



Agriculture and Rural Communities (Scotland) Bill

Submission of stage 1 evidence by Stop Climate Chaos Scotland

November 2023

Introduction

Stop Climate Chaos Scotland (“SCCS”) is a diverse coalition of over 60 civil society organisations in Scotland who campaign together on climate change. Our members include environment, faith and belief groups, international development organisations, trade and student unions and community groups. We believe that the Scottish Government should take bold action to tackle climate change, with Scotland delivering our fair share of action in response to the Paris Agreement and supporting climate justice around the world.

SCCS welcomes the opportunity to submit evidence to the Rural Affairs and Islands Committee as part of its stage 1 consideration of this Bill. This is a strategic response and focuses on the framework nature of the Bill and the importance, especially to climate objectives, of section 1 of the Bill, and is thus offered in the form of a written submission rather than by completion of the online questionnaire.

SCCS is aware that a number of our members, and partner networks such as Scottish Environment LINK have submitted, or will submit, detailed responses, addressing both this issue and wider aspects of the Bill and its proposals. SCCS commends and supports these. We hope that, when considering the Bill at stage 1 and preparing your report to Parliament, this submission (along with others) will be useful and taken into account.

Climate context

From devastating droughts to catastrophic floods, the impact of the spiralling climate crisis could not be clearer, and those with the least responsibility for causing rising global temperatures are facing the most severe - and deadly - consequences.

The UN Secretary General, António Guterres, recently said: *‘humanity is on thin ice — and that ice is melting fast.’* He called on the world’s nations to *‘massively fast-track climate efforts by every country and every sector and on every time frame.’* Similarly, Lord Deben, the outgoing chair of the Committee on Climate Change, has said: *“our children will not forgive us if we leave them a world of withering heat and devastating storms where sea level rises and extreme temperatures force millions to move because their countries are no longer habitable. None of us can avoid our responsibility. Delay is not an option.”*

A climate emergency was declared by governments in 2019 in response to years of campaigning and the massive upwelling of concern expressed through the school strikes. Although this declaration raised unprecedented concern throughout society and business, it resulted in very little tangible new or accelerated action or policy. For this emergency to be taken seriously, we require a step up in action across every sector and at an accelerated scale and speed.

Scotland has been a global climate leader. When our Climate Change Act first set targets for emissions’ reductions, they were “world-leading”. The Scottish Government has also championed international action and committed funds to climate justice and to Loss & Damage. These steps are welcome. However, our current net-zero targets are now no longer unusual (other countries have matched them) – and, of course, we have, in practice, missed our targets in eight of the past twelve years. So, we are missing our annual targets and the Scottish Government’s own monitoring shows we are off track for our 2030 and 2045 targets.

Agriculture and climate change

Scotland’s greenhouse emissions are reported in accordance with international protocols. This means that emissions associated with various land management are ‘counted’ in three categories: agriculture; Land Use, Land Use Change and Forestry (LULUCF); and removals (the absorption of carbon by soils or vegetation).



Emissions from the LULUCF sector cover emissions and removals of greenhouse gases from changes in the carbon stock in forests, cropland, grassland, wetlands, settlements and harvested wood products, and of other greenhouse gases from drainage and rewetting of soils, nitrogen mineralisation associated with loss and gain of soil organic matter, and fires. In 2020, these emissions amounted to 12.4 MtCO₂e.

Emissions from the Agriculture sector cover emissions from livestock, agricultural soils, stationary combustion sources and off-road machinery. Agriculture is Scotland’s second biggest emitter and produces almost a fifth of Scotland’s greenhouse gas emissions. In 2020, these emissions amounted to 7.4 MtCO₂e, more than 70% of which were due to rearing livestock; and also in 2020, emissions from this sector started to rise (after a decade of barely decreasing).

These data are presented in figure 1, below, alongside the land use removals (-11.9 MtCO₂e). This separation of emissions and removals is important – often the LULUCF and removals data are combined and a “net” figure is presented¹. However, this can lead to the importance of LULUCF as a source of emissions being under-recognised. Moreover, removals are an important means to offset “hard to address” emissions (rather than purely other land use emissions) – this value is unrecognised if emissions are ‘netted’ within LULUCF, rather than accounted separately.

Taken together, **the total agriculture and land use emissions (19.8 MtCO₂e) account for nearly half of Scotland’s total emissions (40 MtCO₂e in 2020)**. Even if removals are ‘netted’ from this figure, these activities represent around one fifth of Scotland’s emissions.

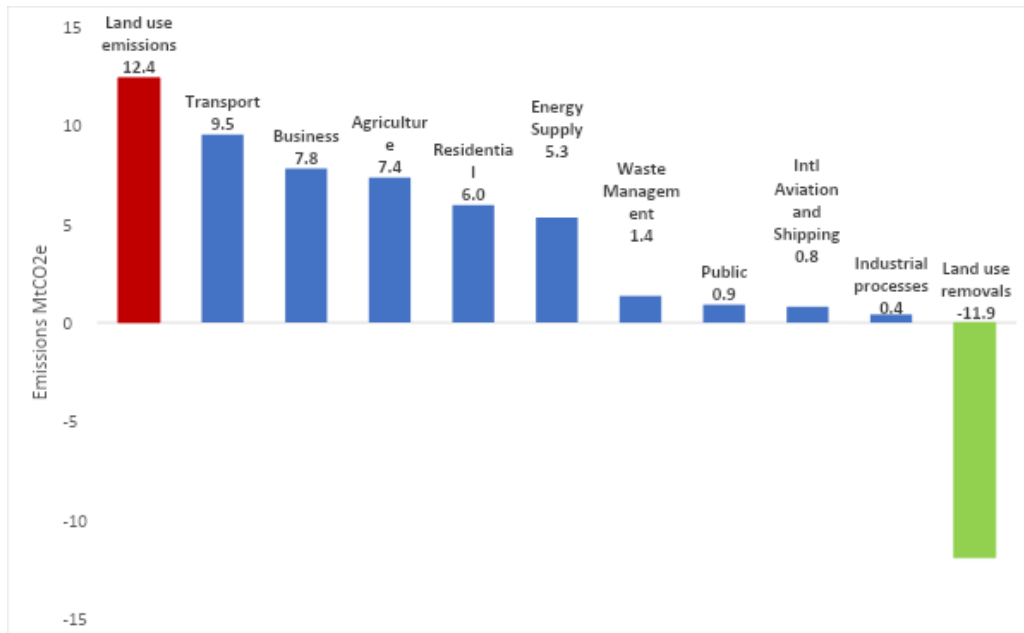


Figure 1: climate change emissions and removals by sector, 2020 figures in MtCO₂e, courtesy of Andrew Midgley of RSPB Scotland (based on Scottish Government statistics²).

Agriculture is the largest use of land in Scotland, with around three-quarters of our land being farmed, and is therefore the most significant activity contributing to the emissions described above. It is also widely recognised (for example, at the First Minister’s ‘Climate Conversation’ on 8 November 2023) that agriculture is (along with transport and heat in buildings) one of the “big three” top priorities for action if Scotland is to meet its emissions’ reductions targets for 2030 and 2045.

¹ See, for instance, annex B: <https://www.gov.scot/publications/scottish-greenhouse-gas-statistics-2020/pages/8/> - where land use emissions are shown as 0.5 9 MtCO₂e (12.4 – 11.9).

² <https://www.gov.scot/publications/scottish-greenhouse-gas-statistics-2020/>



In addition, our wider food system contributes to emissions both at home, via processing and distribution, and to the consumption-based emissions resulting from imported food. The forthcoming Good Food Nation plan should acknowledge and seek to address this - as well as the new Climate Change Plan (see s.35(18) of the Climate Change (Scotland) Act 2009, as amended). However, agriculture policy must be coordinated with these policies - to ensure that agriculture, food and consumption policies are all working to reduce emissions, at home and from imports.

It is therefore very welcome that “climate mitigation and adaptation” is included within the “overarching objectives” of the Bill (section 1). This reflects the importance of the issue, given the context described above. However, as explained below, SCCS considers that, as currently drafted, this section currently fails to introduce a clear (and enforceable) purpose to agriculture policy, including the necessary focus on climate issues, including direct emissions, adaptation and consumption-based emissions.

Accordingly, SCCS recommends that the Committee examines this issue and considers how this section might be improved.

Structure and nature of Bill

As made clear in the policy memorandum (e.g., para 5), the Bill is a framework – it establishes a series of powers that will enable Scottish Ministers, subsequently, to introduce measures (principally support schemes) that are designed to achieve the objectives and outcomes desired. These measures are mainly discretionary (that is, they may or may not be introduced) and their nature is limited only by consistency (to the extent of ‘having regard to’) with the overarching objectives (section 1) – by means of consistency (to the extent of ‘having regard to’) with the future Rural Support Plan (sections 2 & 3).

SCCS has no views, in principle, on the merits or otherwise of the framework approach. It can be a logical approach (to establish a ‘foundation’ and then build from there), enable efficient Government, and allow more rapid adaptation to changing circumstances. However, it may also be criticised as seeking to legislate without clear understanding of the detailed policies to follow and/or of providing open-ended or ‘blanket’ powers to the executive to use in a manner that would be subject to limited Parliamentary scrutiny and/or powers, if used inappropriately, may not be subject to challenge.

For instance, currently, less than 10% of public funding currently given to the sector pays for farming methods that support nature and tackle climate change. This must change if we are to transform how we farm, address the emissions described above and secure gains for wildlife, while continuing to produce healthy food and provide rural jobs. Scottish Environment LINK’s farming campaign calls for at least three quarters of public spending on farming to support actions that restore nature and tackle climate change. This policy would secure jobs in the rural economy by ensuring farming has a sustainable future. With over £740m currently allocated to supporting agriculture (see financial memorandum), too little of this budget is linked to the delivery of public interest outcomes. SCCS therefore fully supports the call from Scottish Environment LINK.

Yet, as currently presented, while such changes in policy *may* be implemented under the powers provided by this Bill, there is no indication that it will be or it is the current Scottish Government’s intention. Indeed, the financial memorandum (Table 1, pages 5-6) suggests that allocation of resources across most strands of expenditure will remain unchanged from 2023-24 to 2027-28. This suggests that the proposed powers will be used, initially, simply to maintain of the status quo; while, if passed, the Bill would (as currently drafted) enable future Scottish Governments to amend policy in any direction (positively or negatively for the environment – or indeed for the industry, including a perhaps a phase down of support entirely).

To address these concerns of the framework approach (while providing for the benefits), it is welcome that the Bill includes two provisions that should ‘steer’ the use of the powers provided: the proposed overarching objectives and the proposed Rural Support Plan. However, as presently drafted, these provisions provide only a limited and rather weak means of ‘steering’ the application of the powers. Thus, if the framework approach were to be supported, it is SCCS’ view that the Committee should consider and recommend significant improvements to section 1-3, as discussed below.



Whether such improvements are supported or not, the framework nature of the Bill indicates that the Committee may wish to seek greater clarity from the Scottish Government as to its intentions for the use of the powers the Bill will provide. In relation to climate and the reduction of emissions, there are many specific actions/policies in the agriculture sector that may be considered, including:

- Reducing emissions from ruminant livestock;
- Nitrous oxide reductions in farming;
- Managing slurry storage better;
- Increasing organic farming;
- Increasing carbon content of soils;
- Improving carbon skills of farmers;
- Changing diets; and
- Green commitments in Good Food Nation Plan

More detail on each of the above may be found in the SCCS Climate Manifesto, chapter 11³. In addition, the application of natural climate adaptation strategies such as sustainable flood management, managed realignment, and regeneration of woodland, will be important opportunities to better manage farmland - to the benefit of all. These should figure prominently in the Scottish Government's Adaptation Programme (to be reviewed next year) and need to form part of the 'purpose' of agricultural policy.

Whether in relation to these, or other specific issues, the Committee may wish to seek greater detail of the Scottish Government's intentions in relation to its plans for the application of the powers provided in this framework Bill. Indeed, given the centrality of the proposed Rural Support Plan to the implementation of the powers, the Committee may wish to consider seeking the publication of a first draft (or potentially a summary or outline) of this plan during consideration of the Bill (see further comments on the Rural Support Plan provisions below).

The purpose or overarching objectives

SCCS has previously called for the Bill to "include a 'purpose clause' that places a duty on Ministers to ensure that all their actions related to agriculture (schemes, payments, etc) contribute to meeting emissions' reduction targets and adaptation goals"⁴. It is therefore welcome that the Bill, in section 1, includes provision setting out the "objectives of agricultural policy" and that these include "climate mitigation and adaptation". However, as drafted, there are a number of issues that the Committee may wish to consider and seek to address with recommendations for improvement.

First, the 'objectives' are not currently objectives (as would be recognised by, for instance, anyone used to the drafting of SMART objectives). They are, rather, a mix of aspirations and activities. To more usefully help define a purpose for the use of the powers that the Bill provides, these objectives should be altered to clear outcomes that to be secured – with links to means by which the achieving (or otherwise) of those outcomes might be judged.

Thus, **in relation to climate mitigation, for example, the outcome should be that emissions from agriculture are reduced to the extent necessary to meet targets set by the Climate Change (Scotland) Act 2009, and the Climate Change Plan adopted under that Act.** These targets should include those related to direct emissions, adaptation and consumption-based emissions. Similar clear outcomes and measures should be set out for the other objectives.

Secondly, in section 1(c) in relation to "nature restoration, climate mitigation and adaptation", this objective is restricted to "on-farm" matters⁵. However, many of the measures likely to be implemented under this Bill, will have implications (positive or negative), for nature, for emissions, and for adaptation that do not arise "on-farm" but elsewhere. For instance, the nature and scale of fertilisers or pesticides used on farms, and supported by agriculture policy, has implications for emissions and pollution throughout their supply chain and in run-off. Additionally, emissions from the food processing and distribution systems are also affected by measures likely to be taken under the Bill – such as

³ <https://www.stopclimatechaos.scot/manifesto/chapter/agriculture/>

⁴ <https://www.stopclimatechaos.scot/manifesto/policy/reform-farming-funding/>

⁵ Albeit that this caveat may, or may not, depending on the reading apply to all three objectives or only to nature restoration. That uncertainty, in itself, should be clarified.



support (or otherwise) to specific crops or livestock, to local abattoirs, markets or processing sites. Furthermore, there must be scope for wider improvement of nature for climate benefits beyond “on-farm”, with support for between farm collaboration and connectivity that will also contribute to Scottish Government’s commitment of thriving nature networks in every local authority.

Thus, whether or not objective 1(c) is re-framed, as suggested above, **the caveat that nature and climate objectives relate only to “on-farm” activities should be removed.** One of the overarching objectives of agriculture policy should be to reduce emissions from the agriculture and food industry as a whole (and similarly for nature and adaptation).

Thirdly, section 1, as drafted, currently applies the overarching objectives to agricultural policy only “for the purposes of this Act”. While a considerable proportion (probably a great majority) of future agricultural policy will be implemented under this Act (to be), some will still derive from other provisions. For instance, it might be considered that the business rates or inheritance laws applying to farms and farm businesses constitute ‘agricultural policy’ as they are designed with the agriculture industry in mind. In addition, it is unclear whether “of this Act” includes secondary legislation made under this Act.

Thus, **the first line of section 1 should be amended such that the overarching objectives (or outcomes) apply “for the purposes of this Act, any enactments made under this Act, and any provisions related to agriculture”.**

Fourthly, the legal effect of section 1 should be considered. As drafted, the only effect of section 1 is that these objectives are matters to which Scottish Ministers “must have regard to” when preparing or amending the Rural Support Plan (section 3). In turn, Scottish Ministers must then have regard to that plan in exercising their functions under the Act (section 2(1)(b)). This is a very weak, and potentially ineffective, means of ensuring that the powers under the Act are used to deliver the objectives as stated (or outcomes should section 1 be re-framed as suggested above).

For instance, “having regard to” the objectives in preparing the plan does not indicate that the plan should set out the policies and actions that are necessary to achieve the objectives (or outcomes) or that Scottish Ministers’ “strategic priorities” (section 2(2)(b)) should include delivering those policies and actions – or achieving the objectives (or outcomes). Indeed, the wide range of purposes (in Schedule 1) for which support may be provided under section 4(1) illustrates the breadth of the powers being made available – and this should be balanced by a requirement to more clearly demonstrate that such public money is to be used to secure the public interest matters inherent in the objectives (or outcomes).

Thus, **the framework would be considerably improved (in the public interest), should the Bill be improved to make stronger the links between the objectives (or outcomes), the plan and the actions of Scottish Ministers, under the Act, to provide support.** In addition to the re-framing and amendment of section 1 as described, such stronger links might be provided for by amendments to sections 2 & 3, including: -

- A requirement that the plan set out the Scottish Ministers’ proposals and policies for securing the objectives (or outcomes) set out in section 1. The weakness of the current planning provision might be contrasted with section 35(2) of the Climate Change (Scotland) Act 2009 which sets out the requirements of the Climate Change Plan.
- Greater clarity as to how the “strategic priorities” (section 2(2)(b)) do, or do not, relate to the “overarching objectives”.
- A strengthening of the duty to exercise functions (especially the design and implementation of support schemes) in line with the provisions of the plan rather than only “having regard to” it (section 2(1)(b)). This means, for instance, that this provision might be amended to “in accordance with the plan” (with the inclusion of a potential exception provision to allow for unforeseen circumstances arising).

Alternatively or additionally, **section 1 might also be improved and have greater legal effect (thus improving its operation as a purpose clause) if a second subsection were added introducing a**



duty to regard to (or, ideally, “to act in manner best calculated to achieve”) the objectives, or outcomes, set out in [what would then be] section 1(1).

The Rural Support Plan

As described above, the framework nature of the Bill means that the proposed Rural Support Plan is a crucial tool – a vital link in the chain between the steps to be taken under the Bill, in providing support etc, and the public policy interests expressed in the objectives (or outcomes). A number of proposals have been offered above to strengthen that linkage.

In addition, given the importance of the plan to the implementation of future agricultural policy, the Committee may wish to consider whether the Bill should more clearly set out the expected content of the plan. At present the only required content is its duration, the “strategic priorities” (see comment above about the lack of clarity as to whether these are also, or are different to the overarching objectives) and “in such a manner and giving such detail as the Scottish Ministers’ consider appropriate, a description of each support scheme” (section 2(2)). This seems very vague and gives Scottish Ministers great discretion as to the content of the plan – and contrasts, for example, with the detail in section 35 of the Climate Change (Scotland) Act 2009, in relation to the content of the Climate Change Plan.

For this reason, the Committee may wish to consider amendments to section 2 to specify what the “strategic priorities” should be (or, at least, to define what they are) and/or specify matters which must be addressed within the plan (without preventing other unnamed matters being addressed if necessary). Such matters might include policies to reduce emissions from agriculture – either generally or specifically by measures to, for instance, reduce nitrous oxide or increase organic farming. Other issues that the Committee may wish to see become requirements for the plan (as opposed to options) might include how nature will be protected and enhanced as part of agricultural policy and how agriculture will be linked to delivering a more sustainable food system, through and with the Good Food Nation plan.

Alternatively or additionally, in order for Parliament (and the public) to better understand the current Government’s intentions, the Committee may wish to consider the suggestion above that a first draft (or potentially a summary or outline) of the first plan is published during consideration of the Bill.

Finally, the Bill is effectively silent on how the plan should be reviewed and progress against its target measured and reported; there are also few, if any provisions on how the plan should be produced (and who should be consulted in its production or any review/update) or how a final version is to be approved. This contrasts, for example, with provisions relating to the Climate Change Plan, the Good Food Nation Plan, the National Planning Framework - and many other such strategic documents that steer Government policy implementation. Thus, the Committee should consider if, and how, provisions might be added to require consultation with all relevant stakeholders, for a period of Parliamentary scrutiny, and for a clear reviewing and reporting process ahead of each update.