

Tuesday, 21st November 2023

To Edward Mountain MSP, Convenor of the Net Zero, Energy and Transport Committee,

SUPPLEMENTARY EVIDENCE ON THE CIRCULAR ECONOMY BILL

We would like to thank the Committee for inviting Friends of the Earth Scotland to give evidence on the Circular Economy Bill. At the end of the session, the Committee asked for further comments not already covered in our written and oral evidence. This letter sets out how the description of a circular economy in the Bill could be improved, including suggested amendments to the text of the Bill to incorporate these improvements. We request that this letter is shared with the Committee.

There is no stated definition of what a circular economy is within the Bill. However, it does include descriptions of what should be covered in the circular economy strategy and targets in sections 1 (3) and 6 (2). These are largely drawn from the definition of a circular economy in the Circular Economy and Miscellaneous Provisions Act (2022)¹ although the wording has been changed in several places.

It would bring clarity and certainty to state what is meant by a circular economy in the Scottish Circular Economy Bill, as there is no agreed definition of a circular economy, and the term is often subject to misinterpretation. Several amendments are needed to sections 1 and 6 of the Bill to do this. Each of these proposed changes are described below in turn.

1. Strengthen and clarify wording on the actions required of Scottish Ministers

Section 1(3) starts: "In preparing the circular economy strategy, the Scottish Ministers must have regard to the desirability of the economy being one in which..." The wording choice of 'desirability' is weak and unclear as it is possible to desire a circular economy without taking action to make the changes needed to achieve it.

Instead, as in the Irish CE Act, Scottish Ministers should focus on the policies and practices they can influence to create a circular economy and the wording of both sections 1(3) and 6(2). The word 'desirability' should be replaced with the phrase 'policies and practices'.

2. Replace 'things' with clearer wording

The word 'things' is used in sections 1(3) and 6(2) of the Bill to replace the words 'goods, products, and materials' from the Irish CE Act. 'Things' is too broad a term to be useful – it could mean anything. The wording should be changed to 'goods, products and materials'.

3. No mention of the waste hierarchy

Whilst the lists in sections 1(3) and 6(2) follow the order of the waste hierarchy, the adoption of such a hierarchical approach is not explicitly stated. This could lead to a misinterpretation of the Bill that all activities listed in 1(3) and 6(2) are equally circular. This is not true, waste prevention and reuse measures nearly always have far greater environmental benefits than recycling, incineration, and landfill.

Current decisions around waste management, at every level of decision-making in Scotland, often fail to account for the waste hierarchy. Prevention and reuse measures are frequently ignored and under-funded compared to recycling. It is crucial that waste hierarchy thinking is embedded in Scotland's circular economy approach to ensure beneficial environmental outcomes. The Bill should be amended to include a waste hierarchy approach directly.

4. Recovery Vs incineration

The Bill uses the term ‘recovery’ to mean incineration, which sometimes (but not always) includes heat and/or electricity generation. A clearer, simpler and more complete term would be to use the word ‘incineration’ directly to cover all activities where waste is burnt.

5. No mention of export of waste

There is no mention of a preference for where waste should be managed, despite more local management of materials being a core circular economy principle. Scotland is increasingly exporting more of its waste. The extensive impacts on people and the environment due to waste sent to countries in the Global South to be managed are well documented.²

The Bill should be amended to make it clear that waste should preferably be managed in Scotland and managed in accordance with circular economy principles wherever this occurs.

6. No mention of pollution

There is no mention of the prevention of pollution, despite a more circular management of materials being an important way of reducing pollution.³ Leakage of materials, including chemicals, from the production and waste system can cause serious harm to people and damage the environment. Nurdles are an example of a damaging form of pollution often seen on Scotland’s coastlines. More could be done to ensure plastic producers reduce nurdle pollution if the importance of preventing pollution is recognised in Scotland’s Circular Economy Bill.

A new item should be added to the lists in sections 1(3) and 6(2) to ensure the prevention of pollution is considered in adopting circular economy measures.

SUGGESTED AMENDMENTS TO THE BILL

The Table below summarises the amendments that are needed to improve the description of a circular economy within the Bill.

Table 1. Summary of changes on the description of a circular economy required in the Circular Economy Bill

No.	What is in the draft Bill?	Comment	Suggested amendment
1	The phrase ‘Scottish Minister must have regard to the desirability of the economy in which’...	This phrasing should be strengthened and clarified. The Irish CE Act offers a clearer alternative phrasing which could be used instead.	Replace this phrase with ‘Scottish Ministers must have regard to a ‘circular economy’ being one in which policies and practices give effect to an economy in which’...
2	The word ‘things’ is used several times in these sections to mean ‘goods, products, and materials’	Clearer wording is required. The Irish CE Act offers a clearer alternative phrasing which could be used instead.	Replace all use of the word ‘things’ with ‘goods, products, and materials’
3	No mention of the waste hierarchy	Could lead to interpretations that all activities listed from (a) to (e) are equally circular.	Add a reference to the waste hierarchy to 1(3)(e) and 6(2)(e)
4	‘Things are recovered’	‘recovery’ is a subset of ‘incineration’ which is a more complete description	Replace with “recovered” with “incinerated” in part (e) of the lists in 1(3) and 6(2)

		of managing waste by burning it.	
5	No mention of waste exports	In line with CE principles, materials should be managed as locally as possible.	After 1(3)(e) and 6(2)(e) add a new line “(f) goods, products and materials are managed as locally as possible, preferably in Scotland, and always according to circular economy principles”
6	Preventing leakage of harmful materials is missing despite circular economy measures being an important way of reducing pollution.	A circular economy should aim to reduce pollution through limiting use of harmful materials.	After 1(3)(f) and 6(2)(f) add a new line: ‘(g) prevents leakage and pollution of harmful goods, products and materials’.

If all these amendments were made, the final section 1(3) would read:

“(3) In preparing the circular economy strategy, Scottish Ministers must have regard to a ‘circular economy’ being one in which policies and practices give effect to an economy in which:

- a. processes for the production and distribution of goods, products and materials are designed so as to reduce the consumption of materials,
- b. the delivery of services is designed so as to reduce the consumption of raw materials,
- c. goods, products and materials are kept in use for as long as possible to reduce the consumption of materials and impacts on the environment,
- d. the maximum value is extracted from goods, products and materials by the persons using them,
- e. waste materials are prevented, reused, recycled, regenerated, incinerated or landfilled in line with the waste hierarchy, at the end of their useful life,
- f. goods, products and materials are managed as locally as possible, preferably in Scotland, and always according to circular economy principles,
- g. prevents leakage and pollution of harmful goods, products and materials.”

Section 6(2) would read similarly to this.

We appreciate the opportunity to provide evidence to the Committee to ensure that the Circular Economy Bill is as strong as possible. Please let us know if you require further information or clarification on any of the issues we have raised.

Kind regards,

Kim Pratt,
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