

**CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE  
COMMITTEE**

**31st Meeting, 2023, Session 6**

**16 November 2023**

**The Scottish Government's Policy of EU Alignment –  
Annual Reports 2023**

1. The Committee will hear from the Cabinet Secretary for the Constitution, External Affairs and Culture on a series of reports regarding the Scottish Government's "commitment to align with the European Union (EU) where appropriate - that is, where it is possible and meaningful for Scotland to do so."<sup>1</sup>
2. These reports include a draft of the Scottish Government's 2023 annual report on use of the "keeping pace" power to align within the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.
3. A SPICe briefing is attached at **Annexe A**. The reports are attached at **Annexe B**.
4. Following consideration of the 2022 Continuity Act annual report the Committee reiterated "its view that we do not have sufficient transparency with regards to the Scottish Ministers' decision-making process on EU alignment especially where decisions are taken not to align and the reasons for that."<sup>2</sup>
5. The Cabinet Secretary responded that "Scottish Ministers are keen to respond positively to the Parliament's request for greater transparency."<sup>3</sup> This has resulted in –
  - an agreement between the Committee and the Scottish Ministers on the information provided by the Scottish Government when implementing alignment decisions;
  - annual reporting being "significantly extended".

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<sup>1</sup> [Diary letter template Michael Russell \(parliament.scot\)](#)

<sup>2</sup> [continuity-act-draft-annual-report--letter-from-the-convenor-of-the-constitution-europe-external-aff.pdf \(parliament.scot\)](#)

<sup>3</sup> [Microsoft Word - EU Alignment - Continuity Act - Explanatory Note on Representations on 22 Report - LAID - 28 Jun 2023 \(parliament.scot\)](#)

## **Information provided by the Scottish Government when implementing alignment decisions**

6. Members will recall that Ministers have agreed to provide information on the impact of the Scottish Government's commitment to align with EU law on Scottish legislative proposals.
7. Scottish Government officials are required to consider if legislative proposals are likely to impact on the Scottish Government's policy to maintain alignment with the EU, and if so if this will assist further alignment or result in divergence, and the reasons why. The conclusions reached will be shared in the relevant Policy Memorandum, Policy Note or LCM.
8. Where relevant and appropriate, this information should include –
  - details of which EU legislation, is relevant to the legislative proposals, and, where relevant, how the legislation will impact on the Scottish Government's commitment to align with EU law;
  - details of whether and how proposals would result in divergence from EU law;
  - the impact on access to EU markets for people, goods, and services;
  - whether the market access principles in the UK Internal Market Act 2020 may impact on the policy objectives of the legislative proposal<sup>4</sup>
  - whether consideration has been given to seeking an exclusion and, if so, provide details;
  - whether and how common framework agreements may impact on the policy objectives of the legislative proposal and, if so, provide details;
  - whether the Trade and Co-Operation Agreement with the EU may impact on the policy objectives of the legislative proposal and if so provide details;
  - whether other obligations (e. g. international law) act as constraints on alignment.
9. The Conveners Group has agreed to build in a review of the progress being made in delivering these new scrutiny arrangements and has asked officials to take this forward and report back.

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<sup>4</sup> Given the market access provisions in UKIMA extend to many devolved policy areas this should include legislative proposals which may not impact on EU alignment.

## Annual Reporting

10. Alongside the statutory requirement provided for in the Continuity Act to publish a draft annual report on the use of the ‘keeping pace’ power the Scottish Government has published three other reports as follows –
- Achieving EU alignment using other legislative powers;
  - EU Law relevant to devolved competence or having a devolved impact;
  - EU policy priorities and forward look.
11. The Cabinet Secretary states that “these reports look systematically at our EU alignment policy, summarising legislation made either in the Scottish Parliament or in the European Union, as well as setting out Scotland's response to the policy priorities of the EU.”
12. While the statutory report on the use of the keeping pace power covers the period from 1 September 2022 to 31 August 2023, the other reports cover a shorter period from the point at which the new agreements were reached. However, future reports will cover the full year of the reporting period.

## EU Law Tracker

13. The Cabinet Secretary also indicated that the new approach to reporting “is complemented by our consideration of the European Union Law Tracker report commissioned by the Committee from Dr Lisa Whitten of Queen’s University Belfast and published on 14 September.”<sup>5</sup>

**Committee Clerks  
November 2023**

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<sup>5</sup> [Diary letter template Michael Russell \(parliament.scot\)](#)

**SPICe**

**The Information Centre**  
An t-Ionad Fiosrachaidh

## **Constitution, Europe, External Affairs and Culture Committee**

**31<sup>st</sup> Meeting, 2023 (Session 6),  
Thursday, 16 November**

### **The Scottish Government's policy of EU alignment – annual reports 2023**

#### **Context - Scottish Government commitment to EU alignment**

The Scottish Government has a commitment to align with EU law where appropriate. This policy approach was set out in the Statement of Policy in exercising the power in Section 1 of the Continuity Act. The Statement of Policy, which was approved by the Scottish Parliament in May 2022 stated:

“Scotland will seek to align with the EU where appropriate and in a manner that contributes towards maintaining and advancing standards across a range of policy areas. It will do so to protect the health and wellbeing of people in Scotland, maintain Scotland’s international reputation, and, by protecting the standards that Scotland enjoys, ease the process of Scotland’s return to the EU.”<sup>6</sup>

The Scottish Government can legislate to ensure continued alignment with EU law in a number of ways. They could use primary legislation, secondary legislation using powers from a relevant primary act, or they could use the “keeping pace” power provided in Section 1 of the Continuity Act.

The Scottish Government’s statement of policy, as approved by the Scottish Parliament in May 2022 indicates that the Scottish Government plans to use all these different methods as appropriate:

“Maintaining alignment with EU law and the high standards that Scotland has enjoyed as part of the EU is a priority of the Scottish Ministers. This will be achieved in a range of different ways, legislative

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<sup>6</sup> [eu-alignment.pdf \(parliament.scot\)](#)

and non-legislative. The Scottish Ministers will make use of whichever means is most appropriate for the circumstances of each case. One such means is the power provided in section 1 of the Act which confers on the Scottish Ministers' ability to make subordinate legislation where appropriate in order to keep devolved Scots law aligned with EU law as it develops."2

### **EU Alignment – The Scottish Government's new reporting approach to the Scottish Parliament**

The Committee has commented on the Scottish Government's two previous annual reports required under the Continuity Act. In the Committee's responses, it has highlighted the need for more information from the Scottish Government about where methods other than use of the keeping pace power have been used to achieve continued alignment with EU law along with Scottish Government analysis of the EU's legislative programme and its considerations about alignment decisions.

Scottish Parliament and Scottish Government officials worked to agree new reporting processes in relation to scrutiny of the Scottish Government's policy commitment to align with EU law. These new processes are reflected in the reports provided by the Cabinet Secretary in his letter of 31 October 2023.

The Committee also commissioned the Parliament's own EU law tracker (produced by Dr Lisa Whitten from Queen's University Belfast) to ensure Parliamentary committees had an understanding and awareness of EU legislative developments.

On 14 September 2023, the [Committee wrote to the Cabinet Secretary](#) to share details of the first EU law tracker report and to request that the Cabinet Secretary reflects in the next Continuity Act report on how the following two issues highlighted in the tracker will impact the commitment to align. These issues are:

- a) changes in tertiary EU law – reflected in the 59 consolidated text versions of relevant instruments highlighted in the report; and
- b) measures contained in the 15 primary UK acts highlighted in the report which make provisions in areas previously within EU competence and/or provisions which otherwise arise by dint of UK withdrawal from the EU.

In his letter to the Committee on 31 October 2023, the Cabinet Secretary acknowledged the value of the Parliament's EU law tracker and set out why the Government has changed its approach in relation to reporting progress on EU alignment:

"This new approach is complemented by our consideration of the European Union Law Tracker report commissioned by the Committee

from Dr Lisa Whitten of Queen's University Belfast and published on 14 September...

...Dr Whitten also cautioned that a degree of divergence is a risk and will likely occur cumulatively, potentially becoming significant in the future. I also agree with this assessment. Mindful of this, the Scottish Government will continue its proportionate approach to EU alignment, guarding against any complacency that puts at risk the policy intent set out above. To ensure careful ongoing consideration of developments within the European Union, we have made changes to our processes to improve the identification of potential alignment issues as well as improving transparency.”

However, the Continuity Act annual report did not provide any reflections on the two issues raised by the Committee in terms of EU tertiary legislation and the 15 primary acts of UK legislation. Today's evidence session with the Cabinet Secretary may be an opportunity to discuss the impact of these findings highlighted in the EU law tracker.

### **EU Alignment using the keeping pace power - the new draft annual report**

Section 11(1)(a) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 requires Scottish Ministers to lay a draft annual report which explains how the “keeping pace” power has been used over the previous 12 months along with how Scottish Ministers intend to use the power over the coming 12 months.

Once laid in Parliament, the draft annual report is subject to consultation for 28 days. The draft annual report was laid on 31 October 2023. The consultation period ends on 28 November 2023.

The draft annual report states that for the reporting period to the end of August 2023, the “keeping pace” power has been used once to introduce the Public Water Supplies (Scotland) Amendment Regulations 2022 which partially aligns with the EU Drinking Water Directive 2020/2184 (Recast) on the quality of water for human consumption.

The draft annual report also sets out that the Scottish Government is considering using the keeping pace power in the coming year to ensure compliance with elements of the Aarhus Convention. To achieve this, the Scottish Government has committed to:

“consulting on proposals for amending The Town and Country Planning (Scotland) Act 1997 in relation to unauthorised development and the ability to take enforcement action after that time has expired for certain development.”

## **EU alignment achieved through other means**

The Scottish Government has also provided details of legislation made during the reporting period starting on 1 September 2023 (when the new arrangements agreed with the Constitution, Europe, External Affairs and Culture Committee took effect) and how it relates to the EU alignment commitment.

The information provided by the Scottish Government shows that none of its secondary legislation programme laid in Parliament during the reporting period was deemed to be relevant to the EU alignment commitment.

## **EU legislative measures within devolved competence**

The report includes details of EU legislative measures identified by the Scottish Government as potentially within devolved competence or having a devolved impact. The reporting period for this information began in July 2023.

The Government has identified 68 current EU legislative measures as potentially within scope of devolved competence or having devolved impact. Of these the Government has indicated it plans to align with seven measures and not align with eight (mostly because they are not relevant as a non-Member State), In addition, nineteen measures are under consideration for an alignment decision and in thirty-four cases it is too early to make an alignment decision due to the proposal being under development.

## **EU Priorities Forward Look**

The Scottish Government has also provided a forward look setting out details of the EU's current policy programme as set out in the European Commission Work Programme for 2023 along with details of the Scottish Government's high-level commentary highlighting potential opportunities for alignment "where this might be possible, meaningful and within our interest, in line with Scotland's priorities". A [SPICe briefing on the 2023 Commission Work Programme](#) was published at the start of this year.

The European Commission's identified priorities were:

1. The European Green Deal
2. A Europe fit for the digital age
3. An economy that works for people
4. A stronger Europe in the world
5. Promoting our European way of life
6. A new push for European democracy

According to the Scottish Government:

“The priorities outlined in the CWP are broadly reflective of our own ambitions and plans as set out in the Scottish Government's [Programme for Government](#) and Scotland's [National Performance Framework](#), itself firmly rooted in the international framework of the [UN Sustainable Development Goals](#). They illustrate that Scotland shares a recognition and understanding of the challenges and opportunities that lie ahead with our European partners. These priorities will also feed into and shape our engagement approach with our partners in 2024.”

Under each of the Commission's six identified priorities the Scottish Government has set out its priorities.

On the “**European Green Deal**” the Scottish Government states:

“The SG warmly welcomes this key priority. Scotland is committed to reducing greenhouse gas emissions through a Just Transition to a net zero economy and society, ensuring the journey is fair and creates a better future for everyone. We have already made progress, including extending free bus travel to young people and establishing the nature restoration fund but we know we need to continue to step up delivery and integrate these priorities across the work of government. This will be driven forward through the new climate plan and biodiversity strategy, supported by our legislative programme which included the introduction of the Circular Economy Bill in June 2023, enabling us to advance a zero waste and circular economy by increasing reuse and recycling rates, and improving waste and recycling services, and the Wildlife Management (Grouse) Bill, in 2023-24.”

The Government provides details of a number of actions it is taking or has taken in the following areas:

- Hydrogen
- Animal health
- New genomic techniques
- Soils
- Waste
- Marine
- REACH

In relation to the European Commission's priority of “**A Europe fit for the digital age**”, the Scottish Government states that its priorities include supporting enhancements to Scotland's digital infrastructure, through the Connecting Scotland programme ensuring that everyone in Scotland has access to digital services by providing access to devices, connectivity, skills and support and increasing digital participation and ensuring that all of Scotland is able to enjoy the social, cultural and economic benefits of a digital society.



The Scottish Government states that its “ambitions on data sharing are aligned with the EU Agenda For Data Mobility”. The Government also commits to ensuring Scotland is placed to take advantage of the opportunities presented by digital trade.

For the Commission’s priority of “**An economy that works for people**”, the Scottish Government highlights its priorities as making the transition to a wellbeing economy:

“This means building an economy that operates within safe environmental limits, and which serves the collective wellbeing of current and future generations first and foremost, and incorporates the internationally recognised Community Wealth Building (CWB) practical approach to economic development. Our wellbeing economy approach includes sustainable, inclusive economic growth for a purpose, to drive improved living standards, promote wellbeing, reduce poverty, and deliver sustainable high quality public services. Our economic transformation aims to fundamentally reshape our economy, delivering a just transition to a net zero, nature-positive economy based on the principles of equality, prosperity, sustainability and resilience.”

In relation to the Commission’s “**Promoting our European Way of Life**” priority, the Scottish Government set out its priorities as continued mutual recognition of qualifications after EU exit and continued alignment with the European Qualifications Framework along with Scottish membership of the European Higher Education Area and Bologna process. Taking advantage of the opportunities presented by UK participation in Horizon is also recognised as a priority for the Scottish Government.

The Scottish Government is also tracking developments in the European Health Union and will seek opportunities for alignment as they arise.

On Justice and Home affairs, the Scottish Government identifies the following areas that will be relevant for consideration of alignment including:

- The proposed directive on combatting child sexual abuse
- Prüm II, on biometrics and police information sharing
- The recasting of the Victims’ Rights Directive, which will likely mirror some of the Scottish Government’s proposals in upcoming the Criminal Justice Reform Bill
- broader work on the criminalisation of violence against women and girls, linked to the Misogyny Law consultation.

Finally, in relation to the European Commission priority on “**A new push for European democracy**”, the Scottish Government states:

“Scotland shares the fundamental values of the European Union – human dignity, freedom, democracy, equality, the rule of law and

respect for human rights. The SG will continue working with all our partners and stakeholders including civil society (such as the Scottish Advisory Forum on Europe) to ensure that voices of all people in Scotland are heard and reflected in our priorities.”

### **A time of change**

Consideration of the Scottish Government’s EU priorities is in the context of the current European Parliament and European Commission mandates coming to an end in 2024.

The [European Commission Work Programme for 2024](#) identified a number of actions which remained to be completed from its 2019-2024 strategic priorities. The new Commission, expected to be in post in late 2024 will be expected to develop a new agenda designed to address the challenges the EU faces. In most cases these challenges will be similar to those outlined by the Commission of Ursula von der Leyen.

### **Today’s evidence session**

This morning’s evidence session with the Cabinet Secretary is an opportunity for the Committee to discuss the approach the Scottish Government is taking in pursuing its policy of alignment with EU law.

The Committee may wish to discuss with the Cabinet Secretary how the Scottish Parliament’s EU law tracker has supported the Government’s approach to alignment decisions and whether the Government has reflected on the issues raised by the Committee in its letter of 14 September 2023.

The Committee may also wish to discuss the content of the Continuity Act annual report and the Scottish Government’s approach to decisions about whether to align with future EU legislation and policy or not.

**Iain McIver**  
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31 October 2023

**THE SCOTTISH GOVERNMENT'S POLICY OF EU ALIGNMENT - ANNUAL REPORTS  
2023**

Dear Convener

Further to previous correspondence, I am pleased to present to the Committee a series of reports aimed at responding to the Committee's desire for greater transparency regarding the Scottish Government's commitment to align with the European Union (EU) where appropriate - that is, where it is possible and meaningful for Scotland to do so.

These reports include a draft of the Scottish Government's 2023 annual report on use of the power to align within the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, which is being laid in parliament today.

On 27 April, I wrote to you to provide an interim update on the Scottish Government's consideration of the Committee's response to the draft report laid on 27 October 2022. I noted that work between my officials and Parliamentary clerks was progressing to better record and share information regarding the implementation of alignment decisions. In my statement to the Scottish Parliament on Europe Day, 9 May, I reiterated the Scottish Government's commitment to its EU alignment policy and committed to providing further information to support the Parliament's scrutiny role on this subject.

In addition, I wrote to you on 23 June providing sight of the Scottish Government's letter and paper to Ambassador Serrano on how Scotland's European Union policy priorities for the coming year relate to the European Commission's annual work programme.

On 28 June, I wrote to you and laid in Parliament a document that set out how the Scottish Government would respond to the representations made by the Parliament following consideration of last year's draft annual report. This reflected the joint working by my officials and Parliamentary clerks to improve the transparency of ministerial decision-making in implementing the Scottish Government's approach to EU alignment. This approach has now been implemented, and this year's reporting is significantly extended, reflecting those helpful discussions.

This new approach is complemented by our consideration of the European Union Law Tracker report commissioned by the Committee from Dr Lisa Whitten of Queen's University Belfast and published on 14 September. Dr Whitten concluded that *'[o]verall, to date, the Scottish Government's commitment to align with developments in EU law has been largely upheld'* with no *'significant divergence between Scots Law and EU Law in areas that are in the scope of the alignment commitment during the reporting period'*. She further states that there have been examples of the Scottish Government actively choosing to align with developments in EU law. I concur with these findings.

Dr Whitten also cautioned that a degree of divergence is a risk and will likely occur cumulatively, potentially becoming significant in the future. I also agree with this assessment. Mindful of this, the Scottish Government will continue its proportionate approach to EU alignment, guarding against any complacency that puts at risk the policy intent set out above. To ensure careful ongoing consideration of developments within the European Union, we have made changes to our processes to improve the identification of potential alignment issues as well as improving transparency.

From 3 September, our processes require new information to be recorded and shared when Scottish Government legislation is laid in the Scottish Parliament, as outlined in my letter to you on 27 April. All policy notes accompanying Scottish Statutory Instruments, will henceforth, reflect whether the legislation in question is relevant or not related to our policy of EU alignment, and if relevant provide further detail. Policy memoranda for Bills, where alignment is relevant, will also contain further details on legislations' relevance to the alignment policy. Annex B reflects these new processes.

The series of reports illustrates our improved annual reporting on EU alignment, detailed in the following annexes:

- A. Draft Statutory Report on the use of Continuity Act power;
- B. Alignment using other legal powers;
- C. EU Law relevant to devolved competence or having a devolved impact;
- D. EU policy priorities and forward look.

As indicated in my letter of 28 June, the processes detailed above were introduced from late summer following discussion and agreement with Parliamentary clerks. This inevitably means that information recorded in this manner only reflects a limited portion of the reporting period. This however sets out the approach that the Government is now taking. The information we will submit in 2024 will be based on a full year.

## **Report Contents**

Annex A meets the statutory requirement in the Continuity Act and covers the reporting from 1 September 2022 to 31 August 2023.

Annex B details relevant legislation passed by the Scottish Parliament and consideration of EU alignment in its accompanying documentation. In future, it will cover the same reporting period as Annex A. However, as new processes and information sharing requirements have only recently been implemented, the current iteration of the report covers the period from September to October 2023. This does not imply that consideration of alignment policy did not occur prior to September 2023, only that the new recording process considered with Parliamentary officials was not yet in place.

Annex C relates to EU legislation reviewed to establish whether it is likely to be within the scope of the powers of the Scottish Parliament. Again, reflecting new processes introduced over the course of the summer 2023, the present report covers the reporting period July to October 2023. In future years this information will also follow the same reporting year as the Continuity Act report at Annex A.

Annex D is an updated version of the analysis shared with the committee on 23 June looking back at the 2023 European Commission Work Programme in light of Scotland's priorities and looking forward to considerations of the Commission president's State of the Union address on 13th September 2023, and the Commission Work Programme 2024 adopted on 17th October 2023.

Taken together, these reports look systematically at our EU alignment policy, summarising legislation made either in the Scottish Parliament or in the European Union, as well as setting out Scotland's response to the policy priorities of the EU. These show where the Scottish Government has taken action to align with the European Union and where it is considering the scope to do so. This includes the use of the Continuity Act power to introduce the Public Water Supplies (Scotland) Amendment Regulations 2022 to maintain high standards in terms of human health in respect of Scotland's drinking water.

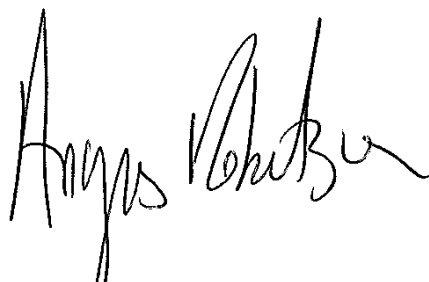
These reports also show that Scotland intends to align where possible with a number of EU directives and regulations reflective of our priorities to tackle the climate emergency such as the EU Energy Performance of Buildings Directive and protecting our natural environment.

Scotland is continuing to support the standards set by the European Union. Many of the policy frameworks and initiatives which we are developing domestically are, and will continue to be, influenced by the standards set by the EU. The Scottish Government's Vision for Agriculture is one such example which demonstrates our desire to stay broadly aligned with EU common agricultural policy. There are other similar examples where Scottish policy development is strongly affected by our nearly 50 years of European Union membership, our favourable view of EU approaches and our wish to return to EU membership in future.

I recognise and welcome the Parliament's requirement to scrutinise the EU alignment process and I am grateful for the engagement between our respective officials on how to achieve greater transparency on decision-making. I am grateful for the continued assistance of the Committee as we continue to work together to protect the standards that Scotland enjoys from the consequences of Brexit, and I would welcome the Scottish Parliament's views on the proposals made here.

I hope you find the enclosed reports useful.

Yours sincerely,



**ANGUS ROBERTSON**



**STATUTORY REPORT ON THE USE OF CONTINUITY ACT POWER**

Laid in draft before the Scottish Parliament in accordance with section 11(1)(a) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

31 October 2023  
SG/2023/264

**REPORT BY THE SCOTTISH MINISTERS IN EXERCISE OF THE POWER IN SECTION 1(1) OF THE UK WITHDRAWAL FROM THE EUROPEAN UNION (CONTINUITY) (SCOTLAND) ACT 2021 FOR THE REPORTING PERIOD 1 SEPTEMBER 2022 – 31 AUGUST 2023 AND THE INTENDED FUTURE USE OF THE POWER UNDER SECTION 1(1) IN THE UPCOMING REPORTING PERIOD 1 SEPTEMBER 2023 – 31 AUGUST 2024****Introduction**

1. The Scottish Ministers lay the following report in draft in accordance with section 11(1)(a) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (“the Act”). The draft report covers the following:

a) Part 1 explains:

- the use of the power under section 1(1) of the Act during the reporting period 1 September 2022 – 31 August 2023 (“the current reporting period”),
- how that use of the power under section 1(1) contributes or has contributed towards maintaining and advancing standards in relation to the matters mentioned in section 2(1)(a) to (e) of the Act, and
- any use of the power under section 1(1) that has been considered by the Scottish Ministers during the current reporting period.

b) Part 2 explains:

- how the Scottish Ministers intend to use the power in the upcoming reporting period 1 September 2023 – 31 August 2024 (“the upcoming reporting period”), and
- how their intended use of the power under section 1(1) would contribute towards maintaining and advancing standards in relation to the matters mentioned in section 2(1)(a) to (e) of the Act.

2. The draft report is subject to a consultation period of 28 days. During the consultation period, representations may be made to the Scottish Ministers about their intended use of the power in the upcoming reporting period. When laying the final version of this report under section 10(1), the Scottish Ministers will also lay before the Parliament a document setting out:

- a) a summary of any representations about the draft report made during the consultation period, and
- b) how they have had regard to those representations in preparing the report.





**Part 2: Upcoming Reporting Period – 1 September 2023 – 31 August 2024****10. How the Scottish Ministers intend to use the power under section 1(1) in the upcoming reporting period:**

In response to recommendations from the Aarhus Convention Compliance Committee following a case on unauthorised development in Northern Ireland, and in view of similarities with the Scottish Planning system, we have committed to consulting on proposals for amending The Town and Country Planning (Scotland) Act 1997 in relation to unauthorised development and the ability to take enforcement action after that time has expired for certain development.

**11. How that will contribute towards maintaining and advancing standards in relation to the matters mentioned in section 2(1) of the Act:**

This is in response to technical matters raised by the Aarhus Convention Compliance Committee concerning environmental obligations under the Convention.

**Next Report**

12. The next reporting period ends on 31 August 2024. The subsequent report will detail the use and considered use of the power under section 1(1) of the Act during that reporting period and any planned use in the forthcoming reporting period. Our broader reporting in addition to this statutory report will also illustrate the variety of other means by which the alignment policy is being implemented.

**SCOTTISH MINISTERS**

**ALIGNMENT USING OTHER LEGAL POWERS**

This report sets out legislation made since the change in information sharing requirements regarding EU alignment between September and October 2023 and its relevance to the policy of aligning with EU law. Next year's report will provide this information from 1 September 2023 until 31 August 2024. There will be an overlap in next year's report with this report, as the timeframe for this report does not cover a full year. In subsequent years the information presented in all additional reports will seek to cover the same period as the statutory Continuity Act annual report, 1 September – 31 August.

## OFFICIAL - DRAFT

Title	Type	Alignment Relevance	Link to supporting documents
The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Miscellaneous Amendments) (Scotland) Regulations 2023 SSI 2023/281	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Miscellaneous Amendments) (Scotland) Regulations 2023 (legislation.gov.uk)</a>
The A85 Trunk Road (Drummond street, Comrie) (temporary prohibition on waiting, loading and unloading) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	N/A
The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023 SSI 2023/278	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order 2023 (legislation.gov.uk)</a>
The A8 (Newhouse to Easterhouse) M73 (Maryville to Mollinsburn) M74 (Daldowie to Hamilton) A8 (Newhouse to Bargeddie) A725 (Shawhead to Whistleberry) A7071 (Bellshill) Trunk Roads (temporary prohibitions of traffic and overtaking and temporary speed restrictions) (no. 3) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	N/A
The Hunting with Dogs (Scotland) Act 2023 (Commencement) Regulations 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	N/A
The A835/A893 Trunk Road (Contin) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	

OFFICIAL - DRAFT

The A830 Trunk Road (Mallaig) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A86 Trunk Road (Kingussie) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The Marriage Between Persons of Different Sexes (Prescribed Bodies) (Scotland) Amendment Regulations 2023 SSI 2023/266	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="https://www.legislation.gov.uk/ssi/2023/266">The Marriage Between Persons of Different Sexes (Prescribed Bodies) (Scotland) Amendment Regulations 2023 (legislation.gov.uk)</a>
The Nutritional Requirements for Food and Drink in Schools (Scotland) Amendment Regulations 2023 SSI 2023/267	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="https://www.legislation.gov.uk/ssi/2023/267">The Nutritional Requirements for Food and Drink in Schools (Scotland) Amendment Regulations 2023 (legislation.gov.uk)</a>
The Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2023 SSI 2023/268	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="https://www.legislation.gov.uk/ssi/2023/268">The Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2023 (legislation.gov.uk)</a>
The A830 Trunk Road (Glenfinnan) (temporary prohibition of waiting) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The north east Scotland Trunk Roads (temporary prohibitions of traffic and overtaking and temporary speed restrictions) (no. 9) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The south east Scotland Trunk Roads (temporary prohibitions of traffic and overtaking and temporary speed restrictions) (no. 9) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A78 Trunk Road (Irvine Road) (temporary 40mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	

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The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="https://www.legislation.gov.uk/ukdsi/2023/01/01/ukdsi-2023-0101">The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023 (legislation.gov.uk)</a>
Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Witness Citations in Solemn Proceedings) 2023	Secondary	Not relevant to the Scottish Government's policy of alignment. Rules of procedure made by the High Court of Justiciary and the not the Scottish Ministers.	
The M9/A9 Trunk Roads (Brora, Scrabster and Thurso) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A82 Trunk Road (Drumnadrochit) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A87 Trunk Road (Kyle of Lochalsh and Uig ferry terminal) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The Carer's Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations 2023 SSI 2023/258	Secondary	This is not expected to have a direct impact on alignment. However EU regulations on social security coordination – which retain a limited effect in UK law through the Withdrawal Agreement – were taken into account in the design of these regulations.	<a href="https://www.legislation.gov.uk/ukdsi/2023/01/01/ukdsi-2023-0101">The Carer's Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations 2023 (legislation.gov.uk)</a>
The Sports Grounds and Sporting Events (Designation) (Scotland) Amendment Order 2023 SSI 2023/257	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="https://www.legislation.gov.uk/ukdsi/2023/01/01/ukdsi-2023-0101">The Sports Grounds and Sporting Events (Designation) (Scotland) Amendment Order 2023 (legislation.gov.uk)</a>

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The Local Government Investments (Scotland) Amendment Regulations 2023 SSI 2023/255	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The Local Government Investments (Scotland) Amendment Regulations 2023 (legislation.gov.uk)</a>
The A82 Trunk Road (Glencoe) (temporary prohibition on use of Road and temporary 30mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A84 Trunk Road (Callander) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A85 Trunk Road (Crieff and Comrie) (temporary 20mph speed restriction) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The A77 Trunk Road (Vicarton street, Girvan) (temporary prohibition of waiting, loading and unloading) Order 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The Transport (Scotland) Act 2019 (commencement no. 7) regulations 2023	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	
The Parking Attendants (Wearing of Uniforms) (North Ayrshire Council) Regulations 2023 SSI 2023/248	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The Parking Attendants (Wearing of Uniforms) (North Ayrshire Council) Regulations 2023 (legislation.gov.uk)</a>
The Road Traffic (Permitted Parking Area and Special Parking Area) (North Ayrshire Council) Designation Order 2023 SSI 2023/249	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The Road Traffic (Permitted Parking Area and Special Parking Area) (North Ayrshire Council) Designation Order 2023 (legislation.gov.uk)</a>
The National Health Service (General Dental Services) (Miscellaneous Amendment) (Scotland) Regulations 2023 SSI 2023/247	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The National Health Service (General Dental Services) (Miscellaneous Amendment) (Scotland) Regulations 2023 (legislation.gov.uk)</a>

The National Health Service Pension Schemes (Remediable Service) (Scotland) Regulations 2023 SSI 2023/246	Secondary	Assessed as not relevant to the Scottish Government's EU alignment policy.	<a href="#">The National Health Service Pension Schemes (Remediable Service) (Scotland) Regulations 2023 (legislation.gov.uk)</a>
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**EU LAW RELEVANT TO DEVOLVED COMPETENCE OR HAVING A DEVOLVED IMPACT**

To assist the Committee with its deliberations, this annex provides a list of EU legislation in progress at the start of formalised monitoring in July 2023. The entries included are those identified by the Scottish Government as potentially within devolved competence or having a devolved impact. The annex aims to give an understanding of the areas of EU legislation the Scottish Government is initially considering in scope, but the list of items is not exhaustive.

Items are listed as not applicable where they are either non legislative or where they are in an early stage and cannot yet be assessed. These cases will be assessed and reported in future.



Title	Issue	Current Alignment Consideration
Animal Health Law	Various delegated acts under Regulation (EU) 2016/429 manage animal diseases. Given the volume of legislation and the breadth of subject-matter, not all changes that would be required to achieve complete alignment with the Animal Health Law and the many delegated acts thereunder have yet been identified.	The Scottish Ministers have generally sought to remain aligned with the Animal Health Law when considering individual proposals for change, taking into account veterinary conditions and advice in Scotland
Binding Pay Transparency Measures: Commission Initiative	Directive (EU) 2023/970 establishes pay transparency and reporting requirements for firms	Under active consideration
Blood, Tissues and Cells Legislation: Revision	This is an EU revision of the rules on blood, organs, and tissues.	Yes
Brussels IIa Regulation Recast	Regulation (EU) 2019/1111 reforms family and civil law.	No – relates to reciprocal arrangements.
Combined Transport of Goods: Revision	The proposal would amend Council Directive 92/106/EEC (known as the Combined Transport Directive) on the establishment of common rules for certain types of combined transport of goods between Member States.	Proposal is under development. Subject to future consideration
Construction Products Regulation: Revision	The revision would amend Regulation (EU) 2019/1020 and repeal Regulation (EU) 305/2011. It would establish the harmonised rules for the making available on the market and direct installation of construction products, regardless of whether undertaken in the framework of a service or not, by establishing: (a) rules on how to express the environmental, including climate, and safety performance of construction products in relation to their essential characteristics; (b)	Proposal is under development. Subject to future consideration

	<p>environmental, including climate, functional and safety product requirements for construction products.</p> <p>This Regulation would also establish obligations incumbent on economic operators dealing with construction products or their components or with products that could be regarded as construction products whilst not being intended by their manufacturer to be construction products.</p>	
Cross-Border Enforcement in Road Safety: Revision	<p>The revision aims to improve road safety by better cross-border enforcement of road traffic rules. In particular, the measure would help Member States to better investigate road traffic offences committed by non-resident drivers and better enforce sanctions for these offences, by streamlining mutual assistance and recognition procedures, to improve road safety. It aims to reduce administrative burden by simplifying and digitising the procedures (e.g. improving electronic exchange of information). The revision would strengthen the equal treatment of European drivers, regardless of the country in which their vehicle is registered. It would also contribute to better protection of fundamental rights of presumed offenders.</p>	No – relates to cooperation between EU bodies we are no longer part of.
Cross Border Health Threats	<p>Regulation (EU) 2022/2371 creates a more robust EU mandate and system for responding to serious cross-border health threats</p>	No – relates to cooperation between EU bodies we are no longer part of.

<p>Cross-Border Judicial Cooperation: Proposal for Regulation</p>	<p>This proposal generally aims to improve the effectiveness and speed of judicial procedures, reduce costs and disparities in digitalisation between Member States, and facilitate citizens' access to justice through the modernisation and digitalisation of the judicial system.</p> <p>In particular, the agreement would establish a European electronic access point on the European e-Justice portal to enable citizens and their attorneys to access cross-border procedures in the EU to file claims, send requests to competent authorities, and receive replies electronically.</p> <p>In addition, competent authorities would be able to communicate through secure digital channels between themselves and exchange case-related data in civil, commercial, and criminal matters.</p>	<p>No – relates to cooperation between EU bodies we are no longer part of.</p>
<p>Data Requirements for Pesticides Authorisations: Review of Communication</p>	<p>Proposal to update the Commission Communication listing the test methods and guidance documents relevant to the implementation of the Commission Regulation (EU) No 284/2013 setting out data requirements for the authorisation of plant protection products in accordance with the Regulation (EC) 1107/2009 (Plant Protection Products Regulation).</p> <p>The revision of the Communication would streamline the EU's legislative framework on plant protection products (PPPs) following the entry into application of the criteria for the identification of the endocrine disrupting properties of active substances used in pesticides under Annex II to the Plants Protection Products Regulation on 20 October 2018.</p>	<p>Proposal is under development. Subject to future consideration</p>

<p>Drinking Water Directive (rDWD) (Directive (EU) 2020/2184) Recast</p>	<p>The rDWD was adopted by the European Parliament on 16th December 2020 and came into force on 12th January 2021. It replaces the original Drinking Water Directive (Council Directive 98/93/EC of 3 November 1998 on the quality of water intended for human consumption). It is designed to protect water intended for human consumption ('drinking water') from source to tap, put in place measures in relation to access to water and drive up resource efficiency by tackling pollutants at source</p>	<p>Yes – the health based provisions regarding water safety have been implemented (see Annex A). Delegated Acts and a report are detailed below. Remaining provisions are subject to ongoing consideration.</p>
<p>Drinking Water Directive (Conformity Assessment Procedure): Delegated Act</p>	<p>The Commission’s draft Delegated Regulation would establish an appropriate conformity assessment procedure for products based on the modules in Annex II to Decision No 768/2008/EC on a common framework for the marketing of products and the designation of conformity assessment bodies.</p> <p>By the adoption of this measure, the Commission aims at determining an appropriate conformity assessment procedure applicable to products covered by Article 11 regarding minimum hygiene requirements for materials that come into contact with water intended for human consumption on the basis of the modules in Annex II to Decision No 768/2008/EC setting a common framework for the marketing of products.</p> <p>The upcoming Delegated Act is based on Article 11(8) of the Directive (EU) 2020/2184 revising the Drinking Water Directive with a view to improving access to quality water in the EU, ensuring a higher quality of drinking water for small supplies as well as adapt monitoring and analysis provisions to scientific and technical progress.</p>	<p>Proposal is under development. Subject to future consideration.</p>

<p>Drinking Water Directive (Procedure Amending EU Positive List): Delegated Act</p>	<p>The Commission draft Delegated Regulation would establish a procedure for adding, renewing, and deleting an entry to or from the EU Positive List.</p> <p>In particular, the measure would lay down a procedure, including information requirements, on the application process for inclusion in or removal from the European Positive Lists of starting substances, compositions or constituents.</p> <p>The Delegated Regulation is based on Article 11(5) of the Directive (EU) 2020/2184 revising the Drinking Water Directive with a view to improving access to quality water in the EU, ensuring a higher quality of drinking water for small supplies as well as adapt monitoring and analysis provisions to scientific and technical progress.</p>	<p>Proposal is under development. Subject to future consideration</p>
<p>Energy Efficiency Directive: Revision</p>	<p>The proposal to revise Directive 2012/27/EU (Energy Efficiency Directive) was presented on 14 July 2021 by the Commission as part of the Fit for 55 package, a series of measures aimed at delivering on the European Green Deal and aligning key climate and energy legislation with a raised 2030 emissions reduction target of 55% compared with 1990 levels.</p> <p>The resulting Directive sets out the EU's 2030 energy efficiency target, consisting of: (i) a binding collective limit in final energy consumption of 763 million tonnes of oil equivalent (translated into a reduction in the EU-wide final energy consumption of at least 11,7% compared to the 2020 reference scenario); and (ii) an indicative collective limit in primary energy consumption of 992,5 million tonnes of oil equivalent. National contributions to this EU-wide target on energy efficiency, as well as trajectories towards meeting the national contributions, will not be binding.</p> <p>It also provides for a gradual or stepwise approach that will guide the increase in the Member States' energy savings obligation as regards annual final energy consumption. Furthermore, the revised Directive aims to ensure the contribution of the public sector to enhanced energy efficiency</p>	<p>Proposal is under development. Subject to future consideration</p>

	<p>efforts through dedicated objectives to reduce final energy consumption of national public bodies and to renovate public bodies' buildings for converting them into nearly zero-energy buildings or zero-emission buildings.</p>	
<p>Energy Performance of Buildings: Revision</p>	<p>The proposal to revise the Energy Performance of Buildings Directive would further promote the improvement of buildings' energy performance, in addition to boosting the reduction of greenhouse gas emissions from buildings.</p> <p>In particular, the revised Directive would lay down requirements in respect of: (i) the application of minimum energy performance standards to existing buildings and building units; (ii) renovation passports; (iii) national building renovation plans; (iv) sustainable mobility infrastructure in and adjacent to buildings; and (v) smart buildings.</p> <p>Directive 2010/31/EU on the Energy Performance of Buildings (EPBD) aims to promote the improvement of the energy performance of buildings within the EU, taking into account outdoor climatic and local conditions, as well as indoor climate requirements and cost-effectiveness.</p>	<p>Proposal is under development. Subject to future consideration</p>
<p>European Network of Transmission System Operators for Electricity (ENTSO-E) 10 Year Network Delivery Plan 2022</p>	<p>The ENTSO-E's TYNDP is a non-binding EU-wide ten-year network development plan, which is updated every two years, for the purpose of providing an overview on the future of the European power system and complementing national electricity infrastructure development plans.</p> <p>In particular, the TYNDP defines needs for the transmission and storage of electricity in Europe, in addition to including specific projects which aim to address such transmission and storage needs. Inclusion in the TYNDP is a pre-condition for transmission and storage projects to apply for obtaining the Project of Common Interest (PCI) status.</p>	<p>Under active consideration</p>

European Network of Transmission System Operators for Gas (ENTSOG) 10 Year Network Delivery Plan 2024	The European Network of Transmission System Operators for Gas (ENTSOG) is preparing the 2024 edition of its EU-wide Ten-Year Network Development Plan (TYNDP) for gas infrastructure.	Under active consideration
Environmental Economic Accounts: Amendment II	The proposal aims to amend the Regulation on European environmental economic accounts No 691/2011 to ensure that the current statistical framework, assessing the economy's impact on the environment and vice-versa, is updated to reflect the new wave of EU environmental strategies under the European Green Deal initiative. Examples of this are the EU's 2030 Biodiversity and Forest Strategies.	Under active consideration
Establishing a Social Climate Fund	Those on a low income and micro businesses may be affected by the higher fossil fuel prices resulting from the introduction of a new emissions trading system for buildings and road transport and fuels. Regulation (EU) 2023/955 proposes the establishment of a social climate fund which will provide support to vulnerable groups most affected by this new system.	Under active consideration
European Health Data Space: Initiative	The initiative focuses on promoting health data exchange across the EU and supporting health research, particularly on new preventative strategies but also on treatments, medicines, medical devices and outcomes, and tackling barriers to the cross-border division of digital health services and products.  The initiative would also facilitate the establishment of a Code of Conduct for processing personal data in the health sector, in accordance with Article 40 of the General Data Protection Regulation.	Under active consideration
European Pollutant Release and Transfer Register Regulation	This is about a new reporting obligation introduced by the European Pollutant Release and Transfer Register Regulation (E-PRTR)	Proposal is under development - subject to future consideration for equivalent UK reporting
Fertiliser Regulation	Regulation (EU) 2019/1009 amended regulations around the placing on the market of fertilisers.	Proposal is under development. Subject to future consideration

Fuel EU Maritime: Initiative	Proposal for a Regulation of the European Parliament and of the Council on the use of renewable and low-carbon fuels in maritime transport and amending Directive.	Proposal is under development. Subject to future consideration
Food and Drink: Marketing Standards (Eggs)	Revision of egg marketing standards	Subject to future consideration
Food and Drink: Marketing Standards (poultrymeat)	Revision of poultrymeat marketing standards	Proposal is under development. Subject to future consideration
ITS Directive: Revision	The proposal revises the Intelligent Transport Systems Directive by extending its scope and by allowing essential Intelligent Transport Systems services to be made mandatory across the EU in order to adapt the text to the emergence of new road mobility options, mobility apps, and connected and automated mobility.	Proposal is under development. Subject to future consideration
Joint Investigation Teams (JIT)	Regulation (EU) 2023/969 establishes a collaboration platform for JITs to share information with third countries.	Proposal is under development. Subject to future consideration
Maritime Accident Investigation: Revision	<p>The Commission's proposal would amend Directive 2009/18/EC to improve the protection of fishing vessels, their crews and the environment, and strengthen the ability of Accident Investigation Bodies (AIBs) to investigate and report on accidents, including those involving renewable and low-carbon fuels and technologies.</p> <p>The proposal also clarifies definitions and the legal text to ensure that Member States' accident investigation bodies investigate all accidents that need to be investigated in a timely and harmonised manner.</p>	Proposal is under development. Subject to future consideration



<p>Methodology for Share of Biofuels and Biogas in Transport from Co-Processing: Delegated Act</p>	<p>The Delegated Regulation lays down a methodology to determine the share of biofuel and biogas for transport resulting from biomass being processed with fossil fuels in a common process (co-processing), as required by Article 28(5) of Directive (EU) 2018/2001 (Renewable Energy Directive).</p>	<p>Proposal is under development. Subject to future consideration</p>
<p>Nature Restoration Law: Proposal</p>	<p>The proposal for a Regulation on nature restoration would set out legally binding nature restoration targets to restore degraded ecosystems.</p>	<p>Proposal is under development. Subject to future consideration</p>
<p>Net-Zero Industry Act: Commission Initiative</p>	<p>The Net-Zero Industry Act was first announced in the Commission’s Communication regarding a Green Deal Industrial Plan for the Net-Zero Age, published on 1 February 2023, aiming to provide a supportive environment for scaling up EU manufacturing capacity for the net-zero technologies and products required to meet EU’s ambitious climate targets.</p>	<p>Under active consideration</p>
<p>New Regulatory Framework for Batteries: Proposal</p>	<p>The primary objective of the proposal was to provide solutions for three interlinked problems, namely:</p> <ul style="list-style-type: none"> <li>(1) The lack of framework conditions enabling investment in production capacity for sustainable batteries</li> <li>(2) The sub-optimal functioning of recycling markets and the insufficiently closed material loops limiting the capability of mitigating supply risks for raw materials</li> <li>(3) The social and environmental risks not covered by EU environmental law due to lack of transparency on sourcing materials, hazardous substances and the unexploited potential for offsetting the impact of the battery lifecycle.</li> </ul>	<p>Proposal is under development. Subject to future consideration</p>
<p>Non-Road Mobile Machinery: Road Safety Requirements</p>	<p>The expected proposal for a Regulation on the requirements for the road circulation of mobile machinery would aim to harmonise the safety requirements for mobile machinery occasionally travelling on the road.</p>	<p>Proposal is under development. Subject to future consideration</p>

<p>Organic Products: Sea Salts and Other Salts</p>	<p>This EU Regulation sets out detailed production rules for organic sea salt and other organic salts for food and feed. By virtue of the Windsor Framework, these regulations apply in respect of Northern Ireland (NI) but the law in Great Britain (GB), including Scotland, remains unchanged.</p> <p>Under GB organic legislation currently, GB producers cannot market salt as organic as organic certification is limited to food and feed, whereas salt is considered a mineral. This secondary instrument will allow NI producers to do so and this product could then be imported into Scotland/wider GB.</p> <p>Whilst the scope of GB organic regulations does not cover salt, pre-packaged products arriving in GB are considered a product of the EU/NI and, by virtue of the organic equivalence agreement, can be sold as labelled. However, if the product undergoes further processing in GB, it cannot be sold as organic as it will no longer be considered a product of the EU/NI. Given the GB organic regulations do not allow certification of salt as organic, movement of organic salt from GB to NI would not be possible (unless moved from EU to NI via GB, and no landing takes place in GB).</p>	<p>No - covered by UK wide frameworks</p>
<p>Packaging and Packaging Waste Directive (Essential Requirements): Revision</p>	<p>Extended Producer Responsibility (EPR) for Packaging is being taken forward in collaboration with the other nations of the UK and we are implementing policy on a four-nation basis. At this stage the EU proposals to amend the Packaging and Packaging Waste Directive are not final legislation so it is difficult to take a firm position on alignment. Once an agreed EU policy is in place it will be for the four UK governments to take a joint decision on EU alignment; although we are positive in principle about EU alignment that will be subject to discussion with the other governments.</p>	<p>Proposal is under development. Subject to future consideration.</p>

Protective Measures against Pests of Plants	Various delegated acts under Regulation (EU) 2016/2031 manage plant pests.	Varies – aligning with overall framework but adjusting for phytosanitary conditions and advice in Scotland
Plant Health - Citrus Fruit and Phytosanitary Requirements	EU implementing decisions on citrus fruit production and phytosanitary certificate requirements	No – Scotland does not have a citrus industry for the measures to apply to
Plant Protection Products: Bee Principles	<p>European Food Safety Authority (EFSA) Guidance amended Commission Regulation (EU) No 546/2011 as regards bees principles for evaluation and authorisation of plant protection products.</p> <p>The Commission has strived at implementing the EFSA 2013 Guidance document on the risk assessment of plant protection products on bees (<i>Apis mellifera</i>, <i>Bombus</i> spp. and solitary bees) since its publication.</p>	Proposal is under development. Subject to future consideration
Plant Protein Production Strategy	The expected Plant Protein Production Strategy would outline ways to increase the EU's production capacity and reduce the EU's dependence on plant-based protein imports to improve food security.	Proposal is under development. Subject to future consideration
Policy and Regulatory Approach to Deep Sea Mining	<p>In the context of the recently signed UN High Seas Treaty, the EU and others (including the UK) are seeking to establish a regulatory position on seabed mining in marine areas beyond national jurisdiction - commonly referred to as deep sea mining.</p> <p>The EU has yet to formulate an agreed position, with some member states (e.g. Belgium) supporting exploratory activity, some (e.g. Sweden) favouring terrestrial and internal EU activity, but others (e.g. France, Germany and Spain) promoting</p>	Proposal is under development. Subject to future consideration

	a precautionary approach. Commission appears to currently favour the latter.	
Port State Control: Revision	The Commission has proposed revising the Port State Control Directive aims to align EU legislation with new international mandatory procedures/rules and include the protection of fishing vessels, their crews and the environment. The proposal would also help to ensure a better uptake of digital solutions as well as an efficient and harmonised approach for undertaking port State control inspections.	Proposal is under development. Subject to future consideration
Promotion of the Use of Energy from Renewable Source	Directive (EU) 2018/2001 establishes a framework for issues around renewable energy.	No – minor technical changes required to reflect Brexit
Proposed amendment to Renewable Energy Directive to deliver "Fit for 55"	In support of delivery of the "Fit for 55" package, EU institutions have reached a provisional political to raise the share of renewable energy in the EU's overall energy consumption to 42.5% by 2030 with an additional 2.5% indicative top up that would allow to reach 45%. This includes accelerated permitting procedures for renewable energy projects, with Member states designing renewables acceleration areas where renewable energy projects would undergo simplified and fast permit-granting process. Renewable energy deployment will also be presumed to be of 'overriding public interest', which would limit the grounds of legal objections (e.g. made under the Habitats or Birds Directives) to new installations. The mechanism to deliver this is a revision to the Renewable Energy Directive.	No
Protection from Strategic Lawsuits Against Public Participation: Commission Initiative	The Commission proposal aims to take action to protect journalists and civil society from strategic lawsuits against public participation.  In particular, the proposal provides safeguards against manifestly unfounded or abusive court proceedings in civil matters with cross-border implications brought against natural and legal persons, in particular journalists and human rights	Under active consideration

	defenders, on account of their engagement in public participation.	
REACH Annex XVII (Group Restriction): Flame Retardants	Restricts the placing on the market in articles as well as the consumer, professional and industrial uses of various types of flame retardants, including brominated ones.	Under active consideration
REACH Annex XVII (Restriction): PFAS in Fire-Fighting Foams	Introduces limitations on the use of Per- and polyfluoroalkyl substances (PFAS) in fire-fighting foams.	Under active consideration
EU Energy Performance of Buildings Directive (EPBD) Recast	Reviewing recast EPBD to determine if SG Heat in Buildings Strategy aligns with proposed new EU Directive.	Under active consideration
ReFuelEU Aviation Initiative	The Commission proposal aims at accelerating aviation's decarbonisation through sustainable aviation fuels (SAF). It lays down harmonised rules on the uptake and supply of sustainable aviation fuels while focusing on the most innovative and sustainable fuel alternatives.	Proposal is under development. Subject to future consideration
Renewable Energy Directive: Amendment	The Directive increases the EU's overall renewable energy target for 2030 to a binding 42,5% share of renewable energy in final energy consumption, which is complemented with an indicative 2,5% top-up that would increase it to a 45% share of energy from renewable sources in gross final consumption of energy by 2030. In addition, it sets out specific targets for the use of renewable energy in transport, heating and cooling systems, buildings and industry. Strengthens sustainability criteria for the use of bioenergy.	Under active consideration

<p>The Effort Sharing Regulation (ESR): Revision</p>	<p>The revision of the effort sharing regulation (ESR), updates the member states' current emissions reduction targets for 2030 in sectors such as the transport, buildings, agriculture and waste sectors. The effort sharing regulation (ESR) sets a target for each member state to cut greenhouse gas emissions in a number of economic sectors, which currently represent around 60% of total EU emissions. The EU is revising this legislation to align with its new ambitious climate goals.</p>	<p>Under active consideration</p>
<p>EU Emissions Trading System (ETS): Revision</p>	<p>The EU's emissions trading system (ETS) is one of the world's largest carbon markets and the EU's key tool for reducing greenhouse gas emissions. The system puts a price on carbon. Every year, entities covered by the ETS must buy 'allowances' corresponding to the greenhouse gas emissions.</p>	<p>Under active consideration</p>
<p>The Regulation on CO2 Emission Limits For New Cars and Vans: Revision</p>	<p>The proposed regulation aims to increase carbon dioxide (CO2) emission reductions targets for new cars and vans, so as to ensure that the automotive sector contributes to the EU's climate goals, and to stimulate innovation. The proposed regulation increases the CO2 emission reduction targets for 2030 and sets a new target of 100% by 2035. This means that all new cars and vans on the market in the EU from 2035 should be zero-emission vehicles.</p>	<p>Proposal is under development. Subject to future consideration</p>
<p>Revision to rules concerning the temporary increase of official controls applicable to certain food and feed of non-animal origin entering Great Britain from the countries listed in Commission Implementing Regulation (EU) 2019/1793 which lays down rules concerning the temporary increase of official controls applicable to certain</p>	<p>In accordance with Article 12 of Commission Implementing Regulation (EU) 2019/1793, the appropriate authority must review the lists set out in Annex I (Food and feed of non-animal origin from certain third countries subject to a temporary increase of official controls at border control posts and control points) and Annex II (Food and feed from certain third countries subject to special conditions for the entry into Great Britain due to contamination risk by mycotoxins, including aflatoxins, pesticide residues, pentachlorophenol and dioxins, and to microbiological contamination) on a regular basis not exceeding a period of six months, in order to take into account new information related to risks and non-compliance.</p>	<p>Yes</p>

<p>food and feed of non-animal origin entering Great Britain.</p>		
<p>Separate Collection and Labelling of Waste: EU Harmonised Model</p>	<p>The initiative would seek standardisation and the use of quality management systems to assure the quality of the collected waste destined for use in products, and in particular as food contact material.</p>	<p>Proposal is under development. Subject to future consideration</p>
<p>Single Use Plastics Directive (SUPS)</p>	<p>EU rules on single-use plastic products aim to prevent and reduce the impact of certain plastic products on the environment, in particular the marine environment, and on human health.</p>	<p>The Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021 implemented further provisions to ban some of the most problematic items in the SUPs Directive. Further provisions are under active consideration.</p>
<p>Surface and Groundwater Pollutants: Proposal</p>	<p>In October 2022, the Commission adopted a proposal to revise the lists of pollutants in surface water and groundwater implemented by the Water Framework Directive (2000/60/EC) (WFD), Groundwater Directive (2006/118/EC) (GWD) and Environmental Quality Standards Directive (2008/105/EC) (EQSD). Some other amendments are also proposed, which are mainly administrative, however they include adding microplastic and antimicrobial resistant genes to the list of indicative pollutants in WFD.</p> <p>If the proposal is agreed by the Council and the European Parliament, Member States will be required to take measures to meet the quality standards for the additional pollutants in the water environment through River Basin Management Planning. The WFD, GWD and EQSD are implemented in Scotland by the Water Environment and Water Services (Scotland) Act 2003 and associated legislation.</p>	<p>Yes – Yes – although the proposal is not finalised, the Scottish Government intends to incorporate updated standards into Scottish legislation, as far as possible.</p>

Sustainable Use of Pesticides: Revision	Review of the lists of pollutants affecting surface and groundwaters, and the corresponding regulatory standards.	Proposal is under development. Subject to future consideration
The Carbon Border Adjustment Mechanism (CBAM)	The carbon border adjustment mechanism (CBAM) is expected to be a tool to counter carbon leakage - a situation when industries with high greenhouse gas emissions shift production outside of the EU to jurisdictions with lower climate policy standards than those of the EU. It will help to reduce emissions globally while providing level playing field for businesses.	Proposal is under development. Subject to future consideration
Trans-European Transport Network: Revision	The proposal looks at improving the Trans-European Transport Network by making it more reliable, seamless and more sustainable, in line with the EU Green Deal objectives.	Proposal is under development. Subject to future consideration
Urban Waste Water Treatment Directive: Revision	The proposal for a Directive would amend the Urban Waste Water Treatment Directive (UWWTD) to cover the main sources of pollution not covered by the previous text. A recast UWWTD is expected in 2024.	Proposal is under development. Subject to future consideration
Vehicle Repair and Maintenance Services: Wireless Connection	The measure is expected to amend the Annex X of Regulation (EU) 2018/858 (Type-Approval Framework) to update to technical progress the requirements on repair and maintenance services provided by wireless connection.	Proposal is under development. Subject to future consideration
Waste Electrical and Electronic Equipment: Shipments of WEEE	Extended Producer Responsibility (EPR) for WEEE is being taken forward in collaboration with the other nations of the UK and we are implementing policy on a four-nation basis. At this stage the EU proposals are not final legislation so it is difficult to take a firm position on alignment. Once an agreed EU policy is in place it will be for the four UK governments to take a joint decision on EU alignment; although we are positive in principle about EU alignment that will be subject to discussion with the other governments.	Proposal is under development. Subject to future consideration
WEEE Directive: Targeted Amendment	The purpose of this targeted amendment is to align the Packaging and Packaging Waste Directive 2012/19/EU with a judgement of the European Court of Justice relating to the responsibility of financing of costs relating to the waste management of photovoltaic panels (solar panels). Producer	Proposal is under development. Subject to future consideration.



	<p>Responsibility for WEEE is addressed by a UK SI and policy is implemented on a four-nation basis. As this proposal is not yet final legislation, it is difficult to take a firm position on alignment. Once the amendment has been finalised it will be for the four UK governments to take a joint decision on EU alignment; although we are positive in principle about EU alignment that will be subject to discussion with the other governments.</p>	
<p>Biocides Regulation (Delegated Regulation): Nitrogen Generated from Ambient Air</p>	<p>The purpose of this Regulation is to improve the free movement of biocidal products within the EU while ensuring a high level of protection of both human and animal health and the environment. This measure introduces restrictions on nitrogen generated from ambient air.</p>	<p>Under active consideration</p>
<p>Biocides Regulation (Approval): C-12-16-ADBAC/BKC PT 2</p>	<p>The Commission presented its draft Implementing Regulation approving Alkyl (C12-16) dimethylbenzyl ammonium chloride (ADBAC/BKC (C12-C16)) as an existing active substance for use in disinfectants and algaecides not intended for direct application to humans or animals.</p>	<p>Under active consideration</p>
<p>Biocides Regulation (Approval): trihydrogen pentapotassium di(peroxomonosulfate) di(sulfate)</p>	<p>Approves trihydrogen pentapotassium di(peroxomonosulfate) di(sulfate) as an existing active substance for use in disinfectants and algaecides not intended for direct application to humans or animals, veterinary hygiene, food and feed areas and drinking water.</p>	<p>Under active consideration</p>
<p>Biocides Regulation (Approval): Willaertia magna c2c maky</p>	<p>Discusses approving Willaertia magna c2c maky as an active substance in preservatives for liquid-cooling and processing systems</p>	<p>Under active consideration</p>

<p>Directive (EU) 2019/883 on port reception facilities for the delivery of waste from ships</p>	<p>The Port Waste Directive introduces new measures to protect marine environments from negative effects of waste from ships. Under the new rules ships pay fees to cover costs associated with managing any waste they deposit at EU ports; this EU act is linked to the EU Waste Management Directive (2008/98/EC) which obliges Member States to ensure any waste from ships is managed in an environmentally appropriate way (the Waste Framework Directive). The Port Waste Directive repealed Directive 2000/59/EC and amends Directives 2009/16/EC on port state control and 2010/65/EU on reporting formalities for ships.</p>	<p>Yes – aligning on outcomes through existing measures.</p>
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## **EU POLICY PRIORITIES AND FORWARD LOOK**

This report details the European Union (EU)'s legislative and policy priorities for the past year and provides the Scottish Government's (SG) commentary on these proposals in respect of our commitments to maintain a close, collaborative relationship with Europe and to maintain alignment with the EU where possible. This report is an updated version of the information shared with the Scottish Parliament Constitution, External Affairs and Culture Committee on 23 June 2023.

The report sets out the Scottish Government's high level commentary on the European Commission Work Programme (CWP), highlighting opportunities for alignment where this might be possible, meaningful and within our interest, in line with Scotland's priorities. We recognise that many proposals set out in the CWP are under active development and we will continue engaging with our European partners and monitoring further developments where appropriate.

The 2023 CWP - [A Union standing firm and united](#) - was published on 18 October 2022 in the context of the ongoing violent conflict in Europe after Russia's full-scale invasion of Ukraine in early 2022, and the ensuing energy and cost of living crises that continues to hamper the post-pandemic recovery in Europe. The CWP was also released in a time in which the EU is seeking to maintain its international influence and amidst calls for more intra-EU cooperation, unity and a more strategic focus.

The priorities outlined in the CWP are broadly reflective of our own ambitions and plans as set out in the Scottish Government's [Programme for Government](#) and Scotland's [National Performance Framework](#), itself firmly rooted in the international framework of the [UN Sustainable Development Goals](#). They illustrate that Scotland shares a recognition and understanding of the challenges and opportunities that lie ahead with our European partners. These priorities will also feed into and shape our engagement approach with our partners in 2024.

The use of the Continuity Act power introducing the Public Water Supplies (Scotland) Amendment Regulations 2022, partially aligning Scotland with the EU Drinking Water Directive 2020/2184, illustrates Scotland shared priorities with the EU and our commitment to maintain alignment with the EU to keep up our high standards. Scotland also intends to align with a number of EU directives and regulation reflective of our priorities to tackle the climate emergency such as the EU Energy Performance of Buildings Directive and protecting our natural environment including the EU Biocides Regulation. We are also actively considering the European Pollutant Release and Transfer Register Regulation. Scotland continues to support the standards set by the EU and many of the policy frameworks and initiatives which are developed domestically are and will continue to be influenced by EU policy and legislation such as most recently the Scottish Government's agricultural reform programme.

### **Scottish Government and Alignment**

Scotland remains a proud European nation and Brexit will not change our commitment to the EU or the EU's importance to Scotland. We will continue to be a voice in favour of mutually beneficial co-operation to help mitigate the impact of Brexit in Scotland and to build the strongest possible relationship between the EU and Scotland.

This Scottish Government believes the best future for Scotland is to be an independent country and member of the EU but until that point in time, we will maintain alignment where possible with the EU through policy making and primary and secondary legislation, including under the power granted in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

Consistent with this commitment, Scotland will seek to align with the EU where possible and meaningful and in a manner that contributes towards maintaining and advancing standards across a range of policy areas, safeguarding the prosperity and wellbeing of the people of Scotland and maintaining Scotland's inclusive, outward-facing reputation. This applies both to our consideration of EU legislation and domestic policy initiatives, for example of the Scottish Government's agricultural reform programme.

The Vision for Agriculture outlines that future agriculture policy will "where practicable, stay aligned with new EU measures and policy developments" and the recently introduced Agriculture and Rural Communities (Scotland) Bill [policy memorandum](#) further states "ministers are mindful of the need and desire to stay broadly aligned with EU CAP [common agricultural policy] objectives". This includes the continuation of direct support payments, an emphasis on climate change mitigation and adaptation, a strong emphasis on nature and biodiversity and a renewed focus on social objectives such as increasing the attention given to women in agriculture.

### **European Union Strategic Agenda 2020-2024**

The Scottish Government published [Scotland's perspective](#) on the European Council's [Strategic Agenda for 2019-2024](#) and the [vision](#) set out by Commission president Ursula von der Leyen for the new European Commission in January 2020. We set out how Scotland sees the EU strategic priorities and how and why they matter for Scotland, and our aspirations for Europe and how Scotland will contribute to these in 2020-2024 including:

- Embodying progressive, democratic values on the world stage;
- Rising fully to the challenges presented by the global climate emergency;
- Actively promoting the wellbeing of all of society; and
- Helping create smart economies which thrive by the intelligent and humane use of new technologies.

### **How we engage**

We have also set out our engagement approach to ensure that Scotland remains an active, competent and constructive participant on EU matters, including proactive and constructive engagement with the EU institutions.

As part of this engagement, the aforementioned European Union Strategic Agenda 2020-2024 document is provided to each incoming presidency country alongside a new ministerial foreword which considers the priorities of each presidency and defines how Scotland can promote and work towards the presidency's goals and themes, whilst reaffirming Scotland's pro-European position and plans for future engagement.

### **European Commission's 2023 Priorities**

- A European Green Deal
- A Europe fit for the Digital Age
- An Economy that Works for People
- A Stronger Europe
- Promoting our European Way of Life
- A New Push for European Democracy

## A European Green Deal

In the face of climate emergency and the new geopolitical context to global energy supplies, the Commission recognises that accelerating green transition is now of the utmost importance and urgency. The Commission will propose a reform of the EU's electricity market and the creation of a new European Hydrogen Bank to help rapidly scale up the EU's green hydrogen economy. The Commission will also take action to reduce waste and the environmental impact of waste, with particular focus on food and textiles; overhaul the EU's animal welfare laws to broaden their scope and ensure a higher level of animal welfare in response to the 'End the Cage' initiative identified at the Conference on the Future of Europe; and finally the EU has signalled its intention to revise the legislation on registration, evaluation and authorisation of chemicals (REACH) following consultation with key stakeholders.

The work programme also includes measures to green Europe's transport network and bring forward legislation on new genomic techniques.

## Scotland's priorities

The SG warmly welcomes this key priority. Scotland is committed to reducing greenhouse gas emissions through a [Just Transition](#) to a net zero economy and society, ensuring the journey is fair and creates a better future for everyone. We have already made progress, including extending free bus travel to young people and establishing the nature restoration fund but we know we need to continue to step up delivery and integrate these priorities across the work of government. This will be driven forward through the new climate plan and biodiversity strategy, supported by our legislative programme which included the introduction of the Circular Economy Bill in June 2023, enabling us to advance a zero waste and circular economy by increasing reuse and recycling rates, and improving waste and recycling services, and the Wildlife Management (Grouse) Bill, in 2023-24.

## Hydrogen

The SG published the [Hydrogen Action Plan](#) (HAP) in December 2022 and the [draft Energy Strategy and Just Transition Plan](#) on 10 January 2023, proposing a route map of actions we will take to deliver a flourishing net zero energy system that supplies affordable, resilient and clean energy to Scotland's workers, households, communities and businesses. In May 2023, it was announced that over £7 million of funding was awarded to 32 projects via the Hydrogen Innovation Scheme. The Renewables Export Plan was published in March 2023 and the Hydrogen Sector Export Plan is due to be published by the end of 2023. These will outline how SG will use its trade and investment levers to support the development of an international market for Scotland's renewables and hydrogen sectors. Hydrogen produced in Scotland could play a significant role in supplying the growing international demand, including in the EU. The opportunity for Scottish businesses extends beyond the trade of hydrogen or hydrogen-derived products and includes the opportunities to increase trade in goods and services across the hydrogen supply chain. Working through our global network of trade and investment offices, SG will promote plans for the export of hydrogen as well as international trade opportunities for Scottish hydrogen companies.

Our ambitions set out in the above publications and initiatives align with and support the EU's ambition to scale up the production, import and use of hydrogen. Where the EU set an ambition to import 10 million tonnes of hydrogen by 2030, our HAP set an ambition for Scotland to be a leading producer and exporter of hydrogen and hydrogen derivatives for use in the UK and in Europe. We will progress the Memoranda of Understanding we have signed with partners in Northern Europe to enable us to build on potential renewable hydrogen trade links and engage on the development of our domestic hydrogen sectors and

the global hydrogen economy. Where international regulatory barriers are identified, SG will utilise mechanisms within our competence to help reduce trade barriers. We will seek opportunities for regulatory cooperation with like-minded trading partners to support Scottish exports of hydrogen, including opportunities for Scottish expertise to inform the development of international hydrogen related regulations and standards.

We will seek to ensure the UK's standards, regulations and certification schemes support the needs of Scotland's hydrogen sector and are strategically aligned with Scotland's priority export partners. Where mechanisms for international regulatory cooperation are reserved, we will ask the UK Government to prioritise cooperation with like-minded trading partners, including the European Commission, to facilitate the smooth international trade of hydrogen and renewable energy sources.

### Animal Health

Protecting our high standards in animal and plant health and welfare is key to our health and wellbeing as well as Scotland's economy and we will continue to align with any protective EU measures that are appropriate for Scotland. For example, we made a commitment in the 2023 Programme for Government to consult on phasing out cages for laying hens and we will continue to closely monitor other proposed improvements in EU animal welfare legislation.

### New genomic techniques

Scotland's GMO (genetically modified organisms) [regulations](#) remain in alignment with the EU regulations currently in place, including in their treatment of new genomic techniques. However, regulations in England on similar technologies are diverging (via the Genetic Technology (Precision Breeding) Act) and this may have impacts on Scotland. We note the European Commission's consideration of new genomic techniques such as gene editing and how these relate to existing GM legislation, and are looking carefully at the implications of the legislative proposals the Commission published in July.

### Soils

We also welcome the Commission's focus on healthy soils which are central to storing, sequestering, and regulating carbon, and are a key component of many Scottish policies, for example, our Vision for Agriculture and National Test Programme, Climate Change Plan, National Planning Framework 4, Scottish Biodiversity Strategy, and Land Use Strategy.

### Waste

The SG is aligned with the EU commitment to halve food waste at the retail and consumer level by 2030. We committed to this target as part of our work with the Courtauld 2030 Commitment where we have access to, and engage with, the UK's biggest food and drink businesses, other devolved governments, and best practice research and interventions on food waste reduction. However, our immediate focus is our target to reduce food waste by 33% by 2025 and we aim to publish a co-created action plan this year which will work for and benefit stakeholders, businesses and householders to review their behaviours and make better-informed decisions to reduce food waste.

The SG is also aware of the negative environmental impacts of current fast fashion culture - textile waste makes up just 4% of household waste but 31% of the carbon impacts. This is why we launched the [Circular Textiles Fund](#) in June 2022 designed to help reduce the environmental impact of textiles and throwaway culture, and to support the development of circular supply chains in Scotland.

In June 2023 we introduced the Circular Economy (Scotland) [Bill](#) to establish the legislative framework to support Scotland's transition to a zero waste and circular economy, significantly increase reuse and recycling rates, and modernise and improve waste and recycling services. We will also be publishing a Waste Route Map later this year which sets out how we intend to deliver our system-wide, comprehensive vision for Scotland's circular economy.

### Marine

We share a range of common outcomes with the EU which help ensure that we are fishing sustainably and responsibly, and continue to monitor EU developments in this area as they seek to deliver a number of improvements to their management approach. Under our Fisheries Management Strategy we are delivering a number of change projects, including the introduction of Remote Electronic Monitoring (REM) to key parts of the fishing fleet which will improve accountability and confidence in our seafood products and ensure that we are fishing within sustainable limits. Whilst Scotland is leading the way on this policy, the EU is also planning to rollout REM in a phased manner and we are actively working with EU colleagues to share our learning and support their own development in this area.

### REACH

We have agreed with the other UK Appropriate Authorities for UK REACH (UK Government (UKG) and Welsh Ministers) that we will keep the proposals for EU REACH reform under review, and consider these further as they become clearer during this EU Presidency. The SG is feeding into a Chemicals Strategy being developed by the UKG; we believe this should be used to prioritise actions that will drive the most important improvements for environment and human health protections, and that these should include a commitment to consider necessary changes to regulation which, as well as improving protections, will help alleviate divergence with EU REACH.

### **A Europe fit for the Digital Age**

The Commission's proposals have reinforced the commitment to accelerate the digital and green transition in tandem, driving efficient economy while minimising environmental impact of digitalisation. This includes proposals to introduce an EU Critical Raw Materials Act, to ensure an adequate and diversified supply for Europe's digital economy as well as its green transition, prioritising re-use and recycling. Other proposed measures include a common European mobility data space and EU regulatory framework for hyperloop as well as tools on developing open human-centric virtual worlds and tools to fight illegal streaming of live events. The Commission will also look to strengthen the single market by expanding and upgrading the use of digital tools and processes in company law to simplify existing procedures and facilitate cross-border expansion of companies and ensure stable regulatory environment by introducing a patent licensing package, as well as revising the late payments Directive to reduce burden on SMEs. Crucially, 2023 will be the European Year of Skills, recognising the importance of reskilling and upskilling workforce to deliver the digital and green transition in a fair way.

### **Scotland's priorities**

We will continue to support enhancements to Scotland's digital infrastructure – by incentivising commercial deployment, targeting our own SG investment through for example the Reaching 100% (R100) broadband roll out and Scottish 4G mobile infill (S4GI) programme - and urging the UK Government to extend gigabit and mobile networks to some of our most rural and island communities, given telecommunications is an entirely reserved matter.

The Connecting Scotland programme aims to ensure that everyone in Scotland has access to digital services by providing access to devices, connectivity, skills and support. The programme has brought a total of 60,000 digitally excluded people online since its launch in 2020. The new Connecting Scotland Programme has resumed its Autumn delivery with £400,000 funding opportunity for lending device library scheme for community networks and charities. The scheme aims to lend a device to the most digitally excluded groups such as disabled, older cohorts, minority groups and those on low-income households.

The SG is committed to increasing digital participation and ensuring that all of Scotland is able to enjoy the social, cultural and economic benefits of a digital society. An expert academic group has considered the key issues on digital ethics and made recommendations in their report, "Building Trust in the Digital Era: Achieving Scotland's Aspirations as an Ethical Digital Nation" (Nov 2022). The report represents the completion of the first stage of our actions.

The SG ambitions on data sharing are aligned with EU Agenda For Data Mobility and we will facilitate timely access to public sector data for innovation and research, in ethical, trustworthy ways, aligned with EU data protection standards. Our Unlocking the Value of Data (UVOD) programme is addressing challenges and blockages to data access and use, to enable businesses to innovate in the public interest and we are working with the UKG and partner organisations across the Scottish Public Sector on the implementation of the Digital Economy Act 2017 (DEA) to ensure that current data sharing legislative frameworks are properly understood and the highest safety and security standards are maintained. The SG is facilitating the use of the data sharing powers in the Digital Economy Act 2017 by providing organisations with the necessary confidence to share personal data in compliance with data protection law.

As set out in our Vision for Trade, the SG believes that digital trade should balance economic and social considerations, upholding data protection and digital rights. Our Export Growth Plan, A Trading Nation, identifies competitive advantages for Scotland in digital, tech, media and e-commerce. Scotland's approach to digital trade will aim to maximise these advantages, enabling more digital trade in both goods and services by reducing barriers to trade as well as restrictions to digital services (e.g. certain data localisation and source code disclosure requirements; web filtering or taxes on digital transactions).

We will ensure that Scottish digital sector companies are fully aware of opportunities that may exist through FTAs and that they are able to take advantage of these. In our Technology Sector Export Plan, we have set out our aim to work collaboratively across the technology ecosystem to support companies and industries to build export capacity and capability. We will work towards increasing the volume of engagement between our Trade Envoys and GlobalScots and technology companies. The focus of implementing our Inward Investment Plan will include key digital sectors: Software & IT, Digital Financial Services and Digital Business Services.

We will take advantage of opportunities from digital trade while boosting the international recognition of Scotland as an ethical digital nation. Our approach to digital trade will be set in a context of good regulatory practice and international regulatory cooperation. The SG opposes any FTA provisions and UK-level policy reforms which could threaten data adequacy with the EU.

### Skills

Two reports on how our lifelong learning system needs to be reformed for future need were published in summer 2023.



James Withers' 'Independent Review of the Skills Delivery Landscape' ('Withers' Review), published on 7th June, made fifteen recommendations for change including significant reform of the public body landscape.

'Purpose and Principles for Post-School Education, Research and Skills', published on 28th June, sets the Scottish Government's long-term vision to deliver better social and economic outcomes for the investment that we make in post-school education, research and skills. The Purpose and Principles accepts the basis of many of the recommendations in the Independent Review of the Skills Delivery Landscape

The Scottish Government has committed in the Programme for Government to outline plans for implementing reform of our education and skills bodies, putting the voices of children, young people and adult learners at their core including responding to the recommendations of James Withers, and the priorities arising from 'Purpose and Principles.

#### Late payments

Regarding late payments proposals, we will consider the recommendations from the Commission following their recent [consultation](#). We are also closely monitoring the current UKG's payment and [payment and cash flow review](#) which will involve both public consultation on payment reporting regulations and a statutory review of the effectiveness of the Small Business Commissioner's office.

#### **An Economy that Works for People**

In light of the illegal Russian invasion of Ukraine, the Commission is in the process of reviewing its trade and investment approach to strengthen its economic security, including revising the foreign direct investment (FDI) screening regulation. In reinforcement of the European Social Market economy model and the Social Rights Action Plan, the Commission will also present proposals for digitalisation of social security systems and social safety nets in support of labour mobility and update the framework for quality traineeships to promote fair remuneration and access to social protection, to boost Europe's social resilience.

#### **Scotland's priorities**

Scotland's Vision for Trade sets out the five principles that underpin the Scottish Government's trade decisions and relationships: inclusive growth, wellbeing, sustainability, net zero and good governance. Making the transition to a Wellbeing Economy is a top priority for the SG. This means building an economy that operates within safe environmental limits, and which serves the collective wellbeing of current and future generations first and foremost, and incorporates the internationally recognised Community Wealth Building (CWB) practical approach to economic development. Our wellbeing economy approach includes sustainable, inclusive economic growth for a purpose, to drive improved living standards, promote wellbeing, reduce poverty, and deliver sustainable high quality public services. Our economic transformation aims to fundamentally reshape our economy, delivering a just transition to a net zero, nature-positive economy based on the principles of equality, prosperity, sustainability and resilience.

As part of a wider commitment to maximising incomes, the SG is continuing our ongoing work to automate social security payments where appropriate, ensuring we minimise as far as possible any burdens and maximise uptake across all devolved benefits.

We welcome the Commission's focus on fair remuneration and remain committed to the vision for Scotland to be a leading Fair Work nation by 2025. For those who are able to work, paid employment offers a sustainable route out of poverty. That is why payment of, at least,

the Real Living Wage is all the more important now as a way of supporting those in low pay jobs through the cost crisis and is an important enabler for sustaining productive, committed and engaged workforces during these difficult times. While employment law remains reserved to the UKG, we will use the levers available to us to promote fair work practices across Scotland, including through our public spend. We are strengthening our flagship Fair Work First conditionality approach, by requiring recipients of public sector grants awarded on or after 1 July 2023 to pay at least the real Living Wage and provide appropriate channels for effective workers' voice.

### **A Stronger Europe**

Reflecting the stark reality of the war and the need to ramp up efforts in the area of security and defence, the Commission will develop a new space strategy for security and defence, as well as a new EU maritime security strategy. While continuing the sanctions against Russia, the Commission will also update its sanctions toolbox to include corruption. The Commission will continue cooperation with candidate countries including Ukraine while also engaging with other European countries through the Economic Political Community and beyond Europe, including discussions on trade to diversify supply chains and broaden engagement with the Latin America and the Caribbean.

### **Scotland's priorities**

While security and defence are reserved matters where Scotland has no devolved powers, the EU maritime security strategy also covers maritime infrastructure (ports, underwater pipelines and cables, windfarms etc); which would overlap with areas of devolved competence including marine energy and offshore wind. Policing and fisheries protection aspects of maritime security are also devolved, and fall within the remits of Police Scotland and the Scottish Government's Marine Directorate respectively.

The recently published draft Energy Strategy and Just Transition Plan consultation sought views on an increasing our offshore wind deployment ambition for 2030, and setting a further deployment ambition for 2045. The consultation also sought views on appropriate levels of ambition for the wave and tidal sectors for 2030 and 2045. SG is currently engaging with the UKG on mitigating the impacts on defence radar systems from the expansion of offshore wind turbines. This work is being coordinated by the UKG and envisages collective investment by developers in mitigation technology, to be rolled out in phases that will include Scottish waters as and when needed as a result of ScotWind and Innovation and Targeted Oil and Gas offshore wind leasing round (INTOG) installations.

### **Promoting our European Way of Life**

As part of the European Year of Skills, the Commission will update the current EU learning mobility framework to enable students to move more easily between education systems and present proposals on recognising the qualifications of non-EU nationals. Building on the European Health Union, the Commission will create the Health Data Space and propose a comprehensive approach to mental health, as well as a revised recommendation on smoke-free environments, and a new recommendation on vaccine-preventable cancers. As part of building a Security Union, the Commission will propose a revision of the Directive on combatting child sexual abuse in line with the rights of the child and a number of home and justice proposals including strengthening cross-border police cooperation.

### **Scotland's priorities**

The SG believes that trade and investment in an increasingly service-based economy is tied closely to the mobility of skills and labour. Mutual Recognition of Professional Qualifications is an increasingly important consideration, both for the provision of tradeable services and the recruitment of highly skilled, qualified people. With Brexit, Scotland lost access to the EU

system for recognising professional qualifications gained overseas. The UK Professional Qualifications Act 2022 now provides authorities in the UK with the power to make regulations which facilitate the assessment of individuals with overseas qualifications or experience for the purposes of establishing if they should be allowed to practise a profession in the UK. In 2023, the SG will continue to work with The Department for Business and Trade to help facilitates access for Scotland's lawyers, architects, teachers and other professionals to international markets and ensure it respects devolved aspects of the implementation of the Act.

The UK and Scotland are still members of the European Higher Education Area and Bologna process and Scotland, through the [Scottish Credit and Qualifications Framework \(SCQF\)](#) , our HE qualifications are aligned with the European Qualifications Framework (EQF).

Scottish Ministers have been clear consistently that association with the EU's flagship research programme, Horizon Europe, is a matter of significant importance to Scotland and the best option for our nation and research sector. The agreement in principle between the UK Government and the European Commission for UK association to EU programmes, Horizon Europe and Copernicus is welcome. We will continue to work with our vital EU partners to maximise Scotland's research and innovation opportunities for collaboration under Horizon Europe.

#### EU Health Union

We are also continuing to track developments in the EU's Health Union. This year will see the Union launch a new preventative approach to mental health, addressing all policies and the determinants that affect mental health. We are developing the first Delivery Plan for our Mental Health and Wellbeing Strategy. Our Delivery Plan will be refreshed on an ongoing basis, giving us an opportunity to continually assess any EU proposals in terms of alignment and possible involvement as they arise.

Scotland remains focused on creating a tobacco free generation in 2034, our world-leading tobacco control measures in Scotland are working and the numbers of people smoking continues to reduce, according to the Scottish Health Survey. In September 2022 it became an offence to smoke within 15 metres of a hospital building, expanding existing smoke free legislation in line with European Council recommendations on smoke free environments. Like many countries we continue to be concerned about the rise in children and young people vaping.

We aim to continue to de-normalise smoking in everyday life and will publish our refreshed Tobacco Action Plan later this year with further action to tackle smoking rates and youth vaping.

#### Justice and Home affairs

Insofar as the EU's justice and home affairs portfolio is concerned, there are a number of expected developments that will be relevant for consideration of alignment including:

- The proposed directive on combatting child sexual abuse
- Prüm II, on biometrics and police information sharing
- The recasting of the Victims' Rights Directive, which will likely mirror some of the Scottish Government's proposals in upcoming the Criminal Justice Reform Bill
- broader work on the criminalisation of violence against women and girls, linked to the Misogyny Law consultation.

We will continue monitoring any developments of these proposals and consider possible alignment following an analysis of whether Scotland can or already has made such domestic legal changes.

### **A New Push for European Democracy**

Protecting democratic values and institutions as a key pillar of the European Democracy Action Plan, the Commission will introduce defence of democracy package including proposals to promote free and fair elections, to step up the fight against disinformation and to support media freedom. This will include proposals to strengthen the European Parliament elections by proposing a new Electoral law.

The Commission will also continue to further equality by proposing a European disability card that will ensure the mutual recognition of disability status across all Member States and addressing gaps in the legal protection against discrimination.

The Commission will also propose amendments to the rules governing cooperation between consumer protection authorities and improve the cooperation between national data protection authorities.

### **Scotland's priorities**

Scotland shares the fundamental values of the European Union – human dignity, freedom, democracy, equality, the rule of law and respect for human rights. The SG will continue working with all our partners and stakeholders including civil society (such as the Scottish Advisory Forum on Europe) to ensure that voices of all people in Scotland are heard and reflected in our priorities.

We welcome the Commission's commitment to furthering equality and specific focus on disability rights. Scottish Ministers have committed to introducing Scotland's first National Transitions to Adulthood Strategy in this Parliamentary term to ensure there is a joined up approach in order that all disabled young people can experience a supported and positive transition to adult life. We are ensuring that the voices of disabled young people are clearly heard in this vital work.

We are incorporating the UN Convention on the Rights of the Child into Scots law and we are committed to incorporating four additional international human rights treaties into Scots law, within the limits of devolved competence, including the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Incorporation of the CRPD will place greater impetus on public bodies to remove barriers and support disabled people to fully participate in society.

### **Priorities for 2024**

The Commission President's last annual state of the union address of this Commission was given in September 2023. With less than a year until European parliament elections, the address covered a number of priorities for the EU going into election year and beyond. These included the European Green Deal and food security, competitiveness and the economy, digital rights, migration, Ukraine and EU enlargement. These are reflected in detail in the CWP 2024 – [Delivering today and preparing for tomorrow](#) – published on 17 October 2023. The Scottish Government will consider the contents of the new work plan in setting our policy priorities for EU alignment and engagement with the EU and presidency countries over the coming year, activity which will be reflected in the next annual report.

### **Conclusion**

The Scottish Government's priorities continue to closely mirror the EU's as set out in the annual CWP. Despite Brexit, Scotland remains committed to maintaining the strongest possible relationships with our European partners and working on priorities that we have in common underpinned by the values we share.

In the context of the geopolitical, economic and other challenges facing the EU and the international community, we recognise the importance of standing firm and united behind the key principles that define the EU as well as Scotland as a nation, including respect for human rights, democracy and the rule of law.

We will continue monitoring the Commission's proposals as they develop further and consider alignment where possible and meaningful and in a manner that contributes towards maintaining and advancing standards across a range of policy areas and facilitating Scotland's return to the EU as an independent nation.