

The Environment, Climate Change and Land Reform Committee
UK Withdrawal from The European Union (Continuity) (Scotland) Bill

Submission From BEFS (Built Environment Forum Scotland)

In most cases we will publish your written submission on the Scottish Parliament's website. What you send us may also be quoted in the Committee's report or in its Committee meetings. These are public meetings that are broadcast online.

Before making a submission, please read our [privacy notice](#) (section headed Parliamentary business – Committees) about submitting your views to a Committee. This tells you about how we process your personal data. If you are under 12 years of age, please read this 'Submitting Your Views to Committee: Young People' section.

Please respond by giving your views within the following headings—

Part 1: Alignment with EU Law

BEFS supports the views presented by NTS and Scottish Environment LINK in relation to the following:

The European Union environmental acquis has had important impacts on how we manage our environment, including our built and historic environment. Regulations on environmental assessment, and the role of the European Commission in scrutinising delivery (such as the protection of archaeological sites in national policies) have helped improve our own practices.

We therefore welcome the introduction of a bill that seeks to maintain some of the environmental protections we gained from membership of the European Union, specifically: continuing to have regard to environmental law developments in the European Union; the adoption of four European Union environmental principles; and the creation of a body to provide oversight of environmental protection in Scotland.

BEFS support their view that the bill could be further strengthened by:

- *a requirement for Scottish Ministers to explain when they were not adopting a new development in EU environmental law (directive, regulation or decision), and their reasons for not doing so;*
- *adoption of the integration principle (Article 11 of the Treaty on the Functioning of the European Union) which requires that environmental protection requirements are integrated into the definition and implementation of policies and activities;*
- *expand the meaning of "environmental law" to match that of the European Union: Union policy on the environment shall contribute to pursuit of the following objectives: preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilisation of natural resources, and promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change (Article 191 of the **Treaty on the Functioning of the European Union**); and*
- *giving the new Environmental Standards Scotland the power to investigate specific cases, as well as the general approach of governmental bodies, as substantial progress on European environmental protections has come from investigation of how legislation is actually being applied.*

Part 2 Environment: Chapter 1 - Environmental principles

BEFS support HES' statement in: *welcoming the commitment to include the four guiding environmental principles in law and to require the Scottish Ministers to take them into account in developing policies and legislation.*

BEFS also support HES' concern in relation to: *the narrow scope likely to be afforded by the definition of 'the environment' which is set out in section 12(2) of the Bill. It would be advisable for any definition of the environment in this legislation to tie in with that provided in the Environmental Assessment (Scotland) Act 2005, since the intention is to place a duty on Responsible Authorities to have regard to the environmental principles preparing PPPS under that legislation.*

BEFS agrees with HES in that it could: *be unhelpful to have multiple and mismatched definitions of 'the environment' enshrined in legislation. Using the definition of the environment as set out in the Environmental Assessment (Scotland) Act 2005 will have the effect of both ensuring alignment with EU law on the environment and ensuring that the links between both the SEA legislation and this legislation are clear.*

BEFS also considers that it is essential to: *include cultural heritage in any definition of the environment, given its value as a public good and its inclusion within the Environmental Assessment (Scotland) Act 2005.*

Part 2 Environment: Chapter 2 - Environmental governance

HES have also recommended, and BEFS agrees that: Environmental Standards Scotland also adopts the broad definition of 'the environment' (discussed above), in line with EU legislation.

BEFS supports HES statement that: *It will be imperative that the historic environment is included within the remit of Environmental Standards Scotland. Without that there is a very significant risk to the preservation and management of the historic environment. This will be essential to an appropriate oversight of conflicting priorities. Without adequate consideration of the historic environment the role of Environmental Standards Scotland in compliance could leave public authorities and land managers in the position of receiving conflicting advice and subject to conflicting policy and legislative regimes. This should also ensure a more joined up approach to land management and future agricultural support programmes.*

General

Built Environment Forum Scotland (BEFS) is an umbrella body for organisations working in the built environment in Scotland. Drawing on extensive expertise in a membership-led forum, BEFS informs, debates and advocates on the strategic issues, opportunities and challenges facing Scotland's historic and contemporary built environment. BEFS is a member of the [Climate Heritage Network](#) steering group.

BEFS responses to a number of Consultations in relation to the Built Environment can be found at: <https://www.befs.org.uk/resources/consultations/>

RESPONDENT INFORMATION:

Name: Ailsa Macfarlane, Policy and Strategy Manager **Email:** amacfarlane@befs.org.uk

Responding on behalf of an Organisation - **BEFS** (Built Environment Forum Scotland)