

# **Agriculture and Rural Communities (Scotland) Bill**

## **Business and Regulatory Impact Assessment**

**February 2024**

## Title of Proposal

This document is the Business and Regulatory Impact Assessment (BRIA) for the Agriculture and Rural Communities (Scotland) Bill.

## Purpose and Intended Effect

This Business and Regulatory Impact Assessment relates to the [Agriculture and Rural Communities \(Scotland\) Bill](#). The purpose of the Bill is to:

1. Provide the Scottish Ministers with the necessary powers to replace the current retained EU law Common Agricultural Policy framework for agriculture and land use support, as well as support for wider rural development;
2. Provide Scottish Ministers with the powers to deliver the Scottish Government's [Vision for Agriculture](#).

## Background

In 2018 the Scottish Government published a consultation setting out options to simplify and ensure the stability of support for farmers, crofters and land managers in Scotland in the period immediately after the UK left the EU. The proposals set out a transition period, with an initial period of “stability” for 2019 – 2020, during which no changes would be made to the Common Agriculture Policy (CAP), followed by a period of “simplicity” from 2021 to around 2024, during which the general structure and schemes of the CAP would be maintained.

The Scottish Parliament introduced legislation through the [Agriculture \(Retained EU Law and Data\) \(Scotland\) Act 2020](#) to enable Ministers to amend the new retained EU CAP legislation (now known as assimilated CAP legislation), and ensure that CAP payments and schemes would continue for a period of stability and simplicity after EU exit. Those powers are broadly limited to simplification and improvement of the rolled over Common Agriculture Policy (“CAP<sup>1</sup>”) legislation, and sunset from 7 May 2026. A further clause requires that Parliament is presented with a report on progress on developing the future approach to agricultural policy by December 2024.

Beyond this there are limited powers available to support the Scottish agricultural sector and rural communities.

## Payments Framework

Currently Scottish Government utilises these rolled-over powers under assimilated law (formerly REUL) to make support payments of the continuing CAP schemes.

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<sup>1</sup> References to the CAP are unless stated otherwise to the Scottish version of the former EU CAP rules for the EU multi-annual financial framework 2014 to 2020. The CAP rules in the EU have since been reformed and updated, and SG intends to remain aligned with the intended outcomes for which current EU CAP support is provided.

In order to continue to ensure that support is targeted and effective it is intended to take powers under the Bill to make payments. These powers will be used to replace current CAP schemes, although we will remain aligned with the EU as regards the outcomes for which support is provided.

Much of the detailed rules will be provided for within secondary legislation, and one or more subsequent BRIAs may be undertaken at that time.

## **Food and Drink**

To enable the Scottish Government to deliver wider objectives while reflecting current circumstances, adjustments are necessary to the nature of the support. The Bill therefore includes new powers to provide support for food and drink. It is intended that the new powers will be used alongside the current CAP rules in the common organisation of agricultural markets (CMO) Regulation, as considered later.

## **Climate and Nature**

Through the support framework to enable the Scottish Government to deliver towards the outcomes of climate mitigation, adaptation and nature restoration and ensure farming in Scotland can continue to produce our food more sustainably and that the land is managed more sustainably. This in turn will increase the resilience of our food production, farming and crofting more widely. This will support delivery of outcomes and strategies, including the Climate Change Plan, Scottish National Adaptation Plan, Good Food Nation Act, and Biodiversity Strategy.

## **Knowledge, innovation, education and training**

The Scottish Government does not currently have an overarching suite of powers to develop a package of support mechanisms relating to knowledge, innovation, education and training for farming and agriculture.

Currently, powers are limited in this regard, covering existing support under the assimilated law Rural Development Programme under the Farm Advisory Service (FAS), Knowledge Transfer and Innovation Fund (KTIF) and the Monitor Farm programme (MFP). The powers made available under the Bill would allow us to innovate on and expand support in these areas.

The Bill includes new powers in respect of courses of training and personal development relating to agricultural, forestry, land management or related sectors, and other forms of learning and sharing information as well as the provision and obtaining of advice. It includes new powers relating to innovation and other research and development activities which may improve or support rural communities, rural land or land use.

There are powers to support these activities through the development and maintaining of resources, digital tools or databases.

The Bill provides the Scottish Ministers with powers to make provision for continuing professional development (CPD) for farmers, crofters, land managers and other

persons.

## **Payments Administration & Data**

Currently the Scottish Government Rural Payments and Inspections Division (RPID) uses assimilated CAP rules to make provision for the checking, enforcing and monitoring of payments. The Vision for Agriculture provides for a framework not just for high quality food production but in addition ambitious objectives for Climate Change Adaption and Mitigation, and Nature Protection and Restoration. In order to be able to continue check, enforce and monitor payments, it is intended to take new powers under the Bill to provide for an Integrated Administrative Control System (IACS) that will also be aligned with the new policy objectives.

It is intended in that respect to take powers to provide for the processing of information (including personal data) for and in connection with the provision of rural support, and the sharing of such information where appropriate.

This IACS will be introduced by secondary legislation and a full BRIA will be undertaken at that time.

## **Support for Rural Communities and Rural Networking**

The Bill includes broad enabling powers to allow continued support for rural communities and rural networking – both of which were a focus of CAP. Rural community support aims to improve life and work in rural communities, and to support the development of rural areas. Rural networking brings stakeholders together to benefit from and enhance rural development. The powers set out in the Bill are flexible to allow Ministers to make decisions on the future policy approach to rural communities and networking.

## **Animal Health, Welfare and Genetic Resources**

Support for animal health, welfare and genetics would contribute to delivery of the objectives of the Vision for Agriculture. The existing powers that Scottish Ministers may use to support these areas are contained in outdated legislation and in the [Animal Health Act 1981](#). An updated flexible suite of powers is required that reflects modern agricultural practice.

## **Plant Genetic Resources**

The bill will provide power to provide support for plant genetic resources. As pests, diseases and a changing climate impacts our viability of current plant varieties, a broad plant genetic resource base is likely to prove vital in ensuring future food security.

## **Forestry**

Forestry financial support is also covered by the assimilated Rural Development Scheme. The Scottish Ministers can provide support under the power in section 71 of the [Forestry and Land Management \(Scotland\) Act 2018](#), but that power is subject to limits. It cannot for example be used to make secondary legislation where

that is appropriate or necessary, and so support for forestry is included in the Bill.

## Existing evidence

This section contains general statistics and information on Scottish Agriculture taken from the [Agriculture and Rural Communities \(Scotland\) Bill – Supporting Evidence and Analysis \(www.gov.scot\)](#) report. The full report contains further evidence setting out the scale of the challenges that the Vision for Agriculture seeks to address and that the Bill seeks powers to enable.

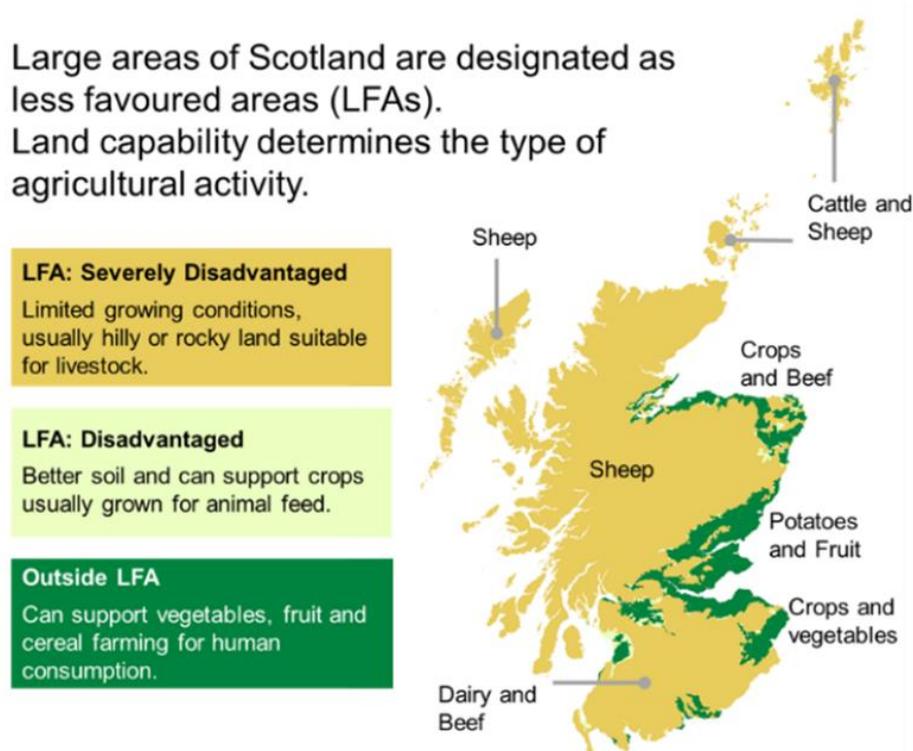
round 80% of Scottish land is used for agriculture (in the widest sense of being managed for production) according to the [agricultural census](#), although the intensity with which this land is used varies dramatically. The share of land in Scotland used for agriculture has remained fairly stable over the past century, although farming practices and productivity have changed substantially. The utilisable [agricultural area](#) in Scotland is 5.5 million hectares, of which around 3.7 million hectares is land that is the subject of direct payment to farmers under the assimilated law Basic Payments Scheme.

Agricultural output is generally dependent on the productive capacity of the land being farmed. . Areas with limited growing conditions are currently designated as Less Favourable Areas (LFAs), in recognition of:

- the presence of land of poor productivity, which is difficult to cultivate and with a limited potential which cannot be increased except at excessive cost, and which is mainly suitable for extensive livestock farming;
- lower than average production, compared to the main indices of economic performance in agriculture;
- a low or dwindling population predominantly dependent on agricultural activity, the accelerated decline of which could cause rural depopulation

Figure 1 shows the primary land use in different areas of Scotland classified by land type. Around 10% of Scottish agricultural land is used to grow cereals, fruit and vegetables. Barley and wheat are the main cereal crops grown in Scotland, accounting for around 85% of the area of cropland and much of it goes into the production of malting wheat and barley. For example, in 2019 just over half (53%) of [Scottish barley](#) was sold to merchants for malting. According to the [Scotch Whisky Association](#), around 90% of barley requirements of the industry are sourced in Scotland.

**Figure 1.** Map of Scotland by LFA status - agriculture is the predominant land use



Just as the quality of land for different types of agricultural activity varies across Scotland, so too does its potential to store carbon in peat and support the expansion of woodland. Peatland restoration and tree and woodland planting and regeneration can help reduce greenhouse gas emissions.

The Scottish agricultural workforce was just over 67,000 people in 2021 and accounted for around 1% of Scotland's [economy](#) in terms of value added. However, the size of the agriculture sector varies considerably across Scotland, and it also underpins other large industries in Scotland including food manufacturing, retail and tourism. For example, outputs of Scotland's agricultural industries provide a key source of inputs for the wider food supply chain. In 2021, Scotland's [Food and Drink Growth Sector](#) generated turnover of around £14.7 billion and employed around 129,000 people.

Analysis of Scottish Government [input-output tables](#) demonstrates the wider contribution of agriculture to the Scottish economy. Agriculture indirectly supports other industries through supply chain effects and the spending of wages. These are known as multiplier effects. The output multiplier for agriculture in the Scottish input-output tables has typically been around 50% over the past 20 years. This would mean that £10 million in activity in the agricultural sector, would typically generate a further £5 million in activity in other sectors of the Scottish economy.

The agricultural sector receives a significant amount of financial support from the Scottish Government, currently through the Common Agricultural Policy. The Scottish Government's agricultural support budget consists of £485 million in Pillar 1 payments (direct payments to farmers) and around £130 million in Pillar 2

payments (rural development payments) in 2023-24.

Analysis by [SRUC](#) estimated the proportion of direct support payments by agricultural source in 2019. This included the Basic Payment Scheme, Scottish Suckler Beef Support Scheme, Scottish Upland Sheep Support Scheme, the Beef Efficiency Scheme and the Less Favoured Area Support Scheme (over £500 million in total). The estimated share of direct support payments by agricultural source is shown in Table 1.

**Table 1.** Estimated Share of Direct Support Payments by Agricultural Source

<b>Source</b>	<b>Share of Direct Support</b>
Beef	44%
Crop	25%
Sheep	24%
Dairy	5%
Grazing or fodder without (June) stocking activity	3%
Total	100%

Source: [Estimation of sectoral CAP payment 'envelopes' and distribution of agri-environment and forestry support 2019 \(SRUC\)](#) doesn't sum to 100% due to rounding.

## Objective

The Scottish Parliament has powers to pass legislation on agriculture, but the UK has (and can) enact legislation on reserved matters which affect how we deal with agriculture, such as the UK Internal Market Act 2020 and the Subsidy Control Act 2022.

The new Agriculture and Rural Communities (Scotland) Bill will enable the flexibility to ensure we can manage changes imposed by UKG and further work within UK frameworks (further detailed below) while delivering the necessary reforms and outcomes including where practicable remaining aligned with the EU.

Future policy proposals must also be considered, more acutely in secondary legislation, against a wider international context of membership, as part of the UK, of organisations such as the World Trade Organisation (WTO) where we are under a duty to comply with the WTO Agreement on Agriculture, which sets out rules for domestic support.

## Policy

Agriculture is within devolved competence, and a new Agriculture Bill for Scotland is required to replace the existing Common Agriculture Policy legislation over time.

The powers in the Agriculture and Rural Communities (Scotland) Bill aim to deliver the Scottish Government's Vision for Agriculture, which outlines how we will

transform support for farming and food production in order to ensure that Scotland is a global leader in sustainable and regenerative agriculture.

To achieve the Vision we have worked with farmers, crofters and land managers to co-develop future policy, notably the [Agriculture Reform Implementation Oversight Board](#) (ARIOB), who helped inform the development of the public consultation on the Bill, providing valuable feedback throughout the process.

Congruent to specific commitments of the [Bute House Agreement](#) commitment, the Vision sets-out that “The Bill will be introduced in 2023 to deliver:

- a new support framework that will include delivering climate mitigation and adaptation, nature restoration and high-quality food production;
- integration of enhanced conditionality against public benefits, with targeted outcomes for biodiversity gain and low emissions production; and
- increased equality of opportunity, improving business resilience, efficiency and profitability.”

Whilst in development, core elements of the Vision informed 2021 Programme for Government commitments, specifically that:

- “We will, consult on a future agriculture bill, setting out our vision for a new, post Common Agricultural Policy, support payment system in 2025-26”;
- “legislation planned for 2023 to underpin: a new support framework that will include delivering climate mitigation and adaptation, nature restoration and high-quality food production; and, increased equality of opportunity, improving business resilience, efficiency and profitability”;

The proposed changes under the Agriculture and Rural Communities is part of a wider package of measures and intended measures that will support the change in land use necessitated by the twin biodiversity and climate crisis, including the the Good Food Nation Act and any future legislation and policies impacting upon land use. The Agriculture and Rural Communities (Scotland) Bill will seek to ensure that all farmers, crofters, and land managers can capitalise on the benefits that come with the changes in land use, and that a Just Transition is achieved.

A just transition is both an outcome – a fairer, greener future for all – and the process that must be undertaken in partnership with those impacted by the transition to net zero. Just transition is how we get to a net zero and climate resilient economy, in a way that delivers fairness and tackles inequality and injustice.

This means agriculture plays its part in delivering a fairer, greener Scotland for all and that government policies must be developed in partnership with those we are asking to transition (i.e., farmers) so they deliver fairness and help to tackle inequality and injustice on the way to net zero as we produce more of our own food more sustainably.

## **Payments Framework**

The Bill provides for a payment framework, that is broadly aligned to the equivalent EU measures. Detail of the particular support schemes will where appropriate be set out in secondary legislation, and will be subject to a BRIA at that time as necessary.

## **Food and Drink**

The new payment power will provide a modern, specific, flexible power for the Scottish Ministers to provide financial support to the food and drink industry, specifically to food producers and processors, to support the use of organic practices and organic certification requirements. In addition, the Scottish Ministers are taking powers to modify support schemes for the fruit and vegetables sector and provide support for the apiculture sector. These measures will provide the Scottish Ministers with appropriate powers to tailor those sector specific support schemes to post EU exit circumstances.

## **Climate and Nature**

Powers under the Bill will allow Scottish Ministers to provide financial support for the specific purposes of addressing the twin crises of climate change and biodiversity loss. In doing so the Bill will enable them to direct support towards practices that promote regeneration in biodiversity, ecosystem and soil health, and climate adaptation and mitigation actions that seek to increase our resilience to a changing climate and reduce greenhouse gas emissions from the agriculture sector. The Bill and subsequent secondary legislation will, therefore, provide ministers with appropriate powers to address these key priorities across all tiers as outlined by the Vision for Agriculture.

## **Knowledge, innovation, education and training**

The new powers will allow the Scottish Ministers to deliver support for the establishment, development, delivery and undertaking of knowledge, innovation, education and training support. It will also specially enable them to make provisions for continuing professional development of farmers, crofters, land managers and persons relevant to them. There is a widespread recognition among stakeholders of the importance of support for skills, knowledge transfer and innovation as it is considered vital to ensure there is a thriving agricultural sector in future, to encourage new entrants and to encourage new delivery methods and innovative solutions going forward. These powers will also help to underpin Tiers 1-3 in the Vision for Agriculture.

The powers in respect of knowledge, innovation, education and training broadly align with EU measures and policy developments.

## **Payments Administration & Data**

A main objective of the Bill is to take powers which will allow for the delivery of a payments administration Independent Audit & Control System (IACS) framework broadly aligned to the EU that will enforce, monitor and evaluate progress to achieving the Bill and Vision objectives. Detail of the IACS framework will be set out

in secondary legislation, and are likely to be the subject of a further BRIA at that time.

### **Support for Rural Communities and Rural Networking**

As noted in the background section above, the main objective of the Bill here is to allow continued support for rural communities and rural networking – both of which were a focus of CAP. The powers set out in the Bill are broadly framed, which will allow Ministers to make decisions on the future policy approach to rural communities and networking.

### **Animal Health, Welfare and Genetic Resources**

These new powers are to enable support for promotion, protection or improvement in these areas in order to develop a fairer and greener Scotland and to make responsible use of our natural capital of genetic resources. The powers would enable support for projects to achieve these objectives or the inclusion of animal health, welfare and genetics in the future support framework. This is in line with the wider objectives of the EU CAP ambitions outlined above and some of the published Member State CAP Strategic plans contain measures to support animal health and welfare. It also aligns with developments on animal health in England and Wales.

### **Plant Genetic Resources**

By supporting genetic resources, we have the potential to develop conventional varieties which have better resilience to a changing climate. This will allow Scotland to continue to produce food and feed, whilst also reducing inputs such as pesticides and fertilisers. All of which are aims of the Scottish government and the EU.

### **Access**

The broad enabling powers will allow for the provision of assistance to improve public access and assist with the public's exercise of a right of responsible access as set out in the [Land Reform \(Scotland\) Act 2003](#).

### **Forestry**

Scotland's Forestry Strategy sets out the Scottish Government's vision for Scotland's forests and woodlands. The objectives and priorities set out in the strategy are primarily delivered through the existing rural payments framework set out under Pillar 2 of CAP. In order to continue to deliver on Scotland's Forestry Strategy, forestry payments require a new support framework. For that reason, and to ensure forestry support is compatible with wider rural support packages, it has been included within this Bill.

### **Existing evidence**

General statistics and information on Scottish Agriculture below taken from the [Agriculture and Rural Communities \(Scotland\) Bill – Supporting Evidence and Analysis \(www.gov.scot\)](#) report. The full report contains further evidence setting out

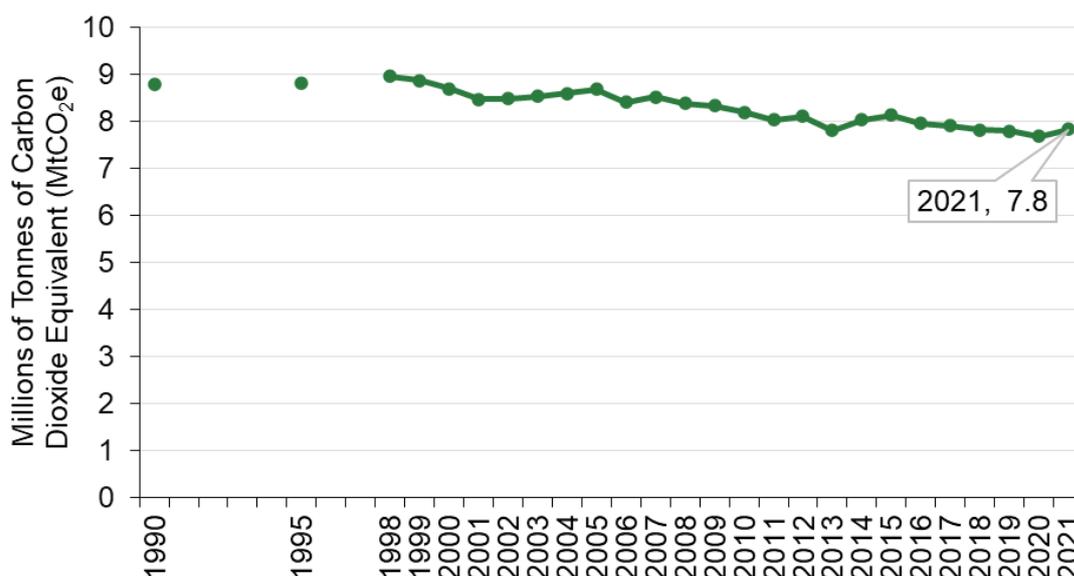
the scale of the challenges that the Vision for Agriculture seeks to address and that the Bill seeks powers to enable.

### Climate Mitigation and Adaption

Agriculture has an important role to play in reducing Scotland’s greenhouse gas emissions. Agricultural greenhouse gas emissions originate from a range of different sources and activities, including but not limited to: enteric fermentation in the digestive system of livestock; manure management; soil emissions; and agricultural machinery. As a result, different farm sectors and farm types inevitably produce different emissions requiring a different approach to emission reductions.

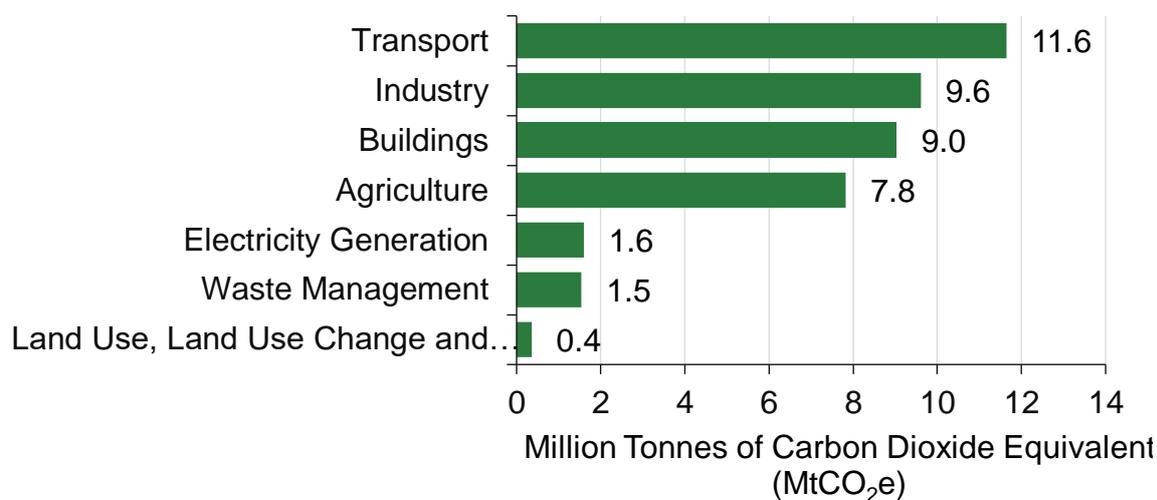
[Scottish agriculture](#) generated 7.8 MtCO<sub>2</sub>e (million tonnes of carbon dioxide equivalent) in 2021, equivalent to 19% of total Scottish emissions. Agricultural emissions have fallen by 0.9 MtCO<sub>2</sub>e, or 11%, since 1990, which is the base year from which the government’s emission targets are set. This long-term decrease was driven primarily by a decrease in the number of cattle and sheep driven by market factors.

**Figure 2.** Scottish agricultural emissions



Agriculture is the fourth highest greenhouse gas emitting sector in Scotland, out of the seven [Climate Change Plan Update sectors](#). The reduction in agricultural emissions is smaller than emission reductions recorded across other sectors, and across Scotland as a whole, where total emissions have nearly halved during the same period. The Scottish Government’s [Climate Change Plan update](#) intends that agricultural emissions should reduce by a further 2.5 MtCO<sub>2</sub>e to 5.3 MtCO<sub>2</sub>e by 2032, the equivalent of a 32% reduction from 2021 levels. For context, this means achieving close to triple the reduction in emissions recorded over the past 30 years, in one-third of the time.

**Figure 3.** Sources of Scottish greenhouse gas emissions, 2021



As noted in the [Update to the Climate Change Plan](#), agriculture and food production rely on natural processes, and will therefore always cause some degree of greenhouse gas emissions; in particular, ruminant livestock will always emit some greenhouse gases. Therefore, a balance must be found to ensure greenhouse gas reductions can take place while Scotland continues to produce high quality and sustainable food.

However, with changes in farming practices, and by utilising new technology and innovative tools, a substantial reduction in emissions can be achieved. [Analysis produced for the Scottish Government](#) assessed a wide range of mitigation measures that could be employed in Scotland. This includes measures that provide high emission reduction potential that also save farmers money or cost very little to implement in most scenarios, for example: growing clover-grass mix instead of pure grass; using genomics in dairy breeding; increasing the beef output from dairy herds using sexed semen; finishing beef animals faster; and using nitrate as a feed additive for beef.

Agriculture also has an important role to play in reducing emissions in the Land Use, Land Use Change and Forestry (LULUCF) sector in the Climate Change Plan Update. This covers emissions and removals of greenhouse gases resulting from direct human-induced land use, land-use change and forestry activities.

Climate change is also a severe risk to the agricultural sector. The [Farm Advisory Service](#) notes that summers have become hotter and drier, winters milder and wetter, and heavy rainfall events have increased in frequency. Extreme weather events have become less predictable but far more intense. These changes are having a number of impacts on Scottish agriculture in areas such as productivity, soil quality, pests and diseases, water availability and quality, and flooding. Some parts of Scotland's agricultural sector are expected to experience some positive changes, however, in most cases these are largely outweighed by the negative impacts.

## Employment in Scottish Agriculture

Agriculture provided around 2% of total employment in Scotland in 2021, figures from the Business Register and Employment Survey show. This proportion varies across Scotland: agriculture accounted for 15% of employment in remote rural areas and 12% in accessible rural areas. Table 2 shows the agricultural workforce broken down by farm type.

**Table 2.** Agricultural workforce by farm type, June 2021

Category	Holdings	Workforce*	Ratio of workforce to holdings	% of agricultural workforce
<b>Total Scottish agricultural workforce</b>	<b>27,634</b>	<b>67,409</b>	<b>2.4</b>	<b>100%</b>
Specialist sheep (LFA) farms	7,281	14,069	1.9	21%
Specialist beef (LFA) farms**	4,179	10,604	2.5	16%
Other farm types	5,835	9,463	1.6	14%
Mixed type farms	2,107	6,087	2.9	9%
Specialist horticulture & permanent crops farms	565	5,891	10.4	9%
Non-LFA cattle & sheep farms	2,238	4,906	2.2	7%
General cropping farms	1,296	4,174	3.2	6%
Other cattle & sheep (LFA) farms	1,390	3,678	2.6	5%
Specialist cereal farms	1,463	3,408	2.3	5%
Specialist dairy farms***	607	2,999	4.9	4%
Specialist poultry farms	482	1,592	3.3	2%
Specialist pigs farms	191	538	2.8	1%

Source: [Scottish agricultural census, 2021](#)

\*Workforce numbers do not adjust for full time equivalent (FTE)

\*\* Labour data was not available for all 4,568 specialist beef farms

\*\*\* Labour data was not available for all 635 specialist dairy farms

Specialist sheep (LFA) farms are the largest employer in terms of workforce numbers, with 21% of the Scottish agricultural workforce, whilst having the second lowest average workforce of just under 2 employees per holding. However, on specialist sheep (LFA) farms only 1% of the workforce are full-time employees,

spread across 10% of holdings. 73% of specialist sheep (LFA) farm staff are occupiers and spouses.

In contrast, 79% of specialist dairy farms employ full-time staff, who make up 65% of the workforce. A relatively lower proportion of the workforce on specialist dairy farms (10%) are occupiers and spouses. Specialist beef farms are less likely to employ full time staff (31%), who represent 22% of the workforce. 58% of specialist beef farm staff are occupiers and spouses.

Different crops have different labour requirements. Specialist cereal holdings rely on a mix of occupiers and spouses, accounting for 55% of the workforce, and employees, for 45%. On general cropping holdings 42% of labour is from occupiers and spouses and 58% from hired employees. Horticulture is more reliant on hired labour: 24% of the workforce are full- or part-time employees, while 62% are casual or seasonal staff.

**Table 3.** Agricultural workforce by employment type, June 2021

Category	Holdings	Workforce*	Average Workforce	% of Scottish agricultural workforce
<b>Total Scottish agricultural workforce</b>	<b>27,634</b>	<b>67,409</b>	<b>2.4</b>	<b>100%</b>
Occupiers & spouses working less than half time	19,796	26,586	1.3	39%
Total full-time employees	5,915	13,386	2.3	20%
Occupiers & spouses working more than half time	10,108	11,722	1.2	17%
Total casual and seasonal employees	2,419	8,003	3.3	12%

Source: [Scottish agricultural census, 2021](#)

\*Workforce numbers do not adjust for full time equivalent (FTE)

Based on the 2021 June agricultural census, there were 13,386 regular full-time staff, 7,712 regular part-time staff, 8,003 casual and seasonal staff, and 38,308 working occupiers / spouses.

## Rationale for Government intervention

The former EU CAP rules became retained EU law on exit day via the [European Union \(Withdrawal\) Act 2018](#). The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 helped ensure that CAP payments and schemes would continue for a period of stability and simplicity after existing from the EU, and could be modified when appropriate or necessary.

Without government intervention, the powers to modify assimilated law CAP rules contained in the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 would sunset, and Scottish Ministers would not be able to make any further changes to them after 6 May 2026.

The Scottish Ministers are therefore taking forward this Bill to enable them to have the powers to replace the current assimilated law Common Agricultural Policy framework for agriculture and rural support, and to deliver the Scottish Government's Vision for Agriculture as aligned to the National Performance Framework.

Without a new Agriculture and Rural Communities (Scotland) Bill, Scottish Ministers would not be able to make any changes to the current agricultural support structure beyond May 2026 and would have to continue with the structure and payment rates in place at that time. This would mean that Ministers could not deliver on the Vision nor effectively tackle the climate and biodiversity crises.

It is intended that the powers contained in the Agriculture and Rural Communities (Scotland) Bill deliver toward the National Performance Framework and the overall vision for Scotland.

The existing proposed powers contained in the Agriculture and Rural Communities (Scotland) Bill contribute to the following objectives of the National Performance Framework:

- Environment – the Bill's powers and proposals recognise the duty to protect and enhance our natural assets as being essential to our economy, culture, way of life and the wellbeing of future generations. For example, the powers to make payments towards climate change adaptation and mitigation and nature protection and restoration support this national performance outcome.
- Economy – the Bill's powers and proposals recognise that in order to encourage economic growth, our economy must be environmentally sustainable, inclusive and benefit all our people and communities.
- Communities – the Bill's powers and proposals support the protection of our rural communities by nurturing and protecting our local resources, environments and all who live in them. For instance, proposals including Tier 3 of the payment framework could be location specific to ensure thriving rural communities.
- Poverty- the Bill's powers and proposals recognise the requirement to work with the sector to address the root causes of disadvantage and set in place the actions to eradicate poverty for good. For instance, the proposal for the establish a national and regional reverse seek to compensate farmers and land managers for specific disadvantages that they face.
- Health – the Bill's powers and proposals recognise the requirement to take a whole system approach to promoting good health and activity. In particular the proposal for a Whole Farm Plan seeks to ensure the health of agricultural business and provide an underpinning basic level of sustainability and resilience required for all businesses in receipt of public support.
- Education – the Bill's power and proposals recognise and support

excellence in teaching, research and innovation for all learners in all educational contexts. For instance, the Bill contains powers to support knowledge transfer, innovation and skills development within the agricultural, crofting and land management sectors.

- Children and Young People – the Bill’s powers and proposals recognise the need to ensure that children and young people are supported in order to fulfil their potential by seeking to enable more new and young entrants into farming.
- Human Rights – the Bill’s powers and proposals recognise the intrinsic value of all people and are a society founded on fairness, dignity, equality and respect. In particular the proposals for agricultural tenancies seek to ensure fairness, increase opportunities and ensure that tenant farmers and smallholders have the same access to climate change adaptation and mitigation measures.
- Culture- the Bill’s powers and proposals recognise the need to support vibrant and diverse cultures. This is supported by powers to support land-managers and communities who are undertaking and supporting land management not limited to agriculture.
- International- the Bill’s powers and proposals seek to fulfil our obligations internationally, promoting our place in the world and deepening our relationships with others. In particular proposals relating to high quality food production seek to further community growing whilst forging new links with overseas customers.

## **Consultation**

### **Within Government**

The following agencies and directorates were consulted and provided input to the consultation paper within the Scottish Government.

#### Directorate for Agriculture and Rural Economy

Agriculture Policy Division

Animal Health and Welfare

Digital and Information Services Division

Food and Drink

Future Rural Policy Frameworks, Land Use and Land Reform

Rural And Island Futures

Rural Payments and Inspections Division

Science and Advice for Scottish Agriculture

Directorate for Environment and Forestry

Natural Resources

Environmental Quality and Resilience

Rural and Environmental Science and Analytical Services

Directorate for Energy and Climate Change

Domestic Climate Change Division

Scottish Forestry

Agencies

NatureScot

Scottish Environment Protection Agency

## **Public Consultation**

A public consultation on '[Delivering our Vision for Scottish Agriculture: Proposals for a new Agriculture Bill](#)' was launched on 29 August 2022 and ran until 05 December 2022. This consultation was supported, developed and informed by the ARIOB prior to its August publication.

The consultation was wide scoping but focused on:

- the future payment framework,
- the delivery of key outcomes (such as climate change adaptation and mitigation; nature protection and restoration; high quality food production; and wider rural development),
- skills, knowledge transfer and innovation,
- the administration, control and transparency of payment framework data;

The consultation centred around ensuring the Agriculture and Rural Communities (Scotland) Bill has the legal framework to deliver:

- the Scottish Government's Vision for Agriculture,
- the National Performance Framework outcomes,
- Programme for Government and Bute House draft shared policy programme priorities,

- emissions and nature restoration targets,
- building on minimum regulatory standards;
- Just Transition which supports agriculture, land integration and land use change in a way that follows the Just Transition principles;
- value for money and
- broad alignment to EU CAP objectives.

By close of the consultation a total of 392 valid responses were received to the consultation, of these 225 were from individuals, and 167 were from organisations. The in-person and online engagement events were attended by approximately 600 people from all over Scotland.

Overall, the consultation analysis shows that all proposals in the consultation received a higher level of support than opposition. Respondents were also given the opportunity to provide further feedback on each proposal. Following qualitative analysis, these views have been presented via emerging themes. It is important to highlight that many views and themes relate to the detail of future support and schemes, and therefore subsequent secondary legislation, which was not consulted on at this stage.

An independent [analysis](#) of the responses to the consultation on proposals for a new Agriculture Bill, “Delivering our Vision for Scottish Agriculture. Proposals for a new Agriculture Bill”, was published on 22 June 2023, along with responses where permission to publish had been granted.

## **Business**

A number of businesses and business representative from the industry participated in and contributed to the Scottish Government’s public consultation on ‘Delivering our Vision for Scottish Agriculture: Proposals for a new Agriculture Bill’ in 2022.

There has been substantial stakeholder engagement through the public consultation with nine in person events throughout Scotland (Inverness, Skye, Aberdeen, Oban, Scottish Borders, Stirling, Dumfries and Galloway, Ayrshire, and Orkney). In addition, five online events designed to ensure that views from across Scotland were heard.

The co-development approach of the Scottish Government has included regular engagement with the Agriculture Reform Implementation Oversight Board, co-chaired by the Cabinet Secretary for Rural Affairs, Islands and Land Reform and NFU Scotland President, Martin Kennedy and has a membership drawn from across the sector, including many including representatives from agricultural businesses. The Board were consulted throughout the early stages of development and continue to be keep abreast of Bill related work.

The Agriculture and Rural Development (ARD) Stakeholder Group met in September 2022 and were provided with an overview of the co-development approach and the vision by the Cabinet Secretary for Rural Affairs, Land Reform

and Islands. A detailed presentation on the vision and framework followed, alongside information on the public consultation. A further in-person public consultation workshop was held with the ARD Stakeholder Group in November 2022 to gather views and to complement the public events.

In keeping with specific requirements of the BRIA guidance, Scottish Government officials also conducted six (face to face and online) business interviews in 2023. These discussions were focused on understanding the potential impacts on business as well as other related concerns of the provisions within this Bill. More detail of these engagements is provided in Scottish Firms Impact Test section of this BRIA.

Once final policy decisions have been taken, they will be made by regulation through subsequent secondary legislation in terms of the Bill. At that time further impact assessments will be required, which will include further discussion with stakeholders, including businesses in the agriculture sector, farmers, crofters, land managers, suppliers to the agriculture sector, the food processing industry, etc.

## **Options**

As was appropriate, a range of alternative approaches were given due consideration, but not consulted upon. All were weighted against the outcomes sought through the Vision for Agriculture alongside existing and broader Scottish Government outcomes. Practical considerations were also considered with focus upon the ability for any options to be delivered from the perspective of Scottish Government business functionality and supplier side (customer) capacity and capability.

Therefore, two options have been considered and are described in more detail below, they are:

### **Option 1 – Do nothing**

This option is effectively a do nothing option, and would mean that the existing retained EU law CAP rules, as rolled over into retained EU law on the UK's exit from the EU, would continue in Scotland until replaced or repealed by primary legislation (except where retained EU law provides delegated powers for amendment). It would mean that after 7 May 2026 Scottish Ministers would have limited powers to amend retained EU law given the inclusion of a sunset clause for the powers in that Act.

### **Sectors and Groups Affected**

The Sectors and Groups primarily affected would be the agriculture sector, farmers, crofters, land managers, suppliers to the agriculture sector, the food processing industry, rural communities, etc and government.

### **Benefits**

The main benefit of this option would be that the existing assimilated law CAP rules would continue, thus allowing for a degree of continuation of existing schemes that are familiar to farmers, crofters, land managers, rural communities etc., as well as Government administration and implementation teams, meaning there would be no

additional costs or changes for farmers, etc.

Some changes and improvements would still be possible under this option, using powers that would persist even after Ministers lose the ability to modify CAP rules from May 2026. In particular:

- for the Direct Payments regulation: the ability to amend some of the “greening” measures; the ability to review annually; the reduction/capping of payments, provided there is no reduction on the funds available for Rural Development; either stopping Voluntary Coupled Support, or amending the scheme rules and/or payment rates,
- for Rural Development regulation: there is scope to make adjustments to the existing schemes including amending eligibility requirements, payment rates and budgets to target emerging priorities. Outwith CAP rules the communication, targeting and provision of advice around schemes can be changed to better inform beneficiaries and to reduce non-compliance issues.

The use of all these flexibilities must be done within the rules and limits as laid down in the assimilated law CAP regulations.

## **Costs**

This option is based around the current CAP rules and funding, and should not therefore create any major additional costs.

However, experience has shown that any changes made using the flexibilities available in the current legislation often require some adjustment to administrative and IT processes and systems which could create additional costs. The precise nature of those additional costs would depend on the extent of changes required and would be balanced against the benefits anticipated. Doing nothing also creates a risk and potential costs of having to maintain/upgrade legacy IT systems where the benefit to cost ratio diminishes over time.

This option is unlikely to lead to any savings and would certainly not be value for money given it would be unable to respond effectively to social, economic, and environmental opportunities.

## **Risks**

This option means that we would be indefinitely tied to retained EU law CAP schemes and rules (except where assimilated law provides delegated powers for amendment), with very limited scope to make changes, including responding to any changes in funding from the UK Government. This would be a substantial risk given there is no longer long-term certainty of funding beyond 2025, and there would be no flexibility to account for this.

This option would also substantially undermine the commitment to move from unconditional to conditional support in order to deliver targeted outcomes, and to ensure a Just Transition can be achieved. It would also fail to provide a flexible

framework to enable us to respond to the challenges around the [UK Internal Market Act 2020](#), the UK Subsidy Control Regime, and the risk that domestic funding will not match the former EU funding.

The lack of powers available under this option would substantially risk undermining the ability of Scottish agriculture to meet its envelope under the updated Climate Change Plan. Agriculture needs to reduce its emissions by 32% from 2021 levels by 2032.

Additionally, this option would hinder deliver of the [Environment Strategy for Scotland](#), and the [Biodiversity Strategy](#). The Scottish Government is committed to addressing the twin crises of climate change and biodiversity loss, in order to create a fairer and greener Scotland. It would make it harder to meet the obligation within the [Climate Change \(Emissions Reductions Targets\) \(Scotland\) Act 2019](#) to reach net zero emissions across the economy as a whole by 2045 in a 'just way'.

Without the proposed Bill, it would not be possible to amend the assimilated CAP legislation to address changing government priorities or future policies, or to explicitly ensure that CAP schemes remain fully operable for as long as required.

This could potentially put Scottish farmers, crofters, land managers, etc. at a disadvantage compared to their counterparts in the rest of the UK, and Europe, particularly if we were unable to respond to changes the EU makes to their CAP rules and regulations, in a way that benefits their farmers, etc. (for example, by reducing administrative burdens, creating more proportionate penalties, amending marketing standards, etc.).

In short, the current assimilated law CAP rules will likely become outdated and not fit for current purpose.

### **Payments Framework**

This option would tie Scotland to ageing legislation without means to adapt payment frameworks, and be flexible with an ability to respond to change. It misses the opportunity to effectively mitigate biodiversity loss and climate change.

### **Food and Drink**

The alternative to taking these new powers would be to do nothing and continue to rely on existing powers, which would leave the Scottish Ministers less able to respond quickly and agilely to unexpected events and crises such as EU exit, Covid and the Cost-of-Living crisis. There are therefore no other alternatives that would achieve an equally satisfactory outcome, in terms of flexibility of new powers provided to enable Scottish Ministers to support the agri-food sector.

### **Climate and Nature**

The lack of powers available under this option would substantially risk undermining the ability of Scottish agriculture to meet its envelope under the updated Climate Change Plan agriculture needs to, with urgency, reduce its emissions by 32% from 2021 levels by 2032. Additionally, this option would hinder the Environment

Strategy for Scotland, and the Biodiversity Strategy. It would also put at risk our efforts to reach net zero emissions across the economy as a whole by 2045 in a 'just way'.

### **Knowledge, innovation, education and training**

As the Scottish Government does not currently have a suite of powers to develop schemes relating to knowledge, innovation, education and training it would not be able to develop a comprehensive support system of knowledge and innovation support (an Agricultural Knowledge and Innovation System). This would mean that it would not be possible to strengthen flows of knowledge and innovation and there would be weak links between players in the system, affecting the uptake of knowledge and innovation by farmers, crofters and land managers and other players in the system. This would affect the ability of farmers, crofters and land managers to use and disseminate agricultural knowledge and innovation, and in turn affect outcomes in the Vision for Agriculture.

### **Payments Administration & Data**

This option would tie Scotland to ageing legislation, and make it harder to ensure that inspections etc. are proportionate to risk so reducing the administrative burden on farm businesses.

### **Animal Health, Welfare and Genetic Resources**

This option would tie Scotland to ageing legislation that lacks the flexibility to include the full range of support in this area to deliver the objectives of the Vision for Agriculture. For example, this is an area where technological advancement is rapid, so Option 1 creates a risk of failure to keep pace with opportunities.

### **Plant Genetic Resources**

If we choose to follow the do nothing option, then we potentially miss vital opportunities to support a resource which may underpin Scottish food production.

### **Access**

Doing nothing option would remove the ability of Ministers to provide support to land owners and managers for the specific purpose of providing public access. This would potentially have a negative impact upon the public's ability to exercise their right of responsible access as set out in the Land Reform (Scotland) Act 2003.

### **Forestry**

The "do nothing" option would adversely affect the forestry sector and would significantly limit the ability to deliver Scotland's Forestry Strategy and the Climate Change Plan.

## **Option 2 – Scottish Agriculture Bill (Agriculture and Rural Communities (Scotland) Bill) to underpin long term replacement of CAP policy, and delivery of the Scottish Government's Vision for Agriculture.**

This option would allow the Scottish Government to:

1. Provide the Scottish Ministers with the necessary powers to update and in due course replace the current assimilated law Common Agricultural Policy framework for agriculture and land use support, as well as support for wider rural development;
2. Provide Scottish Ministers with the powers to deliver the Scottish Government's Vision for Agriculture.

### **Sectors and groups affected**

The Sectors and Groups primarily affected would be the agriculture sector, farmers, crofters, land managers, suppliers to the agriculture sector, the food processing industry, rural communities, etc, and government.

### **Benefits**

Given the powers of the 2020 Act only enable limited simplifications and improvements to the operation of CAP legislation, a new Agriculture Bill would enable and underpin Scottish Government's long term agricultural policy.

The main benefit would be to give a clearer indication of future policy direction, and to provide a long term legislative framework for future rural support that is flexible enough to ensure that we can deliver all relevant policy objectives.

This option would further the commitment to move from unconditional to conditional support, in order to deliver targeted outcomes and to ensure a Just Transition can be achieved.

It would also have the benefit of helping Scottish agriculture to assist towards meeting its envelope under the updated Climate Change Plan agriculture needs to, with urgency, reduce its emissions by 32% from 2021 levels by 2032.

Additionally, this option would further the Environment Strategy for Scotland and the Biodiversity Strategy, the Scottish Government is committed to addressing the twin crises of climate change and biodiversity loss: to create a fairer and greener Scotland. It would help to fulfil the obligation to reach net zero emissions across the economy as a whole by 2045 in a 'just way'.

This option would allow Scottish farmers, crofters, land managers, etc. to remain competitive compared to their counterparts in the rest of the UK, and Europe.

### **Costs**

As with the other options, any policy decisions that require changes to administrative and IT systems or replacing existing schemes with new ones, would

create additional costs.

The precise nature of those additional costs would depend on the policy decisions made and the extent of changes required. The extent of change will be based on a full assessment of development and operating costs vs anticipated benefits. We may require a further BRIA to be completed to assess the potential impact on costs.

Any changes to Scotland's funding allocation for CAP type support by the UK Government would affect the level of funding available to the Scottish Ministers. UK Government have provided no funding commitment beyond 2025 as funding allocation is on a yearly basis with no commitment possible from 2025-2027.

The costs of change are therefore difficult to quantify, given that the Bill is a framework bill, and the lack of funding certainty.

The Bill itself will not incur any direct 'change' costs, given that it is a framework bill.

## **Risks**

Long term policy decisions will support a just transition. Given the level of funding remains unknown and uncertain, taking long term policy decisions at this time is difficult (although the Bill provisions seek to mitigate this by being high level and providing flexibility).

As with the do-nothing option, there is uncertainty about the level of funding that will be available to Scotland beyond the next UK election, and what exactly is covered in the UK funding guarantees that have been made to date.

Although the Bill sets out a long-term legislative framework it is therefore encompasses very broad powers. This could open up the Bill to amendments on a wide range of issues, not necessarily connected to the original policy aims and direction of the Bill, with the potential to have a negative impact on rural businesses.

The Bill could also draw criticism from stakeholders for being too general, and therefore not being specific enough on issues that are important to them and relatable (such as scheme details).

## **Payments Framework**

This option provides the opportunity to take relevant powers to create a new payment framework aligned to the new EU CAP. These new powers create a flexible responsive framework able to adapt to changes and unforeseen events.

The Bill enables Ministers to provide financial support for measures and schemes set up using the 'framework' powers, and to set eligibility criteria and conditions for receiving the support.

Specific costs are not related to the payment framework itself but to the elements under the Tiered support framework.

## **Food and Drink**

This option will provide powers for Scottish Ministers to be able to declare exceptional market conditions, modify assimilated law rules, and provide financial support to the agri-food sector.

There more modern and flexible powers will allow Scottish Ministers to to make changes on rules related to food; continuing to provide current support regarding food; giving new powers to support the agri-food sector, including a mechanism to enable payments which help deliver food production and, where appropriate, to provide grants to support both the agri-food sector and to bodies related to the agri-food sector; and giving reserve powers to support the agri-food sector, including powers to declare when there are exceptional or unforeseen conditions adversely affecting food production or distribution, and the ability to provide financial assistance, if necessary, to the agri-food sector and related bodies affected by such conditions.

## **Climate and Nature**

This option provides the opportunity to take relevant powers to create a new payment framework, that would allow flexibility to tailor future support payments to deliver against climate and nature outcomes. The framework created by these powers would then help Scottish agriculture to meet its Climate Change Plan envelope and fulfil the obligation under the Climate Change Act 2019 to reach net zero emissions across the economy by 2045. This option would also help further the Scottish Government's Environment and Biodiversity strategies.

## **Knowledge, innovation, education and training**

This option will enable delivery of support for knowledge, innovation, education and training.

It will enable Scottish Ministers to deliver a suite of powers to develop schemes relating to knowledge, innovation, education and training that would form a comprehensive support system of knowledge and innovation support.

This will enable them to develop a system of Agricultural Knowledge and Innovation System (AKIS), enabling all the key players in that system to be better linked and for there to be better flows of knowledge and innovation. This will enable them to deliver the knowledge and innovation outcomes in the Vision of Agriculture.

It also enables them to develop and put in place a Continuing Professional Development (CPD) system for farmers, crofters, land managers and others.

## **Payments Administration & Data**

This option provides the opportunity to take relevant powers to create an IACS systems, and will help ensure that payments are used properly and will in that way underpin delivery of our wider policy objectives for farm and rural support.

## **Animal Health, Welfare and Genetic Resources**

This option provides a range of adaptable powers that enable a broad range of support mechanisms that would allow Scotland to move forwards progressively towards even more efficient and sustainable agricultural practice. The inclusion of the Agricultural Knowledge and Innovation System (AKIS) system is particularly important in this regard.

## **Plant Genetic Resources**

This option would support improvements in crop development used in feed production, as well as crops for human consumption, biofuels or anywhere in agriculture. To do nothing would deny Scottish plant breeders this opportunity.

## **Access**

this option ensures that a broad power to pay is retained, which provides maximum flexibility going forward.

## **Forestry**

This option ensures that as far as possible, the status-quo is retained and forestry grant payments can continue, which support the establishment, management and improvement of woodlands and support for the wider sector on matters including plant health and rural development.

This will allow for the continued delivery of the objectives set out the Climate Change Plan and Scotland's Forestry Strategy. The flexibility provided by new powers would also provide for different provisions for different purposes, allowing certain aspects of the funding framework to be applied, or not, depending on the requirements of land managers in different sectors. This would allow for the streamlining of forestry support.

## **Regulatory and EU Alignment Impacts**

The Bill provides the opportunity to reform how and what the Scottish Government supports, to help deliver on the Vision for Agriculture, and enable more support and activity to cut emissions and protect and enhance nature.

Support for farmers, the rural economy, rural communities and for the marketing etc. of agricultural products is currently provided in and under the former EU Common Agricultural Policy rules for the multi-annual financial framework (MFF) for 2014 to 2020.

The Bill will enable the Scottish Ministers to shape new forms of support in such a way that where appropriate they align with the outcomes being pursued by the EU through their current CAP schemes.

## **Intra-UK Trade**

The Bill is a framework bill, and will not directly impact on intra-UK trade.

## **International Trade**

The Bill is a framework bill, and will not directly impact on international trade and investment.

## **EU Alignment**

The Bill, as part of Scottish Government's established approach to policy development, will seek to maintain alignment with the EU where practicable.

## **Scottish Firms Impact Test**

Scottish Government officials conducted seven (face to face and online) business interviews with representatives from Scottish agricultural sector in 2023. The participants selected from the following list of businesses type to understand potential impacts for their business:

- livestock farmers (2),
- farming business including mixed beef and sheep farming and nature and climate (1),
- farm shop (1),
- arable farm (1),
- food and drink business (1),
- agriculture and forestry business (1).

As part of the engagement official provided an overview for purpose of these session as well as explained the aim of the Bill. The Scottish Government intends that engagement with the sector will continue throughout the Bill process and the development of relevant secondary legislation, as part of the pre existing and established co-production approach with external stakeholders for the development of CAP replacement policy.

A small sample of businesses was utilised at this stage due to the very general nature of the Bill provisions. The commitment to and on-going co-development of more specific policies through the Agriculture Reform Programme ensures the breadth of the active agriculture base is involved in future measures impacting upon them.

The following questions were asked to participants:

1. Do you operate a business that would be effected by these proposals?
2. What are the potential impacts of the proposals to your business ?
  - a. Are you able to outline potential cost and/or resource implications of this ?

- b. Can you quantify the impact (e.g. costs, time, resource)
3. Do you have a sense of which proposals would have the most costs associated with them?
  - a. Would you be able, based on experience, to quantify the costs you would expect to be associated against these proposals
4. Have you previously experience similar changes that affected your business in the past?
  - a. If so, are you able to quantify those historic impacts i.e. resourcing, financial, business changes etc?
  - b. Would you expect cost and/or resource implications to be less or more than when previous change to CAP / rural policy were made in 2014?
5. How else will these proposals impact your business?

The findings of the interview sessions are summarised below for the relevant policy areas:

### **Payments Framework and Nature Climate**

Participants were broadly supportive and did not think the bill will bring catastrophic change as they believe most are already doing the right thing. They raised their concerns around impact of audits and need to employ a consultant to undertake that work, which will add cost to their business as well as the complexity of any possible application process. Participant A also stated that any loss of funding could impact land management resulting in poor land.

Some concerns for climate change also raised during the interview sessions in particular, lesser extent biodiversity/nature regeneration is being prioritised over food production. Participants also stated that they would like to see a more level playing field in terms of climate change with motorist and air travel playing a greater role.

### **Knowledge, innovation, education and training**

The business was aware of a number of the existing initiatives for support for knowledge and innovation provided by the Scottish Government and other providers. It recognised the importance of knowledge, innovation, education and training to its business. The business was supportive of CPD, including compulsory CPD. It highlighted the need to ensure that there was a range of different channels available to gain knowledge. It was important that there was not mis-information or perceived mis-information, especially from nature programmes that were widely watched by members of the public, and that then had an impact on Scottish agriculture.

There was a feeling of tension between supporting biodiversity and other policies such as public access to land and the management of Sites of Special Scientific Interest.

No changes to the development of the knowledge, innovation, education and training provisions of the Bill are proposed as a result of this interview.

### **Support for Rural Communities and Rural Networking**

The interviewee has had previous experience of EC funded LEADER programmes delivering support to agricultural and wider rural enterprises. The individual has also had direct involvement in policy development across SG in relation to community led development and rural development.

The interviewee understood the rationale for a Framework Bill that provides scope/powers for a range of interventions but the focus of discussion was on Rural Development and the need to reduce silo thinking between the agricultural sector and the wider rural economy.

The interviewee discussed the wider enterprise support environment across Scotland and both the challenges in accessing business support for micro enterprises where mainstream support focus was mostly focused on larger enterprises.

### **Animal Health, Welfare and Genetic Resources**

Following a general introduction, background and opening remarks the interviewee made some general comments. They agreed that the Agriculture Bill is essential to facilitate future support options and enable targeted interventions, making the point that **we face the same or greater scale of change as post war**. There are significant changes needed to deal with climate change – both mitigation and adaptation, the biodiversity crisis, population growth and crises elsewhere that impact on food supply in Scotland; for example groundwater shortages in countries that produce significant volumes of the fruit and veg that we import, and this raises the question – should we not be doing more to increase domestic production on some of our land? Referencing the UK Committee for Climate Change that has based policy development on the basis of maintaining food production per capita to avoid off-shoring emissions a view could be taken that over the coming years we need to increase our food production by 15 to 20%, while concurrently delivering on the other aims. This is a tall order! It is a more significant challenge when land use change to support woodland and urban development is projected to reduce the UK agricultural area by over 9% by 2035. The focus of woodland expansion may mean a more significant loss of agricultural land in Scotland.

The interviewee could see the rationale for a Framework Bill that provides scope/powers for a range of interventions. However while the **4 aims** are worthwhile, cannot be argued against and do not conflict, they also **raise questions** about how soft goals can deliver radical change in an holistic manner and the detail and direction of future policy which must underpin farms that focus on low carbon food production but also those that contribute significant areas to habitat and sequestration development or management: how with our varied land, weather and ecology we can deliver positive options and outcomes across Scotland – what is the strategy? Land types/regions will need tailored approaches or options to deliver the aims. In order not to disenfranchise one area/farming type over another the objectives should be known for each one at the same time and not be sequential or

piecemeal. The latter approach poses a high risk of further losing the confidence of an already disorientated sector which feels powerless in the face of conflicting demands.

Although useful to see that Scottish Government must publish a **5 year plan** there is **a missed opportunity** in the Bill to place obligations on Scottish Government, for example to progress biodiversity targets through upgraded mapping of agricultural land and in particular classifying ineligible area, in the same way that the Climate change plan set obligations on GHG emissions.

To facilitate change Government must define the cost benefit of mitigation measures and how they are captured by the Inventory, Farmers must know what interventions work and what counts in the inventory if they are to change and invest.

Animal health gains can translate into physical performance which can be captured by the national inventory however the inventory is blind to other mitigation measures.

Clearly science has provided a range of interventions for example anti-methanogen feed additives, has identified genetics which reduce enteric emissions, both are very significant tools that can reduce methane emissions but their impact needs to be validated, quantified and coefficients defined to allow their use to be factored into approved carbon calculators and accepted by the national inventory. Government must commit to that process which means both upgrades of the national inventory and a process to ensure that carbon calculators are developed to ensure they reflect new science and national inventory standards.

## **Food and Drink**

Approaches were made to several food and drink businesses and business organisations. An interview was eventually held with one individual representing a major Scottish food processor and also a food sector organisation (in an entirely different sector).

It was noted that this was a framework bill with new powers to provide support for food and drink businesses. The bill provided modern, flexible payment powers for the sector. It also introduced a power to intervene in agricultural markets as a result of exceptional market conditions and some further powers around private storage aid.

The interviewee considered it unlikely that the bill would impact significantly on his areas of interest unless support was instigated in times of general emergency, i.e. because of wider, geopolitical problems. It was noted that recent geopolitical events have had significant impacts on costs of production, particularly the war in Ukraine. Ongoing support from Government was acknowledged as a good thing. The continuation of grant schemes like Food Processing, Marketing and Co-operation (FPMC) Grant Scheme was seen as critical to the processing sector since they stimulate growth and support the entrepreneurial environment.

It was not possible for the interviewee to quantify impacts of the bill in the abstract. For example, the impact would depend on whether proposals for support were more or less supportive than when the UK was in the EU, or much the same. There had been no significant impact previously, when CAP changed, so businesses were

unlikely to be significantly impacted by the latest proposals. The only recent change that could be comparable to the post EU scenario was the banking crisis of 2008-09 which had a huge impact on financing, risk and relationships for borrowers.

The manner in which the powers were exercised was considered key. There could be an impact if Government wanted continuity but the funding was not there. There would be concern if support then went to core agriculture/farmers rather than the processing sector but that was noted to be a political choice not changed by the Bill. The influence of the Green Party could have an impact, e.g. if there was a significant move to organic products.

The interviewee commented that it was wages and costs that were having a real impact on business.

With regard to food and drink specifically, the possibility of support was welcomed and the next phase of the process awaited. It was recognised that the impact would also be felt by industry bodies such as Scotland Food and Drink and Scottish Enterprise.

Over all, this interview highlighted that the food and drink provisions in the bill are welcomed, with their potential for support to be provided to businesses especially during times of emergency. What will be key, however, is the manner in which the powers are exercised. Given that this is a framework bill, it is not possible to quantify impacts in the abstract.

No changes to the development of the bill are proposed as a result of this interview.

## **Forestry**

The interview was conducted by asking the standard questions as well as additional, forestry specific, questions.

The business operates within both the agricultural and forestry sectors, and in forestry has a particular interest in establishment, forest management, harvesting and marketing.

It was noted by the interviewee that for forestry the Bill contains low-detail, enabling powers. Due to this, the interviewee was unable to quantify the potential impacts or associated costs that this Bill might cause for their forestry interests, however they did comment that the lack of clarity may cause delays in making business decisions in the short term as they await detail, and this may have an impact on their business activities.

The interviewee noted that their past experience, particularly the transition in 2014 from RDC-RP to FGS, had caused delays and a hiatus in industry activity due to speculation around new grant support. This was noted to have a particularly negative impact on those who operate forest nurseries who need to invest 2+ years in advance and may see sudden drops in demand. Further, changes to administration had unintended cost implications for business through increased administration, such as the requirement for forestry to use the Single Application Form (SAF) to claim for annual grants, or the requirement to use Land Parcel Identifiers (LPIDs) for

forestry. Finally cash-flow for projects had been negatively affected by the loss of 'paying agency' status from then Forestry Commission Scotland (now Scottish Forestry) due to payments through SGRPID taking much longer.

The interviewee stressed that evolutionary change is most important, not restarting, as this will avoid drops in activity. One of the key successes of FGS, the interviewee noted, was that it had been co-designed with the private sector and therefore had been more deliverable.

A key concern for the interviewee was land availability. Having both agricultural and forestry interests they emphasised the issue of land competition and the need for secondary legislation to consider this dependency on the same resource, particularly when it comes to grant incentives; common operations should have commonality of payments.

The interviewees final remarks were to support the consideration of hybrid grant operations, bringing agriculture and forestry together, such as controlled grazing in new woodlands, and to better support deer management to avoid the need to erect deer fencing.

## **Competition Assessment**

The provisions on market intervention and marketing standards will support competition by helping to manage potential discrepancies in the market, e.g., products being supported by public intervention or private storage aid in one part of the UK but not others, and by avoiding unwanted discrepancies in standards across the UK.

The rules regarding the UK internal market and the UK subsidy control regime continue to form part of the consideration for future agriculture policy decisions. The powers in the Bill allow the flexibility to ensure that the Scottish Government can comply with their obligations.

The Agriculture and Rural Communities (Scotland) Bill will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete; nor will it reduce suppliers' incentives to compete vigorously, and so a competition assessment is not therefore required.

## **Consumer Assessment**

The Agriculture and Rural Communities (Scotland) Bill will not affect: the quality, availability or price of any goods or services; the essential services market; storage; or routes for consumers to seek advice or raise complaints.

The information collection provisions included in the Bill will not directly apply to consumers, and any data to be collected will be done under regulations which can be the subject of further business and privacy impact assessments.

The Bill will not create increased opportunities for unscrupulous suppliers to target consumers.

The powers in relation to marketing may potentially have an impact on consumers, but that would need to be assessed in relation to individual proposals for changes to standards and would be the subject of a further BRIA.

## **Test Run of Business Forms**

The framework Bill does not make any substantial changes to the application process and does not introduce any new forms.

## **Digital Impact Test**

This Bill does not make any immediate changes to the current application system, so no digital impact test is required at this stage.

It is envisaged that any changes to the current digital application system should be positive and use innovations in digital technologies, as the aim of the changes would be to improve the service both for customers and administrators while seeking to lower the overall costs of operation.

A facility will be available from Rural Payments and Inspections Division (RPID) to support customers experiencing issues completing forms digitally will continue.

The Scottish Government acknowledges the desire for clear systems that are easy to understand and recognise what is needed to ensure compliance. The Scottish Government has created the Agricultural Reform Programme Design Authority to govern the business and digital design requirements that will deliver the new agricultural support framework to be delivered from 2025 onwards. The Design Authority will determine that relevant stakeholders have been engaged, while developing and exercising control with the appropriate policies and standards. The Design Authority will provide transparency to stakeholders and will ensure that they will be at the heart of how business processes and digital services are adapted or designed afresh. The Scottish Government will engage with them, understand their circumstances and seek to introduce adapted or new services that meet their needs in the most cost-effective manner.

## **Legal Aid Impact Test**

The Bill is a framework bill, and does not directly affect any person's eligibility to claim legal aid under an existing or potential future appeals process.

## **Enforcement, Sanctions and Monitoring**

The existing assimilated law CAP is enforced through a regulatory framework set out in the Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (EU) No 1306/2013 (The Horizontal Regulation), and in implementing regulations, (EU) Nos 639/2014, 640/2014, 641/2014 and 809/2014.

Following the UK's exit from the EU, this framework was be rolled over into retained EU Law (now assimilated law).

The proposal to creating a domestic integrated administration control system (IACS system) seeks to build on this regulatory framework. It is not expected that the regulatory burden will increase, and there will be opportunities to simplify and improve the systems we use to ensure accountability for public spending.

Scottish Government has been cleared that future support systems should adopt a simplified and less burdensome approach.

RPID will monitor and enforce the policy in conjunction with delivery partners such as Scottish Environment Protection Agency (SEPA) and the Animal Health and Plant Agency (APHA) through administrative checks and inspections, including the use of aerial photography, GPS equipment, livestock and record checks.

The sanctions for non-compliance will include a range of penalties. These penalties can range from warning letters in the event of very minor breaches to reductions and exclusion from schemes in the event of extremely serious or repeated breaches or over declarations. Again, this will build on existing penalty rules and it is not expected that the regulatory burden will increase.

When the regulation-making powers for enforcements, sanctions and monitoring included in this Bill are used, and impact assessments will be made as appropriate before the secondary legislation is introduced.

## **Implementation and Delivery Plan**

The [Agricultural Reform Route Map](#) was published in February 2023 and updated on 23 June 2023. The Route Map outlines what information and guidance the sector can expect from 2023-2025 and when it will be available.

The Agriculture and Rural Communities (Scotland) Bill has been introduced into the Scottish Parliament in September 2023 and is intended to receive Royal Assent in 2024, in order for the powers to be used from 2025.

The existing framework of support will continue in 2023 and 2024 to provide security and stability to farmers and crofters. Changes will begin in 2025, with a phased approach to bringing in the new support framework.

## **Post-implementation Review**

There is no intention to undertake a post implementation review as the secondary legalisation and statutory instruments will themselves be the subject of separate impact assessments where appropriate, and review of the new schemes will take place in due course.

## **Summary and Recommendation**

### **Option 2- Agriculture (Scotland) Bill 2023**

#### **Payments Framework**

Recommend Option 2, which would allow continuation of support payments. It would also allow flexibility to adapt the Scottish Government's approach to changing requirements, should Ministers choose to do so.

#### **Food and Drink**

Recommend Option 2, Scottish Agriculture Bill to provide powers for Scottish Ministers to be able to declare exceptional market conditions, modify powers and provide financial support to the agri-food sector.

#### **Climate and Nature**

Recommend Option 2, which would allow continuation of support payments which can be used to deliver against the outcomes of climate and nature.

#### **Knowledge, innovation, education and training**

Recommend Option 2, which would allow the continuation of support for knowledge, innovation, education and training and to develop a comprehensive support system of knowledge and innovation support (an Agricultural Knowledge and Innovation System). It would also allow flexibility to adapt the Scottish Government's approach to changing requirements, should Ministers choose to do so.

#### **Payments Administration & Data**

Recommend Option 2, which would allow implementation of payment administration IACS and Data proposals to enforce monitor and evaluate progress to achieving objectives of the Bill/ Vision. It would also allow flexibility to adapt the Scottish Government's approach to changing requirements, should Ministers choose to do so.

#### **Support for Rural Communities and Rural Networking**

Recommend Option 2, which would allow continuation of support for rural communities and rural networking. It would also allow flexibility to adapt the Scottish Government's approach to changing requirements, should Ministers choose to do so.

#### **Animal Health, Welfare and Genetic Resources**

Option 2 which would allow for protection, promotion and improvement of animal health, welfare and genetics.

#### **Plant Genetic Resources**

Recommend Option 2, which would allow support for plant genetic resources in the future.

## **Access**

Recommend option 2 which ensures continuation of the power to provide support for the purpose of providing public access.

## **Forestry**

Option 2 is the most appropriate choice for forestry support as it will enable greater flexibility for future grant schemes and ensure that forestry is integrated within the wider rural support package.

Do Nothing would not allow for flexibility for the delivery of Scotland's Forestry Strategy or be able to accommodate any significant policy changes at a national or UK level. The alternative option for future funding for forestry is not suitable as it is not possible to create a scheme by way of secondary legislation under the financial assistance power in the Forestry & Land Management (Scotland) Act 2018.

## **Summary costs and benefits**

As with other options, any policy decisions that require changes to administrative and IT systems or replacing existing schemes with new ones, would create additional costs. The precise nature of those additional costs would depend on the policy decisions in secondary legislation made and the extent of changes required. Any changes decided upon would require a further BRIA to be completed to assess the potential impact on costs.

Any changes to Scotland's funding allocation for CAP type support by the UK Government would affect the level of funding available to the Scottish Ministers. UK Government have provided no funding commitment beyond 2025 as funding allocation is on a yearly basis with no commitment possible from 2025-2027.

There are no new costs attached to the "do nothing" option. The [Financial Memorandum](#) provides existing costs to the Scottish Administration, and transition costs to deliver the Future Support Framework. As the bill is a framework Bill, which provides future flexibility and adaptability as to how ministers may wish to support in the future, it is challenging to be exact in the details of costs arising from the bill's enactment at this stage. This position, and costings associated with delivery, will become clearer as secondary legislation is brought through and support schemes are developed in the course of time. Full impact assessments will be undertaken in due course as secondary legislation is developed and clarity can be provided to impacts.

The costs are therefore difficult to quantify given the lack of funding certainty. It is not envisaged that these powers alone would create any significant additional costs.

## **Payments Framework**

The Bill enables Ministers to provide financial support for measures and schemes set up using the 'framework', and to set eligibility criteria and conditions for receiving the support. Specific costs are not related to the payment framework itself but to the

elements under the Tiered support framework.

### **Food and Drink**

Expenditure will depend on the needs of the sector and UK and Scotland budget decision.

### **Climate and Nature**

As per the payments framework, the costs are related to the elements under the tiered support framework which will be dependent upon UK and Scottish budget decisions.

### **Knowledge, innovation, education and training**

As per the payments framework, the costs are related to the elements under the tiered support framework which will be dependent upon UK and Scottish budget decisions.

### **Payments Administration & Data**

There are no new costs attached to the “do nothing” option. Costs relating to the option to include new powers in the Bill are not yet measurable as this is an framework enabling Bill.

### **Support for Rural Communities and Rural Networking**

The broadly framed enabling powers set out in the Bill will not in and of themselves directly impact on existing costs regarding rural communities and networking.

### **Animal Health, Welfare and Genetic Resources**

As this is an enabling Bill costs have not yet been determined. Specific costs will be dependent on UK and Scottish budget decisions and the choices made by Scottish Ministers on the needs and purposes of funding for this area.

### **Plant Genetic Resources**

The power set out in the bill will not in and of itself directly impact on existing costs.

### **Access**

The power set out in the bill will not in and of itself directly impact on existing costs.

### **Forestry**

The enabling powers provided by this Bill which will ensure that, as far as possible, the status-quo is retained and forestry grant payments can continue. As such there are no additional costs anticipated due to this Bill.

## **Declaration and Publication**

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non-departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- **Sign-off for Final BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Date: 16 February 2024**

**Minister's name: Mairi Gougeon**

**Minister's title: Cabinet Secretary for Rural Affairs, Land Reform and Islands**

**Scottish Government Contact point: John Kerr /James Muldoon**



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The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83521-918-8 (web only)

Published by The Scottish Government, February 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1411735 (02/24)

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