

Stage 1 Briefing

Natural Environment (Scotland) Bill

October 2025



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

The Natural Environment (Scotland) Bill (“the Bill”) was introduced by Mairi Gougeon MSP, the Cabinet Secretary for Rural Affairs, Land Reform and Islands on 19 February 2025. We submitted written evidence,¹ and provided oral evidence on 7 May 2025,² to the Rural Affairs and Islands Committee of the Scottish Parliament (“the lead committee”) as part of its Stage 1 consideration of the Bill. The lead committee’s Stage 1 Report on the Bill (“the Stage 1 Report”)³ was published on 30 September 2025.

We welcome the opportunity to consider and provide comment on the Bill ahead of the Stage 1 debate scheduled for 30 October 2025. Our briefing includes the following key points:

- We highlight extensive legislative and policy reform within the wider agricultural and environmental legal landscape, and the importance of considering the interplay between such reforms to ensure a consistent approach which ensures certainty and legal clarity.
- We welcome the lead committee’s recommendations that various delegated powers in the Bill be subject to more vigorous scrutiny and further consultation requirements.
- We highlight the importance of ensuring that there are robust accountability measures in place for nature targets and proposed delegated powers, and stress the importance of there being appropriate levels of parliamentary scrutiny underpinning legislative and policy developments and of meaningful stakeholder consultation.
- We highlight the delegated powers granted to Ministers under the Bill’s provisions relating to EIA under Part 2 of the Bill, including the need for clarity on the extent of this power and how it is envisioned it will operate. We note the need for clarity on how the Bill’s proposals impact on

¹ [Law Society of Scotland | Written Evidence- Natural Environment \(Scotland\) Bill](#)

² [Rural Affairs and Islands Committee | Scottish Parliament TV](#)

³ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#)

regulatory and legislative alignment with the UK and Europe on provisions relating to Environment Impact Assessments (EIA).

General Comments

We welcome the introduction of the Bill. The Bill covers four main policy areas: statutory nature targets, planning, national parks and deer management. We note that the first area forms part of the Scottish Government's overarching strategic framework for biodiversity policy.⁴

We would generally highlight the ongoing and prospective legislative and policy reform within the wider legal landscape. For example, legislation which interacts with aspects of the Bill currently before the Parliament or being implemented includes the Crofting and Scottish Land Court (Scotland) Bill, the Land Reform (Scotland) Bill, the Wildlife Management and Muirburn (Scotland) Act 2024, the Agriculture and Rural Communities (Scotland) Act 2024 and the Climate Change (Emissions Reduction Targets)(Scotland) Act 2024. We highlight the importance of considering the legal interplay and overlap between such legislation to ensure a consistent and aligned approach, and ensuring that these do not contradict or conflict with one another.

We also highlight that many other wider, non-legal factors, will impact on the operation and deliverability of the proposals, for example ensuring appropriate resourcing and capacity, expertise, and the availability of data. This includes the importance of appropriate resourcing and prioritisation in the context of effective monitoring and enforcement.

Comments on sections of the Bill

Part 1- Statutory Nature Targets

In principle, we support the introduction of statutory nature targets. They can act as useful tools and align with existing measures on climate emissions. We also note that many public bodies have nature targets within their annual operating plans. We note that the lead committee supports the introduction of statutory targets.⁵

We would however highlight potential difficulties with these targets. There are numerous examples in recent years of statutory targets being missed by the Scottish Government, including the interim climate targets.⁶ As a result, the Scottish Government brought forward the Climate Change (Emissions Reductions Target) Act 2024, overhauling the carbon emissions reductions framework and replacing it with a system of carbon budgeting.⁷ Statutory nature targets will have

⁴ [Scottish Biodiversity Strategy to 2045: Tackling the Nature Emergency in Scotland](#)

⁵ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), para 29, pages 5-6

⁶ [Official Report](#), pages 60-64

⁷ [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2024](#)

little legitimacy if Ministers simply legislate to replace them if they are in danger of missing them. We note the lead committee's concern regarding robust ministerial accountability for targets across Government and welcome its request for further details from the Scottish Government regarding how it would respond to a missed target, or where an assessment demonstrates a target is significantly off-track.⁸

In addition to ministerial accountability for nature targets, we would welcome clarity in how public bodies will be held accountable for legal targets, particularly for organisations such as local authorities who have a wider remit than focused statutory organisations such as National Parks. For both public bodies and Ministers, we would welcome more detail on the accountability aspects of these targets, such as the consequences should the targets be missed. We note that the Cabinet Secretary for Net Zero and Energy committed at Stage 1 to reviewing the provisions of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill which give the Welsh Government the power to designate a public body to meet a particular "target, impact, or whatever it might be".⁹

We note that under the proposed section 2E of the Nature Conservation (Scotland) Act 2004, the Bill places a requirement on the Scottish Ministers to, at least every three years, prepare and lay before the Scottish Parliament a report setting out progress towards delivering statutory targets. It also makes provision for the Scottish Ministers to carry out a review of targets on an ad-hoc basis. At least every ten years, the Scottish Ministers must also review the statutory targets and the topic areas included in the Bill and prepare a report and make a statement to the Scottish Parliament setting out its findings.

This differs from the framework for the reporting of emissions reductions by public bodies, including local authorities, under the Climate Change (Emission Reduction Target) (Scotland) Act 2009. We would welcome clarity from the Scottish Government on whether it intends to include duties on public bodies to report on nature targets within this existing framework, or create a new reporting framework for nature targets.

Furthermore, if the Scottish Government intends to include nature targets within this existing framework, we would seek clarity on whether this framework will align with National Planning Framework 4 (NPF4) which enshrines parity between climate and nature obligations in the planning system.¹⁰ We suggest that the Scottish Government explores how to reconcile any tension between climate and nature obligations for public bodies, and gives consideration to the creation of a joint reporting system to resolve this.

We would also welcome further clarification on what constitutes a target. Is it as specific as the number of X species alive by X date? Targets should be clear and

⁸ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), para 70, pages 12-13

⁹ [Official Report | Meeting of the Rural Affairs and Islands Committee- 4 June 2025](#)- page 8

¹⁰ [National Planning Framework 4](#)

measurable. We would also welcome clarity on how the targets will measure outcomes of nature restoration projects.

Finally, we would welcome clarity on whether the Scottish Government will take into account existing international frameworks in this area when creating nature targets. For example, the 2022 Kunming-Montreal Global Biodiversity Framework includes targets for nature restoration by 2030.¹¹ Clarity on how this will affect the development of nature targets would be welcome, and we note that the Cabinet Secretary for Net Zero and Energy committed to reviewing this during Stage 1.¹²

Part 2- Power to modify or restate environmental impact assessment (EIA) legislation and Habitats Regulations

We support the inclusion of a clear and comprehensive legal basis for amending the existing EIA and habitats assessments rules. However, we highlight the extremely broad nature of these powers as proposed under section 2 of the Bill and our concerns relating to the limited parliamentary scrutiny afforded to them. We welcome the lead committee's agreement that the powers under section 2(1) are exceptionally broad and their request for more clarity from the Scottish Government regarding the rationale for this in the context of the Scottish Government's intention to undertake "a more fundamental review and reform of the legislative framework covering nature conservation, including protected areas".¹³

We would highlight our previous responses to the Scottish Government's consultations *Enabling powers for Scotland's Environmental Impact Assessment regimes & Habitats Regulations* in May 2024¹⁴ and *Proposals to Amend Scottish Government policy on the Protection Afforded to Certain Ramsar Features* in February 2025.¹⁵ Specifically, we would highlight our comments regarding the importance of understanding how a divergence, or convergence, of approaches across the United Kingdom and Europe could impact large-scale and cross border developments. It is important that there is legal clarity and certainty for those operating in this area, and we consider that the potential impact of such divergences would merit consideration. Whilst we can see the benefit of the proposed powers in the Bill, we would highlight that Part 6 of the Levelling-Up and Regeneration Act 2023 provides the power to make regulations to replace EIA with a system of environmental outcomes reports. We understand that the UK Government still intends to proceed with this new mechanism. It is not clear to us how it is intended that the powers in Part 2 of the Bill would sit with the powers in

¹¹ 15/4. Kunming-Montreal Global Biodiversity Framework

¹² [Official Report | Meeting of the Rural Affairs and Islands Committee- 4 June 2025](#)- page 18

¹³ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), paragraph 179, page 31-32

¹⁴ [Enabling powers for Scotland's Environmental Impact Assessment regimes & Habitats Regulations](#)

¹⁵ [Proposals to Amend Scottish Government Policy on the Protection Afforded to Certain Ramsar Features](#)

Part 6 of the 2023 Act. Although section 157 of the 2023 Act contains restrictions on when the Secretary of State can make regulations which contain provisions within Scottish devolved legislative competence, there is the potential for different approaches to be taken to the assessment of environmental impacts for matter within and outwith devolved competence. For example, the Secretary of State might proceed with regulations for environmental outcomes reports in relation to applications under the Electricity Act 1989 but Scottish Ministers could retain EIA for applications under the Town and Country Planning (Scotland) Act 1997. We would suggest that a joined-up approach is required between the UK and Scottish Governments to minimise the risk of confusion arising from different regulatory assessment regimes that might apply to the same project.

Furthermore, we would highlight the potential for a conflict between the proposed powers regarding EIA with the intention of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (the Continuity Act) to align with the European Union on environmental rules and regulations. The proposed powers may facilitate divergence from EU rules and regulations, counter to the aims and intention of the earlier Continuity Act. We note the lead committee's additional suggestion that Scottish Government remove the time-limitation on the power of Ministers to legislate to keep pace with the EU in section 4 of the Continuity Act to enable Ministers to continue to use this power and maintain alignment with EU policy and law.¹⁶ We would note that this may diverge from the original policy intention of the Continuity Act¹⁷. We consider that any such change to the Continuity Act should be fully explained by the Scottish Government and subject to wide consultation.

We understand that the purpose of the power to modify would be to reinforce or update existing provisions, rather than replace them with new provisions. If this is incorrect, we would be concerned about the parameters of modification under these provisions, and would welcome consideration on whether the power to modify or restate is too wide and should be limited. We welcome the lead committee's recommendation that the scope of the power should be narrowed to make specific changes and address the wider issue at a later date.¹⁸ We also welcome the lead committee's recognition that additional safeguards are necessary given the breadth of the scope of the powers in the Bill.¹⁹

We would stress the need for robust consultation on any proposed modifications to existing legislation. Consideration should be given to whether an affirmative procedure is appropriate for any regulations made under section 2 of the Bill and whether any such regulations should be subject to a pre-laying procedure. We welcome the lead committee's recommendation that the Bill be amended at Stage 2 to provide greater clarity about when the affirmative procedure would be used

¹⁶ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), paragraph 180, page 32

¹⁷ [Policy Memorandum | UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021](#)

¹⁸ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), paragraph 180, page 32

¹⁹ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), paragraph 181, page 32

and that in the case of regulations providing for very significant policy changes, the Bill should be amended to introduce a pre-laying procedure.²⁰

Part 3- National Parks

We note that this section of the Bill largely reinforces the existing aims around national parks, which we welcome. We note the provisions in the Bill regarding the implementation of National Park Plans.

We would highlight the need for consistency in the creation of fixed-penalty schemes, with several of these schemes already being operational in Scotland. Any fixed penalty scheme (section 9) introduced under the new provisions should consider mirroring or adopting existing procedures so as to avoid a proliferation of separate, slightly different, procedures that may drift apart if future amendments are not rigorously applied across all relevant areas. We note the lead committee's request to the Scottish Government that it provide further detail in how it intends to support national park authorities in establishing their fixed penalty regimes, including what, if any, formal guidance it will provide in order to assist with formulating their approach to enforcement.²¹

Part 4 – Deer management

As we highlighted in our general comments, we note the ongoing and prospective legislative and policy reform within the wider agricultural, environmental, and land management legal landscape- including the Crofting and Scottish Land Court (Scotland) Bill, the Land Reform (Scotland) Bill and the implementation of the Wildlife Management and Muirburn (Scotland) Act 2024, the Agriculture and Rural Communities (Scotland) Act 2024 and the Climate Change (Emissions Reduction Targets) (Scotland) Act 2024.

We would highlight that due to a complex matrix of land ownership and stakeholders that it is difficult to enforce consistent deer management across the country. We again note the ongoing parliamentary scrutiny of the Crofting and Scottish Land Court (Scotland) Bill and the Land Reform (Scotland) Bill.

We would highlight that the interaction between the provisions here and those in section 20 of the Land Reform (Scotland) Bill as amended at Stage 2 (compensation for damage by game) must be clear to ensure joined-up legislation that matches powers and liabilities.

We would welcome clarity from the Scottish Government on the application of Part 4 of the Bill in regard to crofters, given the broad range of activities that crofters

²⁰ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), paragraph 183, page 33

²¹ [Stage 1 report on the Natural Environment \(Scotland\) Bill](#), paragraph 263, page 46

undertake that may be impacted by deer density and the ongoing scrutiny of the Crofting and Scottish Land Court (Scotland) Bill.

We would further note that consideration should be given to providing clarity on how these provisions interact with peatland restoration projects, given the strategic importance of peatland within the Scottish Government's climate and nature policy objectives.

We have concerns about the drafting of proposed section 6ZB of the Deer (Scotland) Act 1996 (section 13 of the Bill), which potentially makes it unclear and opens up space for legal challenge. We note that Nature Scot²² and the Minister for Agriculture and Connectivity provided case studies and examples setting out how the new grounds for intervention in Section 6ZB was intended to be exercised.²³ We welcome the Minister's commitment made during oral evidence to the lead committee stating that the development of criteria relating to the new grounds for interventions would be subject to consultation with stakeholders and confirmed this would be developed and set out in the deer code.²⁴

²² [NatureScot | Letter to the RAI Committee 29 May 2025 | Natural Environmental \(Scotland\) Bill](#)

²³ [Minister for Agriculture and Connectivity | Letter to the RAI Committee 9 June 2025 | Natural Environment \(Scotland\) Bill](#)

²⁴ [Official Report | Meeting of the Rural Affairs and Islands Committee- 4 June 2025-](#) page 57



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