wants food that is produced sustainably and delivers healthy outcomes” but “people who are poorer face barriers in being able to achieve that”.

Objective 3 - on-farm nature restoration, climate mitigation and adaptation

78. Section 1(c) sets out that a further objective of agriculture policy is “the facilitation of on-farm nature restoration, climate mitigation and adaptation”. Scottish Government officials told the Committee that this objective would relate to outcomes that support the agriculture sector in reducing greenhouse gas emissions and promoting biodiversity gain while recognising that agriculture “as part of a biological process, will always produce some form of emissions”.
79. Officials went on to explain that the Scottish Government intended to take a flexible approach in the delivery of this objective, taking account of local contexts and rewarding land managers for practices that they already undertake in reducing emissions and promoting biodiversity on their individual farms. Officials stated that they would ensure that delivery of this objective would complement the other objectives and support farm viability.
80. The Committee explored with stakeholders their views on this objective and how on-farm nature restoration and climate mitigation and adaptation could be interpreted in the context of the Bill. Stakeholders were in broad agreement that tackling the climate and biodiversity crises should be an objective of agriculture policy. RSPB Scotland felt that this objective is “interrelated and complementary” to the other objectives, particularly the production of high-quality food which “depends on a healthy natural environment, good soils, pollinators, clean water and a stable climate”. Professor Davy McCracken of SRUC stated that, “Farmers have a role to play in helping to address biodiversity declines, and farmers and crofters have a role to play in helping to address on-going climate change”, and that this objective is necessary in the context of increasing climate-induced severe weather events to make farms and crofts much more resilient.

81. Some stakeholders wanted to see more detail from the Scottish Government about what agriculture practices would be considered to be beneficial for nature restoration and climate adaptation and mitigation. The Soil Association suggested that soil health and management should receive more emphasis in the Bill, while the Scottish Environment Protection Agency (SEPA) felt that flood prevention and the degradation of water quality by agriculture should be addressed in greater detail.

82. Many stakeholders agreed that the Bill should be clearer in providing for a “landscape-scale” approach to tackle the biodiversity and climate crises rather than a case-by-case approach that might be focused on individual farms. Stakeholders suggested that a landscape-scale approach would facilitate more cooperation between land managers within a particular area and would go further in delivering habitat restoration where most appropriate. NatureScot, for example, stated—

” There is land that we should absolutely protect for the primacy of food production, because that is what the soil is good for, but there is also land that we should say has primacy for nature and makes space for nature. A lot of those conflict issues arise because we have not sorted that out. We need to provide a facility for a particular group of land managers, of which farmers are probably the largest part, at a landscape scale, to work that out so that we can then allocate that land accordingly.

83. Several stakeholders suggested removing the term “on-farm” from the objective to acknowledge that agricultural policy affects climate and nature through decisions made above the on-farm level, through upstream and downstream impacts, and through ecological connectivity between farms.

84. A further suggestion by stakeholders was for clearer communication to farmers and land managers about the potential benefits of measures for nature restoration and climate mitigation and adaptation for their farms, land and businesses. Professor Davy McCracken felt that this could assuage land managers’ perceptions of conflict between environmental management and food production. Scottish Land and Estates (SLE) commented that there are “slightly conflicting views on the objectives of the bill and management of land” and that, “much of that is down to how we explain that single changes of practice can deliver many different benefits and that things such as climate resilience and business resilience are one and the same”. The Food, Farming and Countryside Commission stated—

” If you do not work with nature and do not integrate it with your systems, you will not be viable—it is fundamental to farming and crofting, which is a bit of a mindset change. We see farming and crofting that works with nature as being profitable. We have to work through those principles and communicate them to make it easy for farmers and crofters to engage with them.

Objective 4 - enabling rural communities to thrive

85. Section 1(d) provides for the objective of “enabling rural communities to thrive”. As with the preceding objectives, neither the Bill nor the accompanying documents give a definition of this objective or set out the possible indicators of a thriving rural community. Scottish Government officials told the Committee that rural communities were included within the objectives of agriculture policy because agriculture plays a

“crucial” role in the viability of rural communities and is “an absolutely essential industry in rural areas, given the upstream and downstream activities that stem from it”.

86. In the Committee’s roundtable discussions, stakeholders broadly agreed that agriculture and rural communities are fundamentally intertwined and that both should be reflected in the objectives. Witnesses described farmers as “a cornerstone” of their local community and the communities and populations of rural areas as being essential to the agricultural industry and landscape. Professor Steven Thomson articulated the significant contribution of agriculture within the rural economy: “We must consider that, for some very small localities and regions, and also at some local authority levels, agriculture is a big contributor not only to gross value added but to business turnover, business count and so on”.
87. Some stakeholders were, however, wary of the potential for agriculture policy and support for rural communities and wider economy to become conflated. Highlands and Islands Enterprise noted that “rural communities are about more than just agriculture and crofting, important as those are” and that “wider rural development is critical and should not be lost as we get into the detail of the specific support that will be provided”.
88. Several witnesses felt a clearer definition of rural communities was needed in order to avoid such conflation, and for stakeholders to better understand the intended scope of wider rural development in the context of the Bill and whether future budget allocations would be sufficient to achieve it. Professor Steven Thomson told the Committee that, “The community-led local development element—formally known as LEADER—is a bit unclear to me, because I do not know how much budget will be spent on it” and that “I do not really know what the provisions of the bill are trying to do, because it seems all-encompassing”. Referring to how the rural development objectives of the LEADER programme could be carried forward through a new agriculture policy, Professor Sarah Skerratt of the Royal Society of Edinburgh stated—

” My sense is that there is a need to be clear about the objectives and not to assume that the outcomes of one will be achieved through putting money into another. That is the evidence from years of delivering LEADER and working through LAGs [local action groups].
89. Nourish Scotland thought the Scottish Government should be more explicit about the ways in which financial support would be used to develop rural communities—

” When we look into the bill, we see that there is actually very little about rural communities. There is not even a commitment to spending 5 per cent of the budget on the LEADER programme, which is a CAP commitment. LEADER was one of the best things about the CAP, to be honest, because it got local people involved in working together and adding value to farm produce, generating local food economies and doing useful things in the communities. We would like that to be reinstated in the bill as a commitment to local, community-led development.

Potential tensions between the objectives

90. The Committee asked witnesses about any potential tensions, or conflict, between the different objectives, particularly between the three objectives relating specifically to agriculture and the fourth objective of enabling rural communities to thrive.
91. Scottish Government officials thought that “there need be no contradiction between producing high-quality food and doing so in ways that benefit biodiversity gain and action towards climate adaptation and mitigation.” Officials did, however, expect there to be “some tensions between the outcomes”.
92. Some stakeholders, such as NFUS, saw no contradiction or conflict between the objectives. Even so, NFUS added—

” The key will be to ensure that the support underpins active farming and crofting specifically—not just production, but active land management that builds resilience and a flourishing and thriving environment. On the back of that, you get thriving rural communities. If you do not have that, you will certainly start to see a decline in rural populations in certain locations as well as a decline in rural services in certain regions, which we absolutely need to avoid.
93. Some stakeholders highlighted the allocation of funding as the main potential source of tension between the objectives, as the level of financial commitment may indicate a de facto prioritisation of the objectives. The SCF considered “agricultural support and everything that the policy is trying to deliver as absolutely key to the success and viability of many of our rural communities”, a connection which it felt is sometimes “overlooked”. The SCF anticipated that, “depending on the direction that the policy heads in on the back of those objectives, there is the chance for tension to emerge”.
94. The Landworkers’ Alliance agreed that tension may arise in the allocation of funding towards policies for achieving the objectives—

” It is less the case that the rural communities objective is in tension with the others; it is more that it feels very much in tension with the proposed plan for the payment system. The proposal is that the majority of the money will be an area-based payment with, currently, no mandatory redistribution. Most of the money will therefore go to the biggest businesses and landowners. At the moment, a huge proportion of the budget is going to big businesses, while medium-scale family farms are being squeezed. Small-scale farming and crofting receive almost nothing. That does not constitute supporting thriving rural communities. Any sense that that is the main system that we will adopt is therefore in tension with that objective.
95. The Cabinet Secretary indicated she did not see the objectives being in conflict with one another.

Potential additional objectives

96. The Committee also asked stakeholders whether additional objectives should be included on the face of the Bill. Stakeholders expressed a mix of views.

97. Some, like NFUS, felt that “the number of objectives is right”. Cairngorms National Park Authority preferred more detail for the four proposed objectives rather than adding further objectives which could make the Bill too broad: “if we were to start putting in lots more objectives, we would end up covering anything and everything”. Similarly, the CAAVS felt “that you do not want more objectives than you already have, but you need to get them right”.
98. Other stakeholders were open to the addition of further objectives, with 17 participants over the course of the Committee’s roundtables arguing that more objectives could be added. Nigel Miller of Farming for 1.5 stated that “having more than four objectives would be helpful” and suggested that the 10 objectives of the EU CAP would be “more helpful” than those proposed in the Bill. The Landworkers’ Alliance thought “10 would not be unreasonable”.
99. A number of suggestions were put forward for additional objectives. This report does not attempt to list all the suggested additional objectives and the Committee refers members and the Scottish Government to the Official Report and responses to the call for views for further information. A number of the suggested additional objectives which generated discussion at the Committee’s roundtables are, however, set out here. Some stakeholders advocated for an objective in relation to small holding farming and crofting; the SCF and Professor Steven Thomson suggested more specific objectives around small-scale agriculture. Numerous stakeholders suggested that animal welfare should be included as an objective.
100. The Scottish Animal Welfare Commission (SAWC) argued an animal welfare objective “is fundamental to having high-quality food, sustainable agriculture and a thriving rural community” and that there “needs to be a specific objective to ensure that there is progress in that area”. The Landworkers’ Alliance supported additional objectives for “crucial areas such as the wellbeing and livelihoods of farmers”. Dr Lorna Cole suggested that the production of a certain quantity of food should be an additional objective in order to make Scotland “as self-sufficient as possible” in order to avoid the high costs of importing food “which will result in us simply offshoring emissions and in biodiversity loss in countries that do not have the same environmental regulation that we do”. Both Scotland Food and Drink and the Scottish Tenant Farmers Association (STFA) felt an objective relating to the broader supply chain should be included. SAOS argued that the resilience, viability and profitability of farming should be “the key underpinning objective”. Food security, securing farm incomes and addressing rural depopulation and housing issues were also raised.
101. The Committee asked the Cabinet Secretary why four objectives had been chosen. She felt that, due to the “broad nature of the four objectives”, the “key aspects and main priorities” of the Scottish Government will be achieved. She later added that the four objectives were “by no means meant to exclude all the other areas, which are hugely important,” and that “the intention is to capture them all without necessarily listing them”.
102. **The Committee notes the objectives were included in the Bill in response to stakeholders’ concerns around a lack of clarity about how the Bill’s powers would be used and a “clear desire expressed for ‘certainty within a flexible model’”. The Committee appreciates the Scottish Government’s attempts**

to address these concerns but, on the basis of the range of views expressed to it over the course of its stage 1 inquiry, it is not clear that the inclusion of the four objectives has achieved this aim. The Committee recognises the importance of the overarching objectives in shaping the content of the rural support plan and agrees their scope and meaning should be clear.

103. The Committee welcomes the range of comments made during its evidence taking on the proposed objectives and refers them to the Scottish Government for its consideration. Opinions were expressed about the number of objectives and the Committee notes the Cabinet Secretary's view that the issues raised with the Committee would be covered under these overarching objectives. The Committee encourages the Scottish Government to explore amending the number, theme or wording of the objectives, in line with the evidence provided, for example additional objectives in relation to food resilience and sustainable farm businesses.
104. The Committee's roundtables discussed the absence in the Bill of any definitions of the objectives. The Committee acknowledges this adds to the general feeling of uncertainty but agrees that these are not needed in the Bill. The Committee notes the section 26 requirement for sustainable and regenerative agriculture to be included in the proposed code of practice. The Committee comments further on this provision later in this report. The Committee also expects the proposed rural support plan to provide additional information around these overarching objectives.

Section 2 - Rural support plan

105. Section 2 places a duty on Scottish Ministers to prepare a rural support plan giving information about the expected use of the powers provided for by section 4. It also requires the Scottish Ministers to exercise the section 4 powers according to the plan. Section 2(2) provides that the plan must set out the plan period (each plan period being five years), the Scottish Ministers' strategic priorities for providing support and a description of each support scheme. Section 2(6) would require the plan to be laid before the Parliament and be published "as soon as reasonably practicable".
106. The policy memorandum states the plan would also allow the Scottish Ministers to "make clear as to how agricultural support contributes to other statutory duties such as climate commitments and EU alignment". It also states the plan would offer "a clarity of purpose, intent and action that is beneficial to the industry and rural partners in planning".
107. In evidence, Scottish Government officials explained that the plan "will be the summation of how the support tiers operate towards the four overarching objectives" and would be laid in Parliament at the same time secondary legislation is laid in 2025. They confirmed that the strategic priorities would be co-designed with the sector, although agreed by the Scottish Ministers. Officials also confirmed that the plan was not part of the bill consultation but is in response to the "strong

desire for such a vehicle” expressed at consultation events.

108. Scottish Government officials explained the rationale for choosing a five-year plan period was to allow “for further stability and which tied to parliamentary terms”. Officials added that, “if we are to make realistic plans and see them achieved, the five-year timescale is a sensible compromise between long-term planning need and the realities of responding to things that happen in the world and the market”.
109. Witnesses in the roundtable sessions agreed with the approach of a rural support plan and saw it as the vehicle for delivering clarity on the workings, intended outcomes, and budgets for future agriculture support schemes. Professor Davy McCracken stated that, “one of the primary rationales for having a rural support plan is to provide some stability through farmers and crofters knowing what will happen over the four or five years or whatever length of time the plan will be active”. For this reason, Professor McCracken continued, “it is essential that the plan is produced sooner rather than later—not just to inform secondary legislation but to be sure that farmers know what is happening, particularly with regard to the budget”.
110. Stakeholders generally agreed with the five-year plan period. QMS noted this “is long enough to give certainty, while still being agile enough to respond to any challenges that come down the wind”.

Need for greater detail in the Bill on the rural support plan

111. Many stakeholders commented upon the lack of detail in the Bill on what information would be included within the rural support plan.
112. Stakeholders also gave their suggestions on what they would like to see detailed in the rural support plan and how it would function as a means of delivering the overarching objectives of the Bill and giving clarity to land managers. Stakeholders generally agreed that the rural support plan was where the definitions of the objectives should sit. Nourish Scotland stated—

” We are all agreed that this is a framework bill. The bit that will translate the framework into action is the rural support plan. As it stands, the bill is very weak on defining such a plan. We want the Scottish bill to provide a plan that is much more like the CAP strategic plan. We want to stay aligned with the CAP, because its strategic plan is really clear about setting obligations on what should be in a support plan. For example, we would need budget envelopes and uptake estimates; we would also need estimates of the impact of the various measures not just on climate and nature, but on food production and farm incomes. The rural support plan has to set up all that. How will we translate the bill’s broad framework into provisions for spending public money in a way that will do the best job for Scotland? The Parliament must consider that plan with some time and effort, and ideally with external advice, otherwise there is a danger that we will just look parochial.
113. In response to the Committee’s call for views, stakeholders including SEPA, Plantlife and RSPB Scotland expressed a desire to see, for example, clearer objectives, targets, delivery mechanisms and monitoring systems set out in a rural support plan. RSPB Scotland was explicit that the Bill should be amended to require certain elements to be addressed within a rural support plan, including—

- Plan preparation to be preceded by a SWOT analysis which includes a

description of the area to be covered by the plan;

- An assessment of need (economic, social and environmental) and an intervention strategy (i.e. explaining why public intervention is required and for what purposes);
- Specific objectives (which in this case would be related to those in this Bill) and indicators;
- The types of interventions chosen – schemes and types of payments (in this case setting out the different elements in each of the proposed four Tier structure);
- Common requirements such as cross compliance conditions;
- Consistency and complementarity with other relevant legislation and policy (in this case, for example, the Climate Change Plan, Scottish Biodiversity Strategy, National Food Plan etc);
- Financial provisions and allocations; and
- Quantified targets and milestones (in this case we wish to see inclusion of targets for the expansion of organic farming and for reductions in the use of pesticides and artificial fertilisers, amongst others).

114. RSPB Scotland suggested that, “as it stands, both sections 2 and 3 provide only light-touch requirements for Scottish Ministers to ‘have regard to’ when preparing or amending a rural support plan [...] it seems reasonable to suggest that a greater level of detail be provided for in sections 2 and 3. This detail must include what the plan must set out (its content) and the matters it must consider.” RSPB Scotland also noted that this is consistent with other statutory plans, such as the Climate Change Plan.
115. The SCF (and others, such as the Landworkers’ Alliance) had a similar view – that more content should be specified on the face of the bill – as well as wider views about consultation, scrutiny and revision. The SCF thought that “the primary legislation should outline in greater detail what must be included in rural support plans and how outcomes are measured which includes budgets, targets and clear indications of how the plan will contribute towards overall objectives of the agriculture bill”. The SCF also argued that successive rural support plans should ideally be published one year before the end of an ongoing plan in order to enable crofters and farmers to plan and prepare themselves accordingly.
116. Along similar lines, Soil Association Scotland expressed disappointment that the Bill does not include any targets “to drive the ‘transformation’ required in the Vision for Agriculture” and suggested that the Bill give Ministers a power to set these within the Rural Support Plan. Soil Association Scotland suggested these could include “targets to reduce the use of and harm from chemical pesticides, reduce the waste from synthetic nitrogen fertilisers, increase the amount of land farmed organically or increase the area of land under agroforestry systems”. It argued these could be included within the rural support plan, along with an outline of how progress towards meeting those targets will be measured. Other stakeholders made similar points in relation to targets, including the Nature Friendly Farming Network, National Trust for

Scotland, and Scottish Environment LINK.

117. Participants at the Committee's consultative event also supported the inclusion of clear outcomes, objectives or targets that the funding is going to deliver, and what baseline is being delivered against, as well as a feedback loop to evaluate progress. As many stakeholders also noted in the roundtables, participants emphasised it should be accompanied by a multi-year funding plan.
118. Participants, who came from a wide variety of farming, land use and rural development backgrounds, emphasised that the rural support plan must cater for different contexts, sectors, regions, and types of businesses. Some specific aspects that it was felt a rural support plan should address were—
 - How tenants will be able to play a full role in the grants scheme, and a need for agriculture and rural policy reform to cohere with agricultural tenancy reforms expected in the upcoming Land Reform Bill;
 - A consideration of crofting needs. While it was acknowledged that crofting has its own development plan, participants made the point that the rural support plan is where significant public spending will be outlined;
 - Consideration of the needs of young people in rural communities and generational renewal;
 - How the whole support programme will address rural development/rural community needs. Rural development practitioners felt there needs to be ring-fenced funding for this element, and the funding should be longer-term;
 - How support will enable delivery of public goods as well as food production;
 - Co-operation and joint applications for support, as well as enabling interventions at scale; and
 - A consideration of the whole landscape and the need to integrate with other funding programmes, for example for forestry and conservation.
119. More generally, there was wider discussion in the groups around the intended scope of a new policy in relation to rural development. Though there were differing views on this, there was a clear point made that the success of land management businesses is underpinned by rural communities, and robust public services and infrastructure.
120. Not everyone agreed, however, that more detail had to be on the face of the Bill. NFUS warned that, "if we paint ourselves into a corner too far and too fast, we will just be storing up problems". NFUS went on to say that—

” This is a framework bill, as we all know, and there are some who would say that such a bill is not good enough and that we need absolute precision in the primary legislation. I disagree: we need to use the powers to best effect to tackle the issues that we have. In that sense, we need a framework bill that is flexible and adaptable as we go forward.
121. Some stakeholders, including the Soil Association, QMS, RSPB Scotland and the NFUS, felt that the rural support plan should provide clarity on how funding would

be allocated during the plan period and what mechanisms would be used to measure and monitor progress towards delivering the outcomes of the objectives. NFUS stated—

” The fundamental point about the rural support plan is that, although there is a five-year commitment on ministers to produce one, it will be worthless unless it is backed by a five-year rural funding plan—if that is the right expression—to go alongside it. You need a funding framework that says what commitments, in aggregate terms, will underpin that rural support plan.

122. The Cabinet Secretary told the Committee the plan is “key because it is about providing more certainty in a flexible framework”. She added, “I like to think that, by the time the plan comes forward, it will not be a surprise to anyone, because we have outlined in the route map when different parts of the information about the future framework will be published and become available”. The Cabinet Secretary and officials reiterated that the plan would be based on the vision for agriculture and the route map and that “all that will be brought together in one place to provide more clarity within the flexibility”.

Consultation on secondary legislation

123. Stakeholders also called for the plan to have early input from industry bodies and land managers. QMS argued for “embedding co-design principles” into the plan, including consultation with farmers, crofters and the broader food supply chain, “to make sure that it is right for businesses”. The STFA echoed this view and noted there was “real frustration among agricultural stakeholders” that the Scottish Government’s engagement with the industry on the co-design of the plan was not broad enough.

124. The Cabinet Secretary emphasised that the co-development aspect of the plan is “absolutely critical”. She told the Committee—

” We want to develop schemes that we know will work and that will deliver the objectives that we have set out in the bill, but we want to do so in a way that works for farmers and crofters. We want to develop that with them. The detail that comes from doing that, and from following what we have set out in the route map about when information will become available, will, ultimately, populate the rural support plan.

Monitoring and evaluation of the rural support plan

125. The Committee asked the Cabinet Secretary what measures the Scottish Government would put in place in the plan to monitor and evaluate the effectiveness of the strategic priorities and budget in terms of meeting the overarching objectives. Part 1 of the Bill does not include any provision requiring monitoring or evaluation. The Cabinet Secretary confirmed monitoring and evaluation would “be embedded in the work we are taking forward”; she went on to recognise “measuring progress will be quite a complex process, but it will be fundamental to what we do as we go forward”.

Parliamentary scrutiny of the rural support plan

126. As set out earlier in this section of the report, the plan must be laid in the Scottish Parliament but there is no provision for parliamentary scrutiny.
127. Stakeholders agreed that the Parliament should have a role in scrutinising the plan before it takes effect and in monitoring its progress during the plan period. For example, the CAAVS felt that—
- ” If, in practice, the rural support plan is the real bill within the framework bill, it seems to me that there will be an essential role for Parliament in looking at the genuine allocations of expenditure, conditions and so forth. The plan is tantamount to a bill, so the processes for that give Parliament some hold on it.
128. In terms of monitoring progress during the plan period, RSPB Scotland suggested a progress report should be put to Parliament at the midpoint to allow progress to be reviewed. Others made similar points; Professor Steven Thomson suggested annual reports and SLE agreed that a “feedback loop...that allows regular review” would be helpful. Professor Dave Reay noted the crucial importance of monitoring and evaluation. He said—
- ” It would be good to think about the monitoring and evaluation side of things in some depth before the Government gets to the secondary legislation, because it is so fundamental. There is the potential to still be here in 10 years’ time, asking, “Did we improve soil health, mitigate climate change, increase resilience and enable rural communities to thrive?” As we all know, the clock is ticking, and my main issue with the bill is that, although we all hope that it will deliver everything that is required, it does not articulate that in a way that means that we can say for certain that it will.
129. There was broad consensus that the plan should be laid before the secondary legislation related to that plan period is introduced. The Soil Association asked the Committee to press this issue as it felt that the Parliament “cannot make decisions on secondary legislation if we do not know what will be in the five-year plan”. Nourish Scotland suggested that 1 January 2025 “would be a good time for a draft plan to come to the Parliament” in order to scrutinise the funding provisions and priorities for the plan period “because we need a logical setting out of why we are spending on certain schemes and what we will deliver”.
130. The DPLRC, in its report on the Bill, recommended that a draft plan be published before stage 3 proceedings on the Bill. Professor Steven Thomson commented on this recommendation, stating—

” I can see the challenges of delivering a plan before stage 3, simply because officials have still not fully drafted the secondary legislation, which means that they do not have a full grasp of the measures and targets that they are trying to deliver on. The iterative approach that this framework bill permits means that officials will not have the full list of tier 2 measures or the full design of tier 3 measures, which means that setting targets and objectives and explaining where the money will go is probably more challenging than we are all giving Government officials credit for.

From my perspective, the logic should have been to mock up a plan and then tweak it as we went forward with the secondary legislation, so that the plan was iterative. The Government could lay a plan before Parliament before stage 3, which would give an indication of the direction of travel and what the objectives and budgetary allocations are.

131. Some stakeholders also suggested the plan be subject to an external independent audit process, similar to that in place for the EU CAP which is evaluated by the European Court of Auditors. Nourish Scotland suggested that Audit Scotland might take a role in scrutinising the plan on the basis that “very large payments going to businesses that are already very prosperous is not a good use of public money, and we must scrutinise that when the rural support plan comes forward and consider whether we are spending public money wisely”.
132. When asked whether she would be willing to provide a draft plan before stage 3, as recommended by the DPLRC and called for by some stakeholders, the Cabinet Secretary said she would take advice on this matter and follow up with the Committee at a later date.
133. The Committee also pressed the Cabinet Secretary on whether she would amend the Bill to require the Scottish Government to lay a draft plan for parliamentary scrutiny. Again, the Cabinet Secretary said she would take advice on this matter and follow up with the Committee at a later date. The Cabinet Secretary also repeated the point that much of the information which will be included in the plan is already available in the route map.

134. **The Committee notes the proposed rural support plan was included in the Bill to address calls made during the consultation on the Bill for more information about how the section 4 powers would be used. Many of those who gave evidence to the Committee supported the proposed plan and the proposed five-year plan period, although some supported shorter or longer plan periods than five years.**

135. **Many stakeholders at the Committee’s roundtable discussions expressed concern about the content of the proposed plan, especially in the context of it being laid at the same time as the secondary legislation in 2025. The Cabinet Secretary and Scottish Government officials emphasised the proposed plan would be largely based on the vision for agriculture and the route map. The Committee agrees it would have been helpful to reflect this information in the Bill’s accompanying documents.**

136. **As set out earlier in the report, many stakeholders called for the section**

- 2(2) requirements for what should be included in the plan to be amended. It was suggested that the plans should set out more detailed outcomes, targets or milestones, information about budget priorities for each tier, delivery mechanisms and about how support schemes would be monitored and evaluated over the plan period. The Committee believes the proposed plan would be a more meaningful and useful document with this information included and recommends the Scottish Government considers whether section 2 should be amended to include such requirements.**
- 137. The Committee also agrees the Bill should include a requirement for future plans to include an evaluation of the previous plan. This would provide transparency and accountability around the effectiveness of the strategic priorities and budget of the previous plan in terms of meeting the overarching objectives. This could also include information about the effectiveness of the previous plan in terms of the matters set out in section 3, such as the climate change plan and EU alignment. The Committee recommends that section 2 be amended to include this requirement.**
- 138. There were strong calls from the sector for consultation with stakeholders on the draft plan and the Committee welcomes the Cabinet Secretary's reassurances that the co-development aspect of the plan is "absolutely critical". The Committee notes, however, that the Bill does not provide for statutory consultation and recommends the Scottish Government consider whether an amendment at Stage 2 would help give additional reassurances to the sector. The Committee also requests further details about the timescale for consultation with stakeholders on the plan.**
- 139. A number of similar views were also expressed regarding the rural support plan during the Committee's consultative event with land managers and rural development practitioners. Participants also highlighted a range of issues which they felt the rural support plan should take into consideration. The Committee refers the Scottish Government to the event report which details participants' views expressed at the event.**
- 140. The Committee notes the DPLRC's recommendation that a draft plan be published before Stage 3. The Cabinet Secretary told the Committee she was taking advice on this. The Cabinet Secretary and her officials have indicated that much of the information relating to the proposed plan is already publicly available; this being the case, the Committee expects the Scottish Government should be able to provide a working draft, if not a full draft, before Stage 3.**
- 141. The Bill makes no provision for parliamentary scrutiny of the proposed plan. The Committee notes the Scottish Parliament would have a one-off opportunity to scrutinise the proposed schemes when the secondary legislation is laid in 2025 but members agree there should be an on-going role for the Parliament to scrutinise support schemes. The Committee believes it is important for the Parliament to have oversight of the Scottish Ministers' strategic priorities, budget priorities and information about how these will impact on the support schemes. The Committee has previously**

noted the lack of certainty about the future funding of the budget for agricultural and rural support from the UK Government. The Committee asks the Scottish Government to consider amending the Bill to require the initial draft, and subsequent draft, plans to be laid to allow the Parliament sufficient time to report on them. The Committee believes this proposal would provide the appropriate level of democratic oversight and ensure that it, and its successor committees, are able to hold the Scottish Government to account for its agricultural and rural community support. The Committee recommends that parliamentary scrutiny be completed, and the initial draft plan laid, in advance of the secondary legislation being laid in 2025.

Section 3 - Rural support plan: matters to be considered

142. Section 3 sets out the matters the Scottish Government must have regard to when preparing a rural support plan. Section 3(2) details the matters: (a) the section 1 overarching objectives; (b) the climate change plan proposals and policies relating to agriculture, forestry, and rural land use; (c) any other statutory duty relating to agriculture or the environment and (d) developments in EU law and policy. The matters to be considered detailed in section 3(2) can be modified by regulations, which would be subject to the affirmative procedure.
143. Over the course of the Committee's evidence sessions, stakeholders made a number of suggestions about additional matters the Scottish Ministers should have regard to in the preparation of the rural support plan.^{iv}
144. There were concerns from some stakeholders about having too many matters included in section 3. Professor Sarah Skerratt and the Cairngorms National Park Authority warned that flexibility should be kept in the Bill on the basis that, "if it is too specific, the bill will become outdated quite rapidly". Instead, a suggestion was made that the plan should simply be required to "have regard to the relevant pieces of legislation and statutory plans that impact on agriculture and wider rural communities". Professor Steven Thomson agreed with such an approach, stating that, "if you get the right wording, the bill can just say that the support plan has to take account of all the relevant pieces of legislation and plans".
145. Several stakeholders warned about the unintended consequences of identifying

^{iv} Suggestions for additional matters were: Good Food Nation plans, crofting law reform and wider considerations for crofters and common grazings, the biodiversity strategy, the climate change plan, river basin management plans, Scottish nitrogen balance sheet, the proposed land reform bill, Wildlife Management and Muirburn (Scotland) Bill, forestry grants, the proposed natural environment bill, the Islands (Scotland) Act 2018, the land use strategy, the environment strategy, the just transition plan for agriculture and land use, Scotland's food and drink strategy, international obligations (e.g. under the sustainable development goals, the Convention on Biological Diversity, etc), the local food strategy, rural skills action plan, rural delivery plan, community empowerment policy, circular economy bill/plan, the proposed human rights bill, UK Government developments, statutory duties on fair work, the historic environment, animal welfare standards, the organic food and farming action plan, and the cleaner air for Scotland strategy.

specific matters to be regarded and the potential for tension between them. SLE suggested that there should be “a sense check of whether there are contradictory policies in place” between the various areas which the plan will have regard to as stakeholders “need certainty from the Government that such an exercise has been done and that no contradictions have been spotted or that, if they have, they have been addressed”. Professor Davy McCracken agreed with the suggestion; he referenced the route map which he saw as being “a list of different policies and bills occurring in series, with no linkage across them” and recommended a sense check of these areas “certainly needs to be done sooner rather than later”.

146. Some stakeholders made specific comment in relation to the section 3(2)(d) requirement to have regard to EU law and policy developments. Concerns were expressed that alignment with the new EU CAP would not enable the required reductions in emissions to meet Scotland’s climate targets. Dr Vera Eory stated that the new CAP “will not deliver the greenhouse gas mitigation that is needed in Europe”. The Landworkers’ Alliance and Farming for 1.5 felt that more ambitious targets should be included in the Bill that go beyond the EU CAP and “build on that through the five-year plan to get to the sort of place that would ensure that we have some chance of hitting targets”.

147. When it gave evidence to the Committee, CAAVS questioned the purpose of section 3 on the basis that it detailed the section 1 objectives and statutory duties—

” I am rather intrigued by the issue of things that the Government must have regard to and how those relate to the objectives. It results in a double take. There is a direct reference to the climate change plan, but that is almost implied in the objective of climate mitigation and adaptation in the bill. On the reference to ministers having regard to “any other statutory duty”, they would presumably have to have regard to those regardless of whether that is set out in the bill. [...] I am struggling to see what that section actually adds. Which bit of climate change mitigation and adaptation would not consider the climate change plan? Which statutory duty do you propose to disregard? Section 3 is almost superfluous, if we get the objectives right.

148. Scottish Government officials supporting the Cabinet Secretary sought to clarify the purpose of section 3—

” I would suggest that the way to understand the issue is, as the cabinet secretary says, in relation to how we shape the plan, how the plan has been developed and how we might want to put into the plan material relating to how those other statutory duties have been taken account of. Although we do not have to have section 3(2)(c) [other statutory duties] and we could drop it, that might mean that the plan would not develop in a way that is helpful for people who would be looking to the plan to understand how support would develop over that five-year period. It is about clarity and transparency as much as it is about legal change and legal effect.

149. **The Committee acknowledges the purpose of section 3 is to clarify and confirm what matters the Scottish Ministers should have regard to during their development of the rural support plan. The question of what has been included, and what has been excluded, from section 3 was raised during**

the Committee's evidence taking, with a number of further matters put forward. In addition, the question of why this list has been included at all was raised. It includes matters already set out in the Bill, matters which the Scottish Government is already required by law to have regard to or EU alignment which the Scottish Government has already committed to "where that is appropriate and practicable".^v Taking these questions about section 3 into account, the Committee is unclear about its exact purpose. The Committee recommends the Scottish Government provide further information about the purpose and function of section 3 in its stage 1 response.

150. The Committee notes the Bill does not require the Scottish Ministers to set out in the rural support plan the progress which has been made in relation to these matters. The Committee recommends, earlier in this report, that the Bill be amended to include a requirement for future plans to include an evaluation of the previous plan. The Committee recommends that any evaluation include information about the effectiveness of the previous plan in terms of the matters set out in section 3, such as the climate change plan and EU alignment. The Committee recommends that sections 2 or 3 be amended to include this requirement.

Part 2 - support for agriculture, rural development and related matters and schedule 1

151. Part 2 provides the Scottish Ministers with various powers to provide, and place conditions on, support for a number of purposes included agriculture, particular products or sectors, food and drink production or processing, environment, forestry, knowledge exchange, and animal health and welfare. The Committee explored several issues in relation to these powers during its stage 1 scrutiny.
152. The policy memorandum states that the powers provided in part 2 of the Bill "will enable delivery of the Scottish Government's Vision for Agriculture and provide flexibility to deliver future outcomes beyond the current Vision".
153. Responses to the Committee's call for views and the discussions at its roundtables did not raise issues or concerns with some of the Part 2 provisions. This report, therefore, reflects the issues and the provisions that were raised and discussed.

Section 4 - power to provide support for the purposes in schedule 1

154. Section 4 would give Scottish Ministers the power to provide support for a range of purposes including general support for agriculture, support for specific sectors, the production and processing of food and drink, the environment, forestry, knowledge

^v The [commitment to update or align devolved law with new EU law "where that is appropriate and practicable"](#) was set out in regard to the [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Bill](#).

exchange and animal health and welfare. Schedule 1 provides a full list of the purposes for which support may be provided.

155. Section 4(2) would provide the power to modify, by regulations, schedule 1 by adding, amending, or removing purposes for which support may be provided. Section 4(3) sets out that such regulations would be subject to the negative procedure.

Views on the purposes of support set out in schedule 1

156. The Committee asked stakeholders for their views on the list in schedule 1 of the purposes, products and sectors that would be eligible for support. Some stakeholders felt that the list was not broad enough. For example, RSPB Scotland noted that there was no provision for “facilitation, collaborative management and landscape-scale work” and suggested that an environmental co-operation action fund be included in future agriculture policy. Farming for 1.5 wished to see more clarity on what technical support would be included, such as upgrading mapping and carbon calculator standards “to ensure that they reflect science and fit with the inventory and that people use only those that are approved”. The SCF felt the schedule should be “another area of the bill where we could have a firmer commitment to smaller producers and crofting”. CAAVS stated that there was “a lack of focus on supporting business approaches and productivity”. SLE highlighted that—

” Part 5 of schedule 1 includes plants and soil but there is nothing in the bill about water-holding capacity or biological activity. A number of sensible tweaks could be made to schedule 1 that I do not think would cause too many headaches for the Government.

157. Several stakeholders suggested new support schemes that would help achieve the Bill’s objectives and which should also be considered when allocating funding across tiers. For example, Propagate wrote that “we absolutely have to see a horticulture scheme...We are in no way resilient or food secure when we look at nutrition and health... This has to change, and the only way to support this is with a *fruit and veg producers’ scheme* that is accessible to smaller producers”. OneKind wrote that “tier 3 should also include *targeted support for animal welfare improvements*, for example infrastructure grants for pig production, to assist with the capital cost of moving to higher welfare (e.g. “free farrowing”) systems” and that “payments should also help with the modest extra running costs, for a transitional period”.
158. Several stakeholders commented on the absence of certain sectors within schedule 1, such as poultry, eggs, and pig meat. The Landworkers’ Alliance noted that, while these sectors had not been provided support in the past, nevertheless “we do need support in place to help our egg and pork industries transition to more sustainable practice” and that “nothing under schedule 1 at the moment allows the bill to shape the direction of those sectors”.
159. In evidence to the Committee, the Cabinet Secretary stated that, “if we create a list, it can look as though something that has not been included is seen as being less important or something that cannot be supported”. She added, however, that she would be “happy to consider the committee’s recommendations” on whether any changes should be made to schedule 1.

Parliamentary scrutiny of section 4(2) regulations

160. The DPLRC, in its report on the Bill, expressed concerns about the proposed delegated power at section 4(2). The DPLRC concluded that—

” The Committee notes that it is being asked to consider this power in absence of the rural support plan which is to contain information about the expected use of the powers conferred by this provision. In light of the absence of detail, and the fact that this power is a Henry VIII power, the Committee recommends that this power should be subject to the affirmative procedure.

The Committee also highlights to the lead committee that changing the purposes for which support can be given could have significant policy implications.

161. The majority of the Committee remains concerned about how such a power might be used by future governments, given its scope.

162. The [UK Parliament website defines a ‘Henry VIII power’](#) as one which would “enable ministers to amend or repeal provisions in an Act of Parliament using secondary legislation, which is subject to varying degrees of parliamentary scrutiny”.

163. On the DPLRC’s recommendation in relation to the procedure by which regulations to change schedule 1 should be made, Professor Steven Thomson stated that he did not think that there will be “wholesale changes” but thought a flexible approach would be required “given that we are encouraging farmers, crofters and land managers more widely to be more environmentally aware, elements that we have not thought about might suddenly come into the mix and need to be addressed rapidly”.

164. The Committee discussed the DPLRC’s conclusions with the Cabinet Secretary when she gave evidence. She referred to section 4(2) as “a specific power for a very specific purpose” and compared the power with what the Scottish Government considers is a similar power in the Environmental Protection Act 1990 and which is also subject to the negative procedure. The Cabinet Secretary concluded that “the proposed power in the Bill is not as broad as the power in the 1990 Act and is for a very specific purpose”. An official added that, “although it might be characterised as a Henry VIII power, my personal view is that it is only a Henry VIII power in the most narrow and technical sense”.

165. **The Committee notes that the section 4 power to provide support would be the main power for the Scottish Ministers to establish support schemes.**

166. **The Committee notes the comments by stakeholders about the scope of schedule 1 and that some sectors and products are not included on the current list and refers the Scottish Government to Annexe C for further details. The Committee encourages the Scottish Government to explore amending the purposes of support set out in schedule 1, in line with the evidence provided.**

167. **The Committee notes the DPLRC’s recommendation that any regulations**

made under section 4(2) to modify schedule 1 should be subject to the affirmative procedure to reflect that these regulations would modify primary legislation. Given the potential implications of modifying schedule 1, the Committee agrees that the affirmative procedure might be more appropriate and recommends the Bill be amended accordingly at stage 2. In addition, the Committee suggests that an updated version of schedule 1 be referenced in each rural support plan to give clarity on any changes made to the areas that support would be provided.

168. The Committee recognises that flexibility will be required in amending schedule 1, but expects that any changes would be undertaken only through consultation with the relevant sectors and stakeholders. The Committee asks the Scottish Government for confirmation that any modifications to the schedule would be co-designed with stakeholders.

Section 9 - power to cap support and assistance

169. Section 9 gives Scottish Ministers the power, by regulations, to limit, or 'cap', support or relevant assistance that a recipient may receive within a payment period or allow for an individual's support to be progressively reduced if the amount received is above a certain threshold of support. These regulations would be subject to the negative procedure.
170. In its report on the Bill, the DPLRC noted the concern of a majority of its members about the use of the negative procedure for these powers under section 9(1): "the majority of the Committee remains concerned about how this power might be used by future administrations, whose intentions cannot be known and therefore recommends that the procedure be upgraded to the affirmative procedure".
171. The Committee took evidence on the power to cap support and assistance. Scottish Government officials explained that the proposed power had been included in the Bill as "there might be a reason to continue to use those powers in order to ensure that we get best value for public money in supporting those who most need the support". They highlighted that such powers are currently available under the EU CAP above a threshold of around £535,000—
- ” A reduction payment of 5 per cent applies to payments over £134,000. That is how it stands. It is fair to say that capping and degressivity, as it is called, are applied already.
172. Officials went on to state that a regional model for capping payments is being considered for a new support system—

” A number of different models exist for how we could set payment rates across the country. The more rates we set, the more complex things are. The more complex things are, the less money goes to farmers, because we would be spending more money on the administration of the scheme and the supporting information technology. We might try to do something quite simple, and we would therefore need a redistributive mechanism to make sure that the money flowed in a more appropriate way. We would have to take those decisions based on modelling work, and we have plans to undertake that work as we approach the region review.

173. Officials stated that they did not believe the UK subsidy control threshold set by the Subsidy Control Act 2022 is currently surpassed by any support provided in Scotland under the support schemes that have been retained from the EU CAP.
174. Respondents to the Committee’s call for views made a number of comments on the power to cap support payments. There was strong support among respondents to the call for views and from participants at the Committee’s consultative event for a redistributive mechanism to shift some funding from the largest recipients to other, usually smaller, farms and crofts from several respondents, who noted that there are no specific provisions for this in the Bill. Some stakeholders felt that redistributing payments towards smaller farms would also support the Bill’s objectives. Nourish Scotland wrote that small producers “are among the most productive and generate the most jobs per hectare”; Propagate noted that they are “more likely to be implementing nature based solutions [and] diversification”; and the Landworkers’ Alliance stated that small-scale horticulture and market gardens “sequester lots of carbon, are great for biodiversity and can feed 100 families on one hectare”.
175. Some of those in support of the power to cap and provide for redistribution felt that such a provision should be mandatory and referenced the new EU CAP in which at least 10 per cent of direct payments must be used for redistributive payments.
176. Several respondents to the call for views commented more generally on the inequity in the current system of area-based payments, where payments are allocated per hectare of eligible land, with higher payment rates for the most productive land and lower payments for less productive land. The SCF, for example, felt that “after over 20 years of discussion about ‘public funds for public goods’– no commitment is made to meaningfully reform the system of area-based payments which, in its present form, mainly favours large landowners”. Consequently, it “insist[s] on the implementation of binding obligations towards mandatory capping and ‘frontloading’ of area-based payments”.
177. Respondents also suggested that capping should be applied to direct payments only and not to targeted support (e.g. for environmental activities) as that could be counterproductive to achieving desired outcomes. Some respondents were against capping payments but were in favour of frontloading payments whereby the amount of support per hectare reduces as the number of hectares increases.
178. The Committee took oral evidence from stakeholders on the power to cap payments. The Landworkers’ Alliance wished to see more detail in the Bill on how Scottish Ministers intend to use this power: “there is a power to introduce capping, but there is no obligation on ministers to do it and there is no direction on how to do

it” and therefore “It is really important that those things come into the primary legislation”. A key concern for stakeholders who wished to see more detail on capping was that they saw the granting of large sums of public money to a small number of individuals based on area of land as a potential “misuse of public money” which “should be covered in the primary legislation and it should be regulated against”. This view was supported by Nourish Scotland who stated—

” Very large payments going to businesses that are already very prosperous is not a good use of public money, and we must scrutinise that when the rural support plan comes forward and consider whether we are spending public money wisely. Whether we call it capping, tapering or degressivity, it is important that we say that giving businesses very large sums of money that they do not need is not a good use of public money.

179. Some stakeholders supported the principle of capping payments to enable redistribution, but, like respondents to the call for views, were also concerned about the unintended consequences of any cap on payments linked to specific actions or outcomes, such as environmental payments. NatureScot felt that “more parity...in the distribution of payments” is necessary if all farmers and crofters will be required to do more for nature and climate, but noted that “initially, the emphasis should be on the first two tiers, including the base payment, to give confidence and surety to the industry that it continues to be supported to deliver on all the targets that we have just been talking about. Then, we need to think about the distribution of payments around that base payment. It will be critical to get the region modelling right.”

180. The Soil Association asked for greater clarity in the bill on which payments would be subject to capping and suggested that environmental payments should not be subject to a cap as “capping in those areas would be counterproductive to some environmental objectives.” RSPB Scotland shared this view—

” Although we support capping, we think that it should be applied to those base payments—those income support payments—but not to other payments that are clearly targeted at delivering certain outcomes, where the delivery of those outcomes is likely to increase at scale, particularly in environmental land management. It makes sense that, if you are delivering a lot, you should be able to get the appropriate payments to support that activity.

181. SLE agreed with colleagues during the roundtable that it “particularly do[es] not want to see any capping linked to environmental payments”. In contrast to the other stakeholders above, it stated explicitly that it is not in favour of capping in general, and felt that if a new system is to require certain baseline activities such as soil testing and whole farm plans of all farmers, “there needs to be a clear assessment of those costs to businesses before we start looking at capping and tapering”, and more broadly that “we need something in the bill about a requirement to provide impact assessments or modelling on what the impact of moving the money will deliver”.

182. From 2025, farmers and crofters will be required to adopt the following practices to qualify for the payment—

- foundations of a ‘Whole Farm Plan’ which will include soil testing, animal health and welfare declaration, carbon audits, biodiversity audits and supported

business planning;

- protections for peatlands and wetlands to help farmers restore these vital habitats to sequester more carbon; and
- meet new conditions to the Scottish Suckler Beef Support Scheme to help cut emissions intensity and make beef production more efficient.

183. At the Committee’s meeting on 21 February 2024, the Cabinet Secretary committed to update the details of the route map and Vision for Agriculture, including the whole farm plan and the Scottish Suckler Beef Support Scheme.
184. NFUS stated that they considered capping as “a very blunt measure” but were open to the concepts of frontloading (where there are larger payments per hectare for the first hectares claimed, and smaller payments for hectares claimed above this threshold) or tapering payments. QMS were also “fundamentally opposed to the concept of capping” but were also supportive of frontloading. QMS told us “there is often a cost to doing business, no matter whether a farm is large or small, and front loading would help the smaller producers that we know are more exposed to market volatility and the cost of doing business and that are often in more geographically challenging locations”.
185. Other stakeholders raised concerns about capping in relation to direct payments. Farming for 1.5 said there were “significant dangers in applying capping to core support, given the structure of agriculture and the level of employment on some larger units” as this could impact on “the capability to pay decent wages and create employment, which is important in many areas”.
186. The Cabinet Secretary told the Committee that the powers to manage payments “are critical” and that, while discussions have taken place about redistributive payments, she was “not positioned to set out today exactly what that would look like or what form it would take, because that will be part of the consideration of what things might look like in the future framework”. The Cabinet Secretary committed to setting out further information for stakeholders during the transition period and stated that the Scottish Government “would not change the cap or the taper or introduce front loading or redistribution without discussing that with the people who would be impacted”.
187. The Cabinet Secretary stated that she could not confirm what mechanism may be put in place, but that the powers would offer the flexibility to take forward a system after a co-development process—
- ” [...] there tends to be broad agreement about what front loading can do and what impact it can have, so we might want to consider it further. However, I would not want us to tie ourselves to a certain position in relation to that, because we need to go through the co-development process first.
188. Asked specifically on whether Scottish agriculture policy would align the EU CAP requirement for at least 10 per cent of direct payments to be used as redistributive payments, the Cabinet Secretary stated that one objective of the Vision for Agriculture was to align with the EU “where it is practicable for us to do that”. The Cabinet Secretary indicated that an identical approach may not be taken forward through alignment, however, as “we are in a different position and are coming from

a different starting point”.


189. When asked about the timescale for a future consultation and a decision on how the power to introduce capping or redistributive payments would take place, the Cabinet Secretary said it was not possible for her to set out a timescale but stated that the status quo would remain in place during the transition period as set out in the route map. Officials supporting the Cabinet Secretary added that they “anticipate the status quo lasting until 2026 or thereafter, depending on how the conversations go once we get into the detail” and that the mechanisms for capping and redistribution would be brought forward through secondary legislation.

190. **The Committee agrees with the principle of including a power to cap or redistribute payments. The Committee notes that a similar power is currently in place under retained EU CAP legislation.**
191. **The Committee notes the requirement for the Scottish Government to consult with stakeholders on how such a power to cap or taper payments would be implemented. The Committee asks the Scottish Government to ensure that any consultation on capping, tapering or frontloading payments is completed at an early opportunity with consideration for businesses that would be affected by any change.**
192. **The Committee notes the DPLRC’s recommendation that regulations made under this section should be subject to the affirmative, rather than the negative, procedure, given the potential significance of capping or tapering on recipients of support. The Committee agrees that secondary legislation should be subject to the affirmative procedure, for the reasons put forward by the DPLRC.**
193. **The Committee notes the strong views of some stakeholders on the need for redistribution in agricultural payments, which capping, tapering or frontloading payments could play a role in achieving, and that there is a requirement to allocate at least 10 per cent of direct payments to redistributive payments in the new EU CAP. The Committee also notes the concerns of other stakeholders that a cap, insensitively applied, may have unintended consequences and that capping or degressivity should not be applied to payments targeted at achieving specific outcomes, such as environmental payments.**
194. **The Committee urges the Scottish Government to consider the issue of the distribution of payments across the sector and expects to see evidence of its thinking in the rural support plan. The Committee also considers that any proposals to implement a cap, taper, or frontload as part of this should be accompanied by appropriate impact assessments to avoid unintended consequences and should not be applied to payments which deliver specified outcomes, where a cap may limit the extent of benefits realised.**

Section 13 - regulations about support

195. Section 13 would provide powers to the Scottish Ministers to make regulations in

relation to administrative matters, eligibility and enforcement of support for a particular purpose. Section 13(4) sets out that such regulations would be subject to the affirmative procedure if the Scottish Ministers consider that they would make a significant provision and would be negative otherwise; this is known as an ‘either way’ procedure. Section 13(5) defines ‘significant provision’ as regulations which would establish or make significant changes to a scheme that would have a significant number of potential recipients or a significant impact on them; affect a significant amount of land or have a significant impact on a particular type of land; have a significant monetary value; or create a criminal offence.

196. In its report, the DPLRC highlighted the lack of information in the Bill and accompanying documents about how this power would be used and a majority of members noted that “given the significance and complexity of the legislation, this approach gives rise to concerns regarding parliamentary scrutiny”. The DPLRC also set out its expectation that the policy notes accompanying secondary legislation would set out the Scottish Ministers’ reasoning for the choice of procedure, “in line with usual practice”.
197. During the Committee’s roundtable discussions, several stakeholders stated their concerns about the discretion given to Scottish Ministers over which procedure to use in making regulations. NFUS took the view that “when such legislation is introduced, it should be subject to the affirmative—or even super-affirmative—procedure if that is better in ensuring proper checks and balances”. SLE felt that—
 [...] the factors that would constitute significant provisions that would trigger the use of affirmative procedure are not broad enough. A lot of stuff could easily go through under the negative procedure, which would not give us the time needed to scrutinise.
198. Scottish Government officials told the Committee that a case-by-case approach would be taken when deciding which procedure to adopt under this “either way power”. Officials stated that “where regulations merit a higher degree of scrutiny—a debate—they would be affirmative”, whereas for changes that are “relatively minor and technical, they would be negative”. In addition, officials indicated that the Parliament would “have a view on whether we are bringing forward the right kind of instrument”, which in turn, “will inform decisions that are made later about the level of scrutiny that the Parliament expects for the types of regulations that we are making”.
199. The Cabinet Secretary confirmed that the negative procedure would be followed for “the more technical parts” and pointed out that the use of either way powers in other legislation has “operated quite well”.
200. **The Committee recognises that the nature of secondary legislation made under section 13 will vary and that flexibility over the choice of procedure can be useful. The Committee, however, notes the DPLRC’s reservations about the use of the either way power for parliamentary scrutiny of regulations made under section 13(1). The Committee also notes the concerns expressed by some stakeholders about the Scottish Government’s use of section 13(5), which sets out the criteria for what secondary legislation would be considered ‘significant provision’ and**

which would be subject to the affirmative procedure.

201. The Committee expects the Scottish Government will set out the reasoning behind its choice of procedure in the policy notes published to accompany secondary legislation; the Committee will monitor these to satisfy itself that it agrees with this choice.
202. The Committee also asks the Scottish Government to clarify at what point, and by what process, Parliament would be able to “have a view on whether we are bringing forward the right kind of instrument” in order to “inform decisions that are made later about the level of scrutiny that the Parliament expects”.
203. The Committee notes the definition of ‘significant provision’ set out in section 13(5) largely relates to whether the change has significant scale, rather than other measures of significance. The Committee considers that ‘significant provision’ should also include regulations which implement significant policy decisions, have significant implications for stakeholders or have a significant ability to affect the achievement of outcomes or objectives. The Committee asks the Scottish Government to respond to this point in its response to this stage 1 report.

Part 3 - powers to modify existing legislation relating to support

204. Part 3 of the Bill amends the powers in the [Agriculture \(Retained EU Law and Data\) \(Scotland\) Act 2020](#) to modify existing assimilated EU CAP law relating to support in order for Scottish Ministers to use and adjust the existing rules and schemes for agricultural support under the CAP during the transition period beyond 7 May 2026. The policy memorandum states the Scottish Ministers need “suitable powers to modify current CAP rules, including making more extensive changes, and repealing them when the time is right” to ensure a “smooth transition” to future support schemes.
205. Sections 19 to 21, 23 and 24 would modify existing powers in the 2020 Act. Section 22 would repeal section 5 of the 2020 Act; section 5 set a ‘sunset clause’ of 7 May 2026 for the duration of the powers under sections 2, 3 and 4 of the 2020 Act. The policy memorandum states that repealing the sunset clause is necessary as some legacy schemes under current CAP rules are expected to continue beyond 2026. Section 25 would insert an additional power relating to apiculture (beekeeping) into the 2020 Act. Further details of the various amendments which the Bill would make to the 2020 Act are set out in the SPICe briefing on the Bill.
206. In its report on the Bill, the DPLRC was content with the various powers conferred in part 3 on Scottish Ministers and the procedures for parliamentary scrutiny set out in the Bill.
207. The Committee took evidence from the Scottish Government bill team and stakeholders on the continuation and amendment of existing CAP legacy schemes

and the impact this may have on transition to a new agriculture policy and future alignment with the EU.

208. Scottish Government officials confirmed that the proposed powers to modify existing schemes in sections 19 to 21, 23 and 24 are also necessary in order to facilitate the continuation of some legacy EU CAP-based support schemes whilst new policies are developed, and secondary legislation is prepared—

” To the extent that we will continue to run CAP-based schemes, we consider it appropriate—indeed, essential—that we are able to modify those schemes to reflect current circumstances. Not being able to do so would be to neglect our duties in relation to good governance. We expect some CAP-based schemes to continue to run after 2026, which is when the sunset clause is to kick in. If the clause is not repealed, we will not be able to simplify or improve those schemes, and that, in our view, would be unwise, because it would mean that the schemes were not fit for purpose and would not be delivering what farmers and land managers expect of us in terms of a good transition and good administration.

209. In relation to section 22, Scottish Government officials explained that the sunset clause had been included in the 2020 Act “to encourage the Scottish Government to bring forward legislation that we had committed to introducing in this Parliament, and which we have now introduced” to deliver a new agriculture policy. Officials added that repeal would be necessary because “the clause has consequences for ongoing schemes that are not helpful in managing our transition” and that “the clause has done its job, because it has ensured that we have brought forward a new approach to supporting Scottish agriculture and crofting through this bill”.
210. Respondents to the Committee’s call for views made few comments in relation to part 3 of the bill. Generally speaking, respondents to the Committee’s call for views were content with the ability to amend existing legislation to enable a smooth transition, though the North-East Scotland Agricultural Advisory Group noted specifically that they wish for clear and transparent communication around the use of the powers. In a similar vein, Plantlife and RSPB Scotland suggested that any proposed use of these powers to amend existing legislation should be outlined in the Rural Support Plan.
211. Regarding parliamentary scrutiny of the secondary legislation relating to parts 2 and 3, Scottish Government officials confirmed that instruments will be laid incrementally rather than as a total package. Officials explained—

” [...] we want to have a smooth transition and to bring the sector with us, and that will mean co-developing the specific implementation mechanisms, as teams are doing right now. We have sequenced that work. After all, we do not have an infinite number of people on our side to do it and, indeed, there is a limit to the extent to which the industry would want to engage with us if we were to do it all in one go. We are therefore bringing forward the changes in portions, which means that the full picture will emerge over time instead of there being a single snapshot. There are many aspects to agriculture, crofting and the use of rural land, and things are constantly changing. As a result, you can always take a single snapshot, but the policy will continue to evolve. We are trying to be clear about each step. Instead of presenting this as a single unified piece—which, in any case, would be out of date the next day—we have sought to be as clear as possible in taking a step-wise approach over a transition period.

212. The Cabinet Secretary told the Committee that the powers within part 3 of the Bill would enable delivery of the transition set out in the route map. The Cabinet Secretary added that repeal of the section 5 sunset clause would also provide greater flexibility—

” It is just not all that helpful. It would be better for us to repeal it and ensure that we have the time through the transition than for us to set a firm end date for when we should have used it by. Again, it is about providing flexibility and enabling the transition that we have set out in the route map.

213. On the expected timescale for when legacy schemes would cease and be replaced by new support schemes, the Cabinet Secretary referred to the route map document which “goes up until about 2027, when we expect some schemes to get there”. She added that in relation to certain legacy schemes “it might make sense to continue beyond a specific point that we have mentioned” and, therefore, “it is important that we have the ability to continue those schemes until such time as we have made the transition”.

214. **The Committee notes the Scottish Government’s reasons for amending, and extending (by repealing the sunset clause), the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 powers is to facilitate a smooth transition from legacy EU CAP support schemes to a new support policy. The Committee agrees with these provisions.**

215. **As set out earlier in this report, stakeholders have expressed concerns around the lack of certainty about the timetable for the introduction of replacement schemes. The Committee notes the Scottish Government intends to introduce a new agriculture policy by 2025 and for the new tier system to be in place by 2026. The Committee also notes the information available about the transition to the replacement schemes in the route map and expects the Scottish Government will ensure that information in the route map about expected modifications or repeals of existing regulations, including about what legacy CAP schemes will continue beyond 2026 and whether any schemes intending to align with, or replicate, the new EU CAP will be introduced, will be updated when necessary to ensure that the use**

of these powers is transparent. The Committee also expects the Scottish Government to work with the sector to ensure there is no cliff edge for recipients of legacy support schemes.

216. **The Committee notes, and agrees with, the DPLRC's recommendations relating to the delegated powers and proposed scrutiny procedures for Part 3 of the Bill.**

Part 4 - miscellaneous

Section 26 - code of practice on sustainable and regenerative agriculture (with reference to Section 7 - guidance)

217. Section 26 would place a duty on Scottish Ministers to prepare and publish a code of practice on sustainable and regenerative farming. Section 26 provides the code must be reviewed at least every five years and that the Scottish Ministers must consult before publishing a code or revised code. The code must be laid in the Scottish Parliament but there are no requirements for parliamentary scrutiny.
218. Section 26 is linked to Section 7 of the bill which provides that the Scottish Ministers may, by regulations, make provision in relation to guidance about support. Section 7 specifies that this includes the guidance contained in the code of practice on sustainable and regenerative agriculture. Regulations may, in particular, make provision requiring guidance to be laid before the Scottish Parliament, published, or both; requiring regard to be had by particular persons to the guidance; specifying the extent to which compliance with guidance is relevant to determining whether a person has complied with a statutory duty or condition of support; and specifying the admissibility or evidential value of the guidance in legal proceedings. Section 7 regulations would be subject to the negative procedure.
219. The policy memorandum acknowledges “stakeholder expectation that the Scottish Government more effectively characterises what is meant by ‘sustainable and regenerative agriculture’ and this would best be clarified with an evolving Code of Practice that can be refined as practice and science advances”.
220. The policy memorandum goes on to state—
- ” The intention is that the Code of Practice will make clear the expectation that all agricultural land should be managed in a way that – as a minimum – protects the environment, prevents environmental damage, and that where environmental damage occurs it is rectified as soon as possible. The recommendations in the Code of Practice are expected to underpin good agricultural and environmental practice, as set out in conditions for area-based support for farmers.
221. In its report, the DPLRC stated that it was “content with the power in principle and that it is not subject to any parliamentary procedure”.

222. The Committee heard a range of views from stakeholders about how the code of practice should define the scope of sustainable and regenerative agricultural practices and whether the code should be advisory or whether compliance with elements of the code should be part of the conditions for receiving support.
223. The Soil Association said its “understanding of the code is that it will be the conduit for Government to explain the methods and approaches that it considers to represent sustainable and regenerative agriculture, and for those to be supported through the four-tier system”.
224. Some stakeholders were of the view that the code should serve as an advisory “manual” which would set out examples and information of what practices could be considered sustainable or regenerative for a particular area or farm. Farming for 1.5 felt that farmers and other land managers should be afforded flexibility and autonomy in using such a manual, and stated—
- ” We do not want to micromanage; we want to get information to farmers and to list the interventions or techniques that can be used, and define their value and impact on the environment, biodiversity and the soil. We need to define whether they have any direct or indirect impact on the climate change inventory. That will give people a powerful manual for some of the techniques that they might think about drawing down or that they may already be using on their holding. ... The code would be like a manual, but it must have outcomes so that people can assess the value in implementing things.
225. This point was echoed by the Landworkers’ Alliance which also suggested the code should serve as a manual and be co-designed with farmers and land managers who are currently applying sustainable and regenerative practices on their land—
- ” [...] we have examples from across all sectors and all regions of Scotland of really amazing regenerative and sustainable farming. People are sequestering carbon, improving biodiversity, working actively for nature and producing local food. Those examples exist and the farmers who are already doing that are way ahead of the curve. They have a good sense of the practices that they are using and of what counts as regenerative or sustainable. That will look different in different areas, or in farms in the same area that take different approaches, so any kind of manual must be codesigned with the farmers who are already doing those things. It is important to convene the farmers who are furthest ahead to develop what should be in the code of practice
226. Several stakeholders suggested that the definition of sustainable and regenerative agriculture in the code should remain broad and flexible and that the meaning of the objective should be defined rather by the desired outcomes. NatureScot felt that “it would be a bad move to be too prescriptive about what regenerative agriculture is, because a lot depends on the farmer or crofter interpreting regenerative agriculture in their own context” and that code should “explain what we are trying to achieve by taking an outcome-based approach, using principles.” NFUS stated that they have absolutely no difficulty” with the code of practice provided it keeps a level of flexibility in the definition so that it remains “flexible, adaptable and changeable over time”.
227. Some stakeholders suggested that the bill should be clearer on the process around producing the code. RSPB Scotland felt that “the bill needs to be strengthened” in

relation to the code to include “scrutiny of the code by appropriate bodies...an expert overview certainly needs to be taken of whether it is appropriate”. Scottish Land and Estates took the view that industry and academic involvement would be necessary—

” We support the intention of the code but would quite like some assurance that there will be industry involvement. We think that there needs to be an academic, or a research and development sense check of the code and of what it intends to deliver. It should also have a clear sector link, which we are not really seeing, and we need a plan for how the intention of the code will be communicated to the sector.

228. The representative from SLE also felt that—

” I am not sure that the bill provides enough opportunity for assessment of the code once it has been published or a feedback mechanism that would enable us to say, “Actually, this isn’t working”... The bill needs to be far tighter on the code of practice in relation to when it will be reviewed, how advice and support will be provided by the sector and by academics, and how it will be ensured that it is fit for purpose on an on-going basis.

229. Moreover, some stakeholders also felt that the code should have a clearer legal purpose, and some felt that the code, or elements of the code, should form part of the conditionality for receiving agricultural support. As noted above, regulations made under Section 7 may give legal effect to guidance such as the code of practice to, among other things, specify the extent to which compliance with guidance is relevant in determining whether a person has complied with a statutory duty or condition of support. Nourish Scotland argued that, without clarity on the legal status of the code, it is unclear what it will achieve. It stated—

” If it is just a nice-to-have bit of advice for farmers that says, “Here are some good things to do,” we do not need it to be in the bill; we can hear it from the advisory services. If it is in the bill, it must have some legal power and must do something. ... If it has no legal impact, or no effect on how much money farmers get, there is really no point in having it in the bill. It might be nice to have, but it will not achieve anything.

230. There was an expectation among some stakeholders that the code of practice would be a condition for the receipt of some support payments. NFUS stated that it thought the code “will be one of the tests ... for how we distribute support and how people become eligible for support, because they will have to adhere to that code of practice.” The Game and Wildlife Conservation Trust set out how it anticipates the code of practice will be applied—

” [...] we are looking to define a code of practice that clearly identifies the legal musts but also defines the coulds and shoulds. Within those categories of could and should, we are trying to define verifiable evidence that could be used to demonstrate performance of could and should. It strikes me that that is quite a good model for how a code of practice for agriculture could work, particularly as we learn and progress, because there would be flexibility to adjust the guidance in terms of the verifiable evidence.

231. Regulations made under Section 7 are subject to the negative procedure, and

stakeholder consultation is not required before making regulations. However, some stakeholders argued that this is insufficient if it is intended that the regulations will place the code of practice on a statutory footing.

232. SAOS questioned “What is the purpose of the code and how will it be deployed? If...the code might be linked to conditional support, that should be made clearer in the bill and...there should be an affirmative process behind it. If that is not the case, and the code is aspirational, that is less of an issue. However, if it is aspirational, that takes us back to [Nourish Scotland’s] question: what is the point of it? So what?”
233. SLE also expressed a concern that regulations made under Section 7 “would be subject to negative procedure”, and noted that no consultation would be required before passing regulations. It felt in relation to both points that this “needs to change”.
234. The Cabinet Secretary told the Committee that the Scottish Government intends “the code of practice to be helpful to our farmers and crofters rather than a tool for cross-compliance or anything else”.
235. The Committee further explored whether the code would be a condition of support and prescribe what measures support recipients must follow. Officials supporting the Cabinet Secretary explained that the code would serve as an advisory document for what measures individual land managers could draw upon to fulfil the conditions set out for support under the tiers for their particular farm—
- ” The code of practice will set out in general terms what sustainable and regenerative agriculture could be. As the cabinet secretary said, that may be different things in different places. It cannot be prescriptive in relation to the management practice of any particular farm accessing any particular scheme. That would have to be part of the conditions of the base tier, then tier 2, tier 3 and so on. The code of practice sits beside that as a document that explains what sustainable and regenerative agriculture is in general. The scheme rules will determine specifically what each farmer will need to do.
236. When pressed on whether this conditionality would mean the code was, in effect, prescriptive and represented part of the conditionality for support, officials stated that the prescriptions of each support scheme would be set out in secondary legislation rather than the code. Officials went on to state—
- ” [...] the code of practice is set out in the bill as a guidance document—in other words, it is not prescriptive. If, as is likely to be the case, we have prescriptions in our schemes that sit in the different tiers, they will be taken forward through secondary legislation. That legislation will be scrutinised, so the Parliament will have the opportunity to scrutinise the rules that are in force for how people can obtain support under each of the tiers, or however we introduce the schemes. That scrutiny will be there at the point at which the prescription bites, which is not in the code but in the rules associated with drawing down the support payment. Everyone would expect there to be a compliance regime around the receipt of public funding. The important point is that there will be scrutiny of the secondary legislation.
237. The Cabinet Secretary confirmed the code would be created through consultation

with stakeholders—

” The code is not something that we will conjure up ourselves, suddenly introduce and expect everyone to comply with. It is about working with people to develop a code of practice that works for everyone. ... We do not want to lock people out—it is a journey, and it is about taking people with us on that journey, which is why we have made the commitments that we have made.

238. In relation to the level of scrutiny afforded to the code by the Bill, the Cabinet Secretary disagreed with suggestions that a light touch approach had been taken, noting “the review that we would have to undertake of the code and the consultation”, but she added that she would consider the Committee’s views on this matter.

239. **The Committee welcomes the provision for a code of practice for sustainable and regenerative agriculture. However, the Committee agrees with stakeholders that further clarity should be provided on the process for producing and reviewing the code to ensure it is subject to appropriate oversight and rigour. This should include co-design with stakeholders, monitoring the implementation of the code and evaluating whether the code is fit for purpose. The Committee recommends the Scottish Government should consider whether these further requirements should be included on the face of the Bill.**

240. **The Committee understands that the Scottish Government intends to set out conditionality requirements in regulations setting up new support schemes. The Committee remains unclear as to the Scottish Government’s intentions on giving legal effect to the code under section 7, and to what extent this may make compliance with, or regard to, the code mandatory. The Committee seeks clarity from the Scottish Government on this in advance of stage 2.**

241. **Given the potential for section 7 powers to give legal effect, in whole or in part, to the code or other guidance, the Committee agrees that this should be subject to the affirmative procedure, considering that the code itself is not subject to parliamentary scrutiny.**

Section 27 - continuing professional development

242. Section 27(1) would give the Scottish Ministers the power to make regulations relating to the continuing professional development (CPD) of farmers, crofters, land-managers, as well as those who provide advice to farmers, crofters, land-managers and in rural communities. Section 27 does not require the Scottish Ministers to make regulations and it does not give a timescale for any regulations to be made. Section 27(3) sets out some examples of what these regulations may comprise; these include provisions relating to the amount of CPD to be undertaken; its form and content, monitoring and enforcement; and the charging of fees. Section 27(4) provides that others may carry out the CPD on the Scottish Ministers’ behalf and that any regulations under section 27(1) would be subject to the negative

procedure. CPD would form part of tier 4 ‘complementary support’.

243. The Bill does not include a definition of CPD but the [policy memorandum](#) states that the “immediate objective to establish a CPD regime for farmers, crofters and land-managers is to encourage and facilitate personal and professional development and improvement in practices, in agriculture, land management and other associated fields”. It also states a CPD scheme would “contribute towards the alignment with EU policy aims in terms of the CAP and what the EU seeks to achieve with respect to knowledge management, innovation, co-operation and skills and professional development matters”.
244. The policy memorandum sets out more information about what the CPD schemes may include—
- ” [...] the establishment, delivery or undertaking of courses of training or professional development; the provision of advice; the undertaking of research; and the development, introduction, or testing of new or improved products, activities, methods or systems relating to agriculture, forestry and food production and processing; support innovation; and undertaking of certain ancillary activities to support these schemes such as developing and maintaining resources, digital tools or databases. These activities could include, for example, undertaking pilot projects, demonstration events, co-operative programmes, demonstration events, farm visits and exchange programmes.
245. The policy memorandum highlights the role the Farm Advisory Services (FAS) and Knowledge Transfer and Innovation Fund (KTIF) have played since 2014 but states “these schemes only form part of a wider ecosystem of knowledge exchange and innovation”. It states the Scottish Government has “taken a strategic approach rather than instructing specifically on key component schemes, such as the FAS and KTIF”, to give greater flexibility in the provision and delivery of the proposed scheme.
246. The [financial memorandum](#) does not identify any costs in relation to the proposed CPD scheme.
247. The [delegated powers memorandum](#) sets out the Scottish Ministers’ view that the negative procedure is appropriate for any regulations made under section 27 as “regulations made under this power will not make provision with significant consequences of an economic, budgetary or principle nature”.

Committee consideration

248. Scottish Government officials set out the reasons for this power being included in the Bill when they gave evidence on 29 November 2023. They stressed that their acknowledgement of farmers’ and crofters’ skills and experience “should not be underestimated”. They then went on to give the Scottish Government’s view that CPD is required to enable farmers and crofters to adapt to climate change and changes in “public expectations of what farmers should deliver for the support money that they receive”.
249. At each of the four stakeholder roundtables, there was unanimous support for the inclusion of CPD in the Bill during the Committee’s oral evidence sessions. Various issues were discussed, however, based around three themes.

Effective delivery of CPD

250. Lantra Scotland, a charity which co-ordinates training, qualifications and skills for the land-based, aquaculture and environmental sectors, set the context for the discussion—

” In offering CPD, there is the CPD itself—its content, the way in which it is delivered and how you find, fund and facilitate it. There is then the accreditation of the person who is delivering it to consider, and how you ensure and monitor uptake. That makes things more complicated, but there are some examples of good practice out there, so you do not have to start from scratch.

251. In terms of the content of CPD, Lantra Scotland acknowledged that CPD “will not involve a one-size-fits-all approach”. It went on; “you need to make sure that it is flexible enough that farmers who are already established and doing things really well can look at next steps and next approaches for their own business, but equally that there is support for the ones who are beginning on that journey of change”.

252. Lantra Scotland thought it would be a “massive culture shift” for some farmers and crofters to undertake CPD and that the process should recognise the challenges and anxiety around this. Lantra Scotland said—

” There is a lot of anxiety about taking on training and learning opportunities. There is a balance to be struck, because we are going to be on a very long journey in relation to encouraging people to take on training.


253. In terms of the way in which CPD is delivered, many stakeholders emphasised the importance of co-design to ensure that farmers and crofters have a say in the content and delivery mechanisms. The STFA warned against “imposing heavy-handed, top-down CPD requirements that turn into ‘tick-box’ exercises” and stressed the need for a “well designed and appropriate” scheme. Many supported peer-to-peer knowledge transfer at community level; the SAWC considered this “an amazing and transformative way of getting information to people”. Many stressed the benefits of courses being delivered by experts, rather than generalists; Nigel Miller, speaking on behalf of Farming for 1.5, suggested that—

” If we get CPD or presentations, those are often given by generalists who are drawing down information and distilling it into some dull format for farmers, because people might consider them to be stupid. You want to have people such as Cathy [Professor Dwyer, chair, SAWC] and Vera [Dr Eory, SRUC] there as well to speak directly to farmers and really challenge them to push the boundaries and innovate and to draw down information to come up with their own ideas. Make it exciting; do not give them the same old, same old story that we get month after month from various advisory services.

254. Many gave their view that there are not enough fully qualified trainers at present to provide the anticipated level of CPD and that this must be addressed before the CPD scheme is established. Professor Davy McCracken said that, in addition to insufficient numbers of trainers/advisers, “only a low proportion of them can give the appropriate training or advice on the range of activities that, as we are seeing, will be important”. He echoed the comments of some other witnesses when he recommended “some level of accreditation if we want to achieve a real uplift in knowledge and understanding among farmers and crofters”.

255. Stakeholders emphasised that CPD should be accessible; both in terms of farmers' and crofters' ability to take the time, and to meet associated any costs, to participate.
256. Lantra Scotland, amongst others, felt that any scheme should include a robust system to monitor and evaluate the CPD offered and delivered.
257. Some specific issues for CPD were identified around agroecology, animal welfare and strengthening the links between farmers and crofters and the wider food supply chain.
258. The Cabinet Secretary sought to provide further information about how the Scottish Government would establish a CPD regime. Recognising the support for peer-to-peer learning, she gave the commitment "to facilitate and encourage that as much as possible". The Cabinet Secretary also referred to the role the agricultural knowledge and innovation service would play in promoting knowledge transfer.
259. The Cabinet Secretary stated the CPD scheme would be established from 2027 onwards, working to a different timetable than other secondary legislation implementing the Bill.

Whether CPD should be compulsory

260. The Committee discussed whether CPD should be made compulsory for farmers and crofters. A Scottish Government official told the Committee this "is an issue that we are working through with the sector at the moment, but the powers are there, should we decide that an element of compulsion is required for some elements of support". He concluded that the Scottish Government wants to "take the industry forward but take it with us" and that "we do not want to use sticks if we can avoid doing so".
261. The question of whether a 'carrot or stick' approach to delivering CPD was necessary or desirable was discussed. There was no support for compulsory CPD amongst the stakeholders who gave evidence to the Committee, although it was recognised that health and safety training and certification should be required for the use of some equipment and chemicals.
262. Many stakeholders told the Committee that CPD would only be effective if farmers were motivated and saw the benefits of undertaking it. Professor Davy McCracken stressed that CPD "needs to have a clear relationship with, and a clear outcome for, what the farmer or crofter has to achieve on their farm or croft". Nigel Miller, speaking on behalf of Farming for 1.5, thought that CPD "should not be imposed from the top down". He went on—
 It is like being back at school. If you do not want to be there, the training will be of no value. In some extreme areas—for example, those relating to health and safety—if you do not have a ticket, you cannot do the job. That is fair enough, but with regard to the CPD or peer learning that we are talking about in relation to changing the industry, for goodness' sake, do not be waving a stick, because you will have lost before you start. You have to win hearts and minds.
263. The NFUS told the Committee that—

” [...] we need to tread with extreme caution in respect of CPD being, in effect, made compulsory, and in respect of enforcement. If individuals are excluded from direct support—to go back to Rhoda Grant’s point—because they are unable to or do not have the opportunity to do the right sort of CPD at the right time, we might lose them, and we do not want that to happen. Enforcement of CPD is what gives me concern, although the principle is absolutely right.

264. The Cabinet Secretary recognised stakeholders’ concerns that this power was being “interpreted as a stick to force people to undertake CPD” and that this “is not what is intended at all”. The Cabinet Secretary went on to explain that, where CPD is “considered essential, or that a person must undertake in order to undertake another activity, it is important that we have the powers and flexibility to enable us to require that”; the Cabinet Secretary gave the example of the current requirements for activity around plant protection products.

Costs of CPD

265. As set out earlier in this section, the financial memorandum does not identify any costs in relation to the proposed CPD scheme. When asked about how CPD would be funded, a Scottish Government official told members that he was “optimistic that we will be able to deploy a reasonable amount of money to CPD for farmers, although it could probably be said that there is never enough”.

266. There was some discussion about the funding available for CPD during the stakeholder sessions. RSPB Scotland thought that tier 4—

” [...] is particularly important because it is where the issues of information, advice, knowledge transfer and training for farmers will sit. That is woefully underfunded at the moment, but it will need to be a major part of the transition in future. That area needs to receive much more significant investment.

267. The Cabinet Secretary told the Committee she was unable to give further information on the likely budget for CPD but that she “fully intend[s] to support” tier 4 funding as it is a “critical element” of agriculture policy.

Consideration by the DPLRC

268. In its report, the DPLRC sets out its consideration of this delegated power. The DPLRC found the power acceptable in principle and was content that it would be subject to the negative procedure.

269. **The Committee notes the Scottish Government’s aim to establish a continuous professional development (CPD) scheme to support the sector to realise the ‘vision for agriculture’ and stakeholders’ unanimous support, in principle, for the proposed scheme. The Committee agrees that delegated powers to establish a CPD scheme should be part of the Bill. A well-designed and co-ordinated CPD scheme, tailored around supporting the sector to meet Scotland’s nature and climate targets, would be an**

important and useful component of Scotland's future agriculture policy. In reaching this conclusion, the Committee recognises the extent of existing peer-to-peer knowledge exchange and wider training already undertaken within the sector.

270. At the same time, however, stakeholders highlighted the lack of detail about the proposed scheme in the Bill and accompanying documents and they set out some suggestions about how the scheme should be developed and delivered. The Committee refers the Scottish Government to the views expressed during oral evidence and recommends it reflects on these when establishing any CPD scheme.
271. Taking into account stakeholders' views, the Committee recommends any CPD scheme is developed and delivered according to the following principles—
- Co-designed with the sector in order to identify and meet farmers', crofters' and land managers' needs;
 - Delivered in the most appropriate format, which could include peer-to-peer knowledge exchange;
 - Accessible to all farmers, crofters and land managers;
 - Accredited scheme for all CPD trainers and advisers; and
 - Monitored and evaluated.
272. Stakeholders also expressed concern around the Scottish Ministers' ability to make CPD compulsory and part of the eligibility criteria for support. The Committee notes the explanatory notes accompanying the Bill refer to regulations "that impose CPD requirements". Aside from recognising some training should be compulsory for health and safety reasons, there was no support amongst stakeholders for compulsory CPD. The Committee recognises the transformational change required to be made by the sector to meet the nature and climate crises and the view that some element of compulsion might be required to achieve this. At the same time, however, it believes that these changes will be most effectively and quickly achieved by the Scottish Government and the sector working together, in partnership. The Committee does not believe that – other than where training to a certain standard or a qualification is required for health and safety reasons or in order to undertake specific activities – any CPD should be compulsory or tied to support. The Committee also requests clarification by what is meant by regulations "that impose CPD requirements".
273. The Committee believes that, given the possibility that any CPD scheme may contain an element of compulsion or be an eligibility criteria for support, it would be more appropriate for any regulations made under section 27 to be subject to the affirmative procedure, rather than the proposed negative procedure.

274. **Finally, the Committee notes that the financial memorandum does not include any costs relating to CPD. The Committee seeks a commitment from the Scottish Government that it will provide information relating to the projected costs of any CPD scheme when it lays any regulations under this provision. The Committee believes that, without this financial information, the Parliament would not be able to scrutinise this secondary legislation effectively.**

Sections 28 to 34 and schedule 2

275. No issues were raised with the Committee in relation to sections 28 to 34 and schedule 2.
276. The DPLRC did not raise any issues in relation to these sections of the Bill either.

Costs associated with the Bill

277. The Bill is accompanied by a financial memorandum which sets out costs associated with the measures introduced by the bill. The financial memorandum provides an overview of a proposed new ‘four-tier system’ to replace the EU CAP and more detail is set out in the [Agricultural Reform Route Map](#). The financial memorandum also sets out details of current budgets for support under the existing EU CAP scheme, existing operational costs for administering those schemes, and the anticipated costs of administering the new tiered model and of transitioning to this system.
278. Prior to the introduction of the Bill, the Scottish Government had not set out how it intends to divide its budget between the schemes in the four tiers. The financial memorandum, however, sets out intentions to fund Tiers 1 and 2 – which are intended to replace current direct payment schemes – at broadly similar levels to current direct support—
- ” The precise split of funding across the four tiers of the Future support framework...has yet to be determined and is a key component of the codesign work currently underway, however, in broad terms, the government intends to maintain underpinning support through base payments (Tier 1) and universally accessible support for land managers undertaking climate and nature actions through the enhanced mechanism (Tier 2) and to do so at similar levels to current direct support. Note that, in this context, the budget for Tiers 1 and 2 would include the Less Favoured Area Support Scheme (LFASS) budget of £66m, which nominally sits in Pillar 2 of the legacy EU cap. It is the Scottish Government’s intention to allocate the remainder of the available funding to tiers 3 and 4 (elective and complementary support).
279. Several stakeholders commented on the proposed funding allocations set out in the financial memorandum in their submissions to the Committee’s call for views. Other comments were made to the FPAC who [wrote to the Committee with its findings on](#)

19 February 2024.

280. In relation to administrative costs, the FPAC drew the Committee's attention to comments from stakeholders which queried some of the assumptions made in the financial memorandum around the continuation of current costs. The FPAC highlighted the financial memorandum notes that bringing a new delivery model into service will incur implementation costs that future administrative costs under the proposed future framework support are unclear and will depend on the chosen delivery model. In relation to costs to other bodies, individuals and businesses, some respondents to the FPAC, including RSPB Scotland, NFUS, and SRUC, highlighted potential future costs to organisations and businesses as part of the transition, but that these are currently difficult to quantify.
281. In relation to proposed funding allocations between the four tiers of a new support framework, the FPAC highlighted that "several respondents to [its] call for views outlined concerns that the total funding available for the future policy and how it would be allocated was not communicated to them in advance of the FM being published". Others questioned what the decision-making process would be for budget allocations going forward.
282. Respondents to both this Committee and the FPAC also raised concerns regarding the proposed distribution of funding set out in the financial memorandum. Some, such as WWF Scotland, highlighted that table 1 of the financial memorandum suggests that expenditure in different areas will not change between 2023-24 and 2027-28. Others pointed to [the supporting evidence and analysis published by the Scottish Government alongside the Bill](#) which concluded that most CAP funding during the 2014-20 round did not deliver intended benefits or value for public money for a variety of reasons. WWF Scotland underscored that, "while there is rationale for the continuation of farm support payments and the inclusion of a Base Level Direct Payment in future legislation where this genuinely supports business viability, this must not perpetuate the current system which fails to address climate and nature emergencies, as well as perpetuating socio-economic inequality and not delivering for the nutritional security of Scotland". SRUC highlighted in written evidence that "the provisions regarding eligibility criteria for support are an essential component of the Bill to ensure that the support is targeted appropriately".
283. There was not an overall agreement on funding allocations between stakeholders, although many views were expressed regarding funding arrangements between schemes and the distribution between farms and crofts. In the Committee's roundtable, NFUS was clear that it would like to see the majority of funding allocated to direct support such as what may be available in Tiers 1 and 2, but it did not think the allocations should to be specified on the face of the Bill given that the absolute amount of funding may change. It went on—
- ” The bill is silent on funding allocations, and it is probably right that it is. We are very clear that we want at least 80 per cent—certainly the vast majority—to go into future direct support, which will be tier 1 and tier 2, but farmers and crofters will have to deliver the required outcomes if they are going to unlock that support.
284. Others disagreed, however, and highlighted that the functions of tiers 3 and 4 need to be adequately funded. Nourish Scotland emphasised that tiers 3 and 4 are the "engines of change", but that the proposed split in the financial memorandum does

not allocate significant funding to these areas “which have to do a lot of the change management, heavy lifting, advice, training, support for co-operation, support for organics, support for agroforestry and capital investment”. It concluded that “a lot is expected from tiers 3 and 4, and, at the moment, the base budget will not allow much for those”.

285. The coalition Scottish Environment LINK agreed, stating that “If the majority of money continues to be distributed through direct payments then we will not see the pace of change required. LINK believes that at least three quarters of public spending on farming should directly support methods that restore nature, tackle climate change, and measures which benefit people, as well as producing food”.
286. As set out earlier in this report, the CAAVS supported the inclusion of financial information in the rural support plan; it said that, “if, in practice, the rural support plan is the real bill within the framework bill, it seems to me that there will be an essential role for Parliament in looking at the genuine allocations of expenditure, conditions and so forth”.
287. Nourish Scotland argued that the funding splits need to be appropriately justified and scrutinised – e.g. through the Rural Support Plan – and the James Hutton Institute noted in its written submission that “deliberation on the substance of [changes to funding priorities and the policy status quo] in the Scottish Parliament, and with the wider stakeholder community, is essential to establishing long term, cross-party, legitimacy and commitment needed to tackle the challenges between now and 2045”.
288. The FPAC highlighted in its letter that officials had explained that “as the bill is a framework bill ... the forecasting of a replacement programme is uncertain at a high level at this stage ... however, future budget allocations are dependent on UK Government funding commitments, which are uncertain”. Officials also underscored that the Scottish Government has “set out the position with as much accuracy as we can” and is “committed to working with the sector and the Parliament as we take each step and we have published when we are going to take those steps”.
289. As noted previously in this report, the FPAC highlighted its “ongoing concerns” regarding the use of framework bills and “continuing a co-design process during and beyond the passage of primary legislation”. FPAC members agreed that this presents “significant challenges for effective scrutiny of cost estimates associated with legislation”.
290. On 9 February 2024, and following the Committee’s evidence taking from stakeholders and the FPAC’s scrutiny of the financial memorandum, [the Scottish Government announced at the NFUS AGM](#) that, from 2027, 70% of the budget to support farming, crofting and land management would be allocated to tiers 1 and 2.

291. **As stated earlier in this report, the Committee agrees with the Scottish Government that a framework bill is appropriate to establish a flexible basis for future support schemes. Nevertheless, the Committee also agrees with the FPAC that the use of framework bills has implications for the scrutiny of the costs of implementing that legislation. The Committee expects that, in response to this, the administrative costs and costs to bodies, individuals**

and businesses will be reflected in the policy notes accompanying any secondary legislation to allow parliamentary scrutiny at that point.

- 292. The Committee notes the proposed funding allocations indicated in the financial memorandum and the Scottish Government's further announcement on its funding decisions, outwith Parliament, on 9 February 2024. The Committee considers it would have been useful for this information to be communicated directly to the Committee considering its relevance of the stage 1 inquiry.**
- 293. The Committee acknowledges the variety of stakeholder views on how budgets should be distributed between future support tiers and that full discussion of funding decisions has not been possible during Stage 1 scrutiny of the bill given its framework nature. The Committee also recognises that future funding for agriculture from the UK Government remains uncertain. The Committee, however, believes that the Parliament should be given an opportunity to scrutinise these significant decisions on funding priorities through the forthcoming rural support plan, and during scrutiny of secondary legislation. The Committee expects to see evidence and justification for funding decisions in the rural support plan and (as set out above) in policy notes accompanying any secondary legislation.**
- 294. The Committee did not have time to consider this issue in greater detail but is mindful that the FPAC highlighted stakeholders' views regarding the assumption in the financial memorandum that additional funding would not be required for administrative costs, including staffing and IT costs. The Committee asks the Scottish Government to provide more information about its thinking underpinning this assumption in its response to this stage 1 report.**

Conclusion

295. **The Committee agrees the general principles of the Bill.**

Annexe A: Extract of minutes, Stage 1 inquiry

[26th Meeting, 2023 \(Session 6\) Wednesday, 25 October, 2023](#)

Agriculture and Rural Communities (Scotland) Bill (In Private): The Committee considered its approach to the scrutiny of the Bill at Stage 1. A draft call for written evidence was agreed to.

[27th Meeting, 2023 \(Session 6\) Wednesday, 1 November, 2023](#)

Agriculture and Rural Communities (Scotland) Bill (In Private): The Committee considered its approach to the scrutiny of the Bill at Stage 1. The Committee agreed the schedule of oral evidence sessions. The Committee also agreed to review the evidence heard, and consider its draft Stage 1 report, in private at future meetings.

[31st Meeting, 2023 \(Session 6\) Wednesday, 29 November, 2023](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from— Andrew Crawley, Solicitor; John Kerr, Head of Agriculture Policy; James Muldoon, Head of Agriculture Support Policy Development; and Ewen Scott, Agriculture and Rural Communities Bill team leader, Scottish Government.

[32nd Meeting, 2023 \(Session 6\) Wednesday, 6 December, 2023](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee evidence took on the Bill at Stage 1 from— Dr Liz Barron-Majerik, Scotland Director, Lantra Scotland; Dr Lorna Cole, Senior Consultant, Scotland's Rural College; Dr Vera Eory, Researcher, Scotland's Rural College; Professor Cathy Dwyer, Chair, Scottish Animal Welfare Commission; Kirsty Jenkins, Policy Officer, OneKind; Donald MacKinnon, Chair, Scottish Crofting Federation; David McKay, Head of Policy Scotland, Soil Association; Nigel Miller, Co-Chair, Farming for 1.5; Ross Paton, Chair, Scottish Organic Stakeholders Group; Dr Tara Wight, Scotland Policy and Campaigns Coordinator, Landworkers' Alliance.

Agriculture and Rural Communities (Scotland) Bill (In Private): The Committee considered the written evidence received.

[33rd Meeting, 2023 \(Session 6\) Wednesday, 13 December, 2023](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from— Jonnie Hall, Director of Policy, National Farmers Union Scotland; Joe Hind, Policy Manager, Scotland Food & Drink; Sarah Millar, Chief Executive, Quality Meat Scotland; Pete Ritchie, Director, Nourish Scotland; Tim Bailey, Chief Executive, Scottish Agricultural Organisation Society; David Thomson, Chief Executive, Food and Drink Federation Scotland; Lesley Mitchell, Policy Director, Sustainable Food Trust; Professor Jennie Macdiarmid, Director, Interdisciplinary Centre for Health, Wellbeing and Nutrition, Rowett Institute.

[34th Meeting, 2023 \(Session 6\) Wednesday, 20 December, 2023](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee took evidence on

the Bill at Stage 1 from— Stuart Goodall, Chief Executive, Confor; David Harley, Chief Officer, Circular Economy, Scottish Environment Protection Agency; Eleanor Kay, Senior Policy Adviser, Scottish Land and Estates; Ross Lilley, Head of Natural Resource Management, NatureScot; Ross MacLeod, Head of Policy Scotland, Game and Wildlife Conservation Trust; Professor Davy McCracken, Head of Integrated Land Management Department, Scotland's Rural College; Professor Dave Reay, Executive Director, Edinburgh Climate Change Institute; Alastair Seaman, Director for Scotland, Woodland Trust Scotland; Vicki Swales, Head of Land Use Policy, RSPB Scotland; Kirsty Tait, Director for Scotland, Food, Farming and Countryside Commission Scotland; Euan Ross, Scotland Manager, Nature Friendly Farming Network.

[3rd Meeting, 2024 \(Session 6\) Wednesday, 31 January, 2024](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from— Professor Sarah Skerratt, Chief Executive, Royal Society of Edinburgh; Professor Steven Thomson, Professor of Agricultural Economics and Policy, Scotland's Rural College; Theona Morrison, Chair, Scottish Rural Action; John McCulloch, Agri and Rural Affairs Committee Chair, Scottish Association of Young Farmers Clubs; Grant Moir, Chief Executive Officer, Cairngorms National Park Authority; Douglas Bell, Managing Director, Scottish Tenant Farmers Association; Jeremy Moody, Secretary and Adviser, Central Association of Agricultural Valuers Scotland; Rob Clarke, Head of Policy, Highlands and Islands Enterprise.

[5th Meeting, 2024 \(Session 6\) Wednesday, 21 February, 2024](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from— Mairi Gougeon, Cabinet Secretary for Rural Affairs, Land Reform and Islands, supported by Andrew Crawley, Solicitor; John Kerr, Head of Agriculture Policy; and Ewen Scott, Agriculture and Rural Communities Bill team leader, Scottish Government.

[7th Meeting, 2024 \(Session 6\) Wednesday, 6 March, 2024](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee considered a draft report. Various changes were agreed to and the Committee agreed to consider a revised draft, in private, at its next meeting.

[8th Meeting, 2024 \(Session 6\) Wednesday, 13 March, 2024](#)

Agriculture and Rural Communities (Scotland) Bill: The Committee continued its consideration of a draft report. Various changes were agreed to. The Committee agreed to consider the final revised draft by correspondence.

Annexe B: Extract of minutes, future agricultural policy evidence sessions

5th Meeting, 2023 (Session 6) Wednesday 22 February, 2023

Future agriculture policy: The Committee took evidence from— Douglas Bell, Managing Director, Scottish Tenant Farmers Association; Dr Gareth Hateley, Junior Vice President Scottish Branch, British Veterinary Association; Donald MacKinnon, Chair, Scottish Crofting Federation; Chloe McCulloch, Programme Leader, Farm Advisory Service; Dr Andrew Midgley, Senior Land Use Policy Officer, Scottish Environment LINK; Ian Muirhead, Policy Manager, Agricultural Industries Confederation Scotland; Ross Paton, Chair, Scottish Organic Stakeholders Group; Pete Ritchie, Director, Nourish Scotland; Susan Robertson, Regional Officer, Unite the Union; Denise Walton, Scotland Chair, Nature Friendly Farming Network; Dr Tara Wight, Scotland Policy and Campaigns Coordinator, Landworkers' Alliance; Stephen Young, Head of Policy, Scottish Land and Estates.

Future agriculture policy (In Private): The Committee reviewed the evidence it heard earlier in the meeting.

6th Meeting, 2023 (Session 6) Wednesday, 1 March, 2023

Future agriculture policy: The Committee took evidence from— Jackie McCreery, Chair, Dairy Sector Climate Change Group; Andy McGowan, Chair, Scottish Pig Industry Leadership Group; Andrew Moir, Chair, Arable Climate Change Group; Claire Simonetta, Member, Hill, Upland and Crofting Group; Jim Walker CBE, Chair, Suckler Beef Climate Group Programme Board;

and then from— Chris Stark, Chief Executive and Indra Thillainathan, Senior Analyst for Agriculture and Land Use, Climate Change Committee.

Edward Mountain declared an interest as a member of a family farming partnership, employing three people full-time. Edward Mountain also declared an interest as a farmer of 40 years who runs a pedigree Simmental beef herd and grows barley and vegetables, farming on land that he both owns and is a tenant of. Edward Mountain also declared an interest as someone in receipt of agricultural subsidies, including the Single Farm Payment, Less Favoured Area Support Scheme and Scottish Suckler Beef Support Scheme.

Future agriculture policy (In Private): The Committee reviewed the evidence it heard earlier in the meeting.

7th Meeting, 2023 (Session 6) Wednesday, 8 March, 2023

Future agriculture policy: The Committee took evidence from— Tim Bailey, Member, Martin Kennedy, Co-chair, Anne Rae MacDonald, Member and Kate Rowell, Member, Agriculture Reform Implementation Oversight Board; Vicki Swales, Member, ARIOB Agriculture Policy Development Group.

Future agriculture policy (In Private): The Committee reviewed the evidence it heard earlier in the meeting.

8th Meeting, 2023 (Session 6) Wednesday 15 March, 2023

Future agriculture policy: The Committee took evidence from— Ross Lilley, Head of Natural Resource Management and Professor Des Thompson, Principal Adviser on Biodiversity and Science, NatureScot.

Future agriculture policy (In Private): The Committee reviewed the evidence it heard earlier in the meeting.

9th Meeting, 2023 (Session 6) Wednesday 22 March, 2023

Future agriculture policy: The Committee took evidence from— Jonnie Hall, General Manager and Director of Policy, National Farmers Union Scotland.

Future agriculture policy (In Private): The Committee reviewed the evidence it heard earlier in the meeting.

11th Meeting, 2023 (Session 6) Wednesday 19 April, 2023

Future agriculture policy: The Committee took evidence from— Professor Tim Benton, Director Environment and Society Programme, Chatham House; Ian Boyd-Livingston, Deputy Director, Soils and Sustainability, Stockfree Farming; David Harley, Chief Officer Circular Economy, Scottish Environment Protection Agency; Professor Pete Smith, Chair in Plant and Soil Science, University of Aberdeen; Morgan Vaughan, Farm Manager, RSPB Scotland.

Future agriculture policy (In Private): The Committee reviewed the evidence it heard earlier in the meeting.

12th Meeting, 2023 (Session 6) Wednesday 26 April, 2023

Future agriculture policy: The Committee took evidence from— Joe Hind, Policy Manager, Scotland Food & Drink; Paul Flanagan, Stakeholder Engagement Director, Agricultural and Horticultural Development Board; Kate Rowell, Chair, Quality Meat Scotland.

Future agriculture policy (In Private): The Committee agreed to review the evidence it heard at a later meeting.

13th Meeting, 2023 (Session 6) Wednesday 3 May, 2023

Future agriculture policy (In Private): The Committee reviewed the evidence it heard at its last meeting.

28th Meeting, 2023 (Session 6) Wednesday 8 November, 2023

Future agriculture policy: The Committee took evidence from— Chris Brown, Sustainable Business Director, ASDA; Sophie Throup, Technical and Sustainability Director, Manufacturing, Morrisons.

29th Meeting, 2023 (Session 6) Wednesday 15 November, 2023

Future agriculture policy (In Private): The Committee reviewed the evidence it heard during its pre-legislative scrutiny of future agriculture policy.

Annexe C: Suggestions for schedule 1

A number of respondents proposed additions or changes to schedule 1—

- Scottish Rewilding Alliance proposed that “investing in ecological restoration and nature-based enterprises is included as a key element of the bill”.
- SRUC felt that it would be helpful to define certain terms, such as ‘permanent grassland’, ‘arable land’, ‘agricultural area’ (incl agroforestry), ‘eligible hectare’, ‘young farmer’, and ‘active farmer’. They also noted that it may be helpful to define agricultural ‘activity’ “to ensure support is targeted at those “engaged in at least a minimum level of agricultural activity, while not necessarily precluding the granting of support to pluri-active or part-time farmers” and negative lists can be applied to disqualify certain types of potential recipients (i.e., industries ineligible such as golf courses, airports, etc.)”.
- Stockfree Farming argued that changes should be made which support livestock-free farming. For example, they felt that the definition of agriculture in paragraph 2 of schedule 1 must be broadened to include silviculture, farming carbon capture alongside farming food, and biomass production where appropriate. They also felt that sub-paragraphs 3(1)(a) and (b) should be removed [these provisions stipulate that Ministers may provide support for ensuring that agricultural activity continues in a particular area or on a particular type of land or ensuring that agriculture of a particular type continues]. They argue that certain elements of livestock farming are detrimental and alternative uses should be looked at.
- Soil Association Scotland and Food, Farming and Countryside Commission also noted that the way that ‘agricultural activity’ is defined is changing, and could include producing food, integrating trees, etc.
- A number of respondents queried the list in sub-paragraph 3(3), which sets out the products that support may be provided to produce. Respondents highlighted the omission of—
 - non-timber forest products, including services such as wildlife tourism and recreation (Stockfree Farming);
 - pork, eggs, and poultry (SRUC, Scottish Crofting Federation, Landworkers Alliance, Scottish Pig Producers, Nature-Friendly Farming Network, Propagate, Nourish Scotland);
 - other forms of farmed meat (SRUC);
 - new or alternative areas such as insect farming (SRUC, Nourish Scotland, Propagate);
 - mushroom production (Nourish Scotland);
 - vertical farming (Propagate);
 - non-food animal products such as wool, skins and horns (Rare Breed Survival Trust, Landworkers’ Alliance (wool));

- Seed for native plants, medicinal plants (Scotia seeds);
- SRUC also noted that it was unclear why 'potato' is referred to as 'starch potato', where there is an expectation that 'cane' would be grown in Scotland, and that grass and other plants can be used in non-food products.
- More generally, a member of the public criticised 'particular product support' (paragraph 3) for failing to contribute to food security. They noted that "there is a heavy bias towards food and drink manufacture geared towards export rather than improving access by the Scottish population to nutritious everyday foodstuffs".
- There should be additional purposes in paragraph 4 (Food and Drink) related to using resources efficiently, avoiding surplus and waste, and managing waste and surplus to maximise social and environmental benefits (Fareshare).
- Three respondents (OneKind, Rare Breed Survival Trust, and Scottish Rural Action) highlighted the importance of being able to support local infrastructure such as abattoirs. OneKind thought this would be possible under the purpose in paragraph 4 of schedule 1.
- SRUC questioned whether there are challenges with definitions in Part 4 (Rural Communities and Economy) due to the historically broad nature of the LEADER programme. They suggest sub-paragraph 6(1) could technically be very broad in scope, and more generally posed the question of whether support for general rural business should be provided through agricultural funding, or through other business support through e.g. enterprise networks. James Hutton Institute similarly questioned this. They said: "we have a reservation in regard to the language used in Part 4 Rural Communities and Economy. Here, equating the agriculture and land use sectors with the whole of rural economy and rural communities means including purposes that the Bill cannot meaningfully deliver". The Scottish Tenant Farmers Association raised similar concerns about the breadth of Part 4 and the "potential for dilution of the agriculture budget to address community issues not directly related to the sector".
- The purpose for forestry (paragraph 5) should extend to silvopasture – keeping livestock in woodlands (Rare Breed Survival Trust), and managing woodlands sustainably should include replanting post harvest, creating plans to minimise soil erosion, planting on peatland, minimising water pollution risk, and protecting woodland from invasive species, pests and diseases (SRUC). The Crofting Commission would like to see reference to crofter forestry.
- SRUC suggested that paragraph 8 on knowledge, innovation, education and training should explicitly refer to climate change mitigation and adaptation and biodiversity provisioning, among other things. Furthermore, they felt that land managers should be able to be assisted in terms of the provisions of the Climate Change (Scotland) Act 2009 (as amended) related to the requirement for Scottish Ministers to establish a 'whole farm approach' to emissions accounting on Scottish farms.
- Historic Environment Scotland and the Chartered Institute for Archaeologists felt that the purposes should give greater weight to the historic environment. Specifically, the Chartered Institute of Archaeologists felt that paragraph 8 on 'Knowledge, innovation, education and training' should include a reference to traditional practices, and a reference to 'local culture, heritage and identity' in Part 4 of Schedule 1.
- The purpose for providing support for knowledge, innovation, education and training in

sub-paragraphs 8(a), (b), (c) should include purposes for biodiversity and environmental land management (Soil Association Scotland).

- Scottish Rural Action argued that there should be resourcing of public participation under the Knowledge, Innovation, Education and Training purpose (paragraph 8).
- The Chartered Institute of Archaeologists wondered whether the purpose to support integrated land management in paragraph 9 of Schedule 1 belongs in Part 1 of Schedule 1, as an “overarching statement... articulating the general principle that the defined purposes may have overlapping or competing benefits and that consideration of how to trade-off benefits and maximise public benefit should be sought”.
- In paragraph 13, references to soil health should cover broader areas including the physical, chemical and biological characteristics of the soil, rather than just the composition, structure and carbon capacity to align with the proposed EU directive on soil monitoring and resilience (Soil Association Scotland, Food, Farming and Countryside Commission). SRUC, and James Hutton Institute also highlighted that the definitions on soil are narrow in the Schedule. SRUC advocated for including the “water retention capabilities of the soil”, and James Hutton Institute for including soil biodiversity.
- SRUC express concern in relation to sub-paragraph 15(2) that “the Bill is suggesting that consequences of the implementation of environmental measures are compensated through additional costs incurred and income lost (WTO ‘green box’ rules for agri-environment support) as this would only apply to targeted Elective (Tier 3) measures and does not apply to Enhanced (Tier 2) measures by design (they are supported through conditional direct support. It is important that the Bill recognises that land managers may be compensated through both mechanisms in Scotland, and still be compliant with the WTO rules (the EU permit CAP eco-schemes to be paid as top-ups to Basic Income Support for Sustainability)”.
- James Hutton Institute noted that there is no mention of ensuring a fair income for farmers, increasing competitiveness, support for generational renewal or fostering knowledge and innovation, in comparison to the EU CAP objectives.
- SEPA noted that it is not clear whether natural flood management would be included (there is only a mention of “flood prevention schemes” in sub-paragraph 15(3)).
- Scotia Seeds also felt that there should be measures to allow flood plains to operate and support to changes to farming practices, “rather than the current support to allow farmers to rebuild banks in response to flood damage to fields”.
- There should be a purpose for assisting people to collaborate to deliver environmental outcomes at a landscape scale (e.g. in paragraph 15) (Nature-Friendly Farming Network, SEPA).
- Several respondents referred to agri-tourism related purposes (e.g. selling direct from farms, housing to support rural employment, farm retail) (Scottish Agritourism and related individual businesses who submitted similar responses).
- OneKind welcomed purposes for supporting animal welfare (paragraph 16), but sought reassurance that other purposes, such as in sub-paragraph 3(1) of the schedule, will not result in supporting activities which are detrimental for animal welfare. SSPCA made a similar point. OneKind also cautioned that the purpose to

“promote, protect or or improve animal genetic resources” has the potential to have unintended side effects for animal welfare. However, others expressed support for investing in animal genetic resources (Rare Breed Survival Trust).

- OneKind also felt that support should be provided to local authorities to support public procurement of high-quality food.
- The Crofting Commission would like to see specific references to crofting.
- Support should extent to sustainable practices or other assurance schemes outside organic standards (Rare Breed Survival Trust).

