



Scotland Bill 2010
Written evidence

Scottish Environment LINK contributed views to the Calman Commission on Devolution with oral evidence given on 10 October 2008¹ by Lloyd Austin of RSPB Scotland. The main issues of interest to RSPB Scotland are those matters where policy is recommended to be further devolved or re-reserved where this has the potential to impact on environmental outcomes. Our experience, especially of working with colleagues elsewhere in the UK and overseas, encompasses a wide range of constitutional arrangements which leads us to conclude that the arrangements in themselves do not necessarily affect the quality of environmental outcomes. As a result, we do not have constitutional preferences and comment only where anomalies have arisen, or these issues impede the achievement of positive environmental outcomes. With this in mind, we wish to focus our response on question 5 in the call for written evidence, with additional observations made on matters concerning the marine environment.

As a general observation, we note Clause 24 of the Scotland Bill which allows for the creation of further devolved taxes. Parts 5.109 and 5.208 of the Calman Commission report refer to “green taxes” as an important policy lever in relation to environmental issues. **Implementation of Clause 24 could present the Scottish Government with a sizeable opportunity to develop and implement a comprehensive ‘green tax policy’ to drive forward its environmental objectives**, which would complement the devolution of other green taxes such as Landfill, and we see great potential for future Scottish Governments to use these powers. We welcomed Calman’s recognition that the Scottish Parliament could achieve more positive benefits for the environment with fiscal policy options, and we recommend that the new powers under Clause 24 of the Bill be considered in this light. We further recommend that, in the next Parliament, the successor Committee to the Rural Affairs and Environment Committee should find time to **hold an inquiry into the opportunities to achieve environmental objectives from the operation of the Parliament’s fiscal powers** (including borrowing powers, Landfill Tax and other devolved taxes).

Question 5 – What is your opinion of the proposals to create devolved taxes, Stamp Duty Land Tax and Landfill Tax, and the powers to create new devolved taxes?

Landfill Tax

Taxing waste going to landfill encourages us to produce less waste while delivering positive environmental benefits. It is a good working example of a hypothecated or ‘ring-fenced’ tax – it has compensated for an environmentally damaging activity by funding projects which improve the environment for the benefit of biodiversity and the communities who live near landfill sites. In particular, allowing landfill operators to contribute towards environmental projects through the Landfill Community Fund (LCF) has enabled valuable biodiversity work to take place across Scotland and delivered many positive environmental outcomes (*Please refer to the Appendix to this document which contains short case studies of LCF-funded projects in Scotland*). **If Landfill Tax is devolved the Scottish Government should, at a minimum, strive to implement a similar scheme by allowing landfill operators to pay a percentage of their Landfill Tax into an LCF or similar.** It is worth noting that this has the added benefit of helping drive forward the Government’s environmental objectives at no extra cost to the public purse, since Landfill Tax is classed as private money. This also puts successful applicants to the LCF in a unique position to make government money go further. For example, an organisation in receipt of funding from Scottish Natural Heritage could deliver more on a particular environmental project through having

¹ <http://www.commissiononscottishdevolution.org.uk/uploads/transcript-10-October.pdf>

access to the private funding stream of the LCF. In addition, a successful application to the LCF can often be used as a tool to attract matched funding from other sources.

In 2010/11 the potential value of credits available through the Landfill Community Fund, and therefore available for project applications, was £74.25 million (around £4m in Scotland). For nature conservation organisations the LCF has therefore been a lifeline at a time when funding for the natural environment is being squeezed ever more tightly, and is one of the few remaining funding streams for biodiversity work. Biodiversity objectives should be a priority of any similar hypothecated scheme in Scotland and need not infringe upon any community benefit, as healthy biodiversity in itself would deliver positive environmental outcomes for nearby communities.

The existing UK-wide system of hypothecated taxation through the Landfill Tax has worked well. However, there are some issues which will need careful consideration if a devolved Landfill Tax is to function as effectively in delivering positive environmental outcomes, and there are significant opportunities to improve the system.

- Will Landfill operators who currently work on a UK basis be restricted in where they can distribute their funds? Will such operators be prevented from distributing credit in Scotland? Failure to resolve this issue could result in a substantial reduction of funding available to suitable projects in Scotland.
- Current guidelines from ENTRUST, the regulator of the LCF, recommend that funding should be allocated to projects within 10 miles of a landfill site (although this guideline can be flexed slightly if the applicant can prove that there has been a significant disamenity to nearby communities). Though we do not advocate complete abolition of the '10 mile rule', we would like to see greater flexibility in how it is applied, particularly across the rural and remote parts of Scotland. In areas like the Central Belt or the South East of England, for example, a 10 mile stretch is likely to pass through many different communities, whereas 10 miles in any given direction in the Highlands and Islands is not likely to take you out of one community and into the next. Economies of scale means that landfill from many communities is often processed in a central location, and therefore it is reasonable that a project which would deliver significant biodiversity outcomes, and therefore a community benefit, should be eligible for funding regardless of distance from the landfill site. The dispersed nature of communities in the Highlands and Islands means that the way in which the LCF currently operates puts rural communities at a disadvantage. A devolved scheme could build in greater flexibility from the start, without severing the link between disamenity to communities near landfill sites and successful funding applications .
- Who will regulate a Scottish LCF or similar scheme? Will ENTRUST, the current UK regulator of the LCF, continue to regulate a new Scottish scheme, or will a new enforcing body be established? How will such a body be funded? Whilst we have no preference or recommendations either way, we reiterate the need for any new scheme in Scotland to be effective in delivering positive environmental outcomes as a compensation for the environmental 'bad' caused by landfill sites. Such a scheme will require effective regulation by a competent body.

If the Landfill Tax is devolved, as a minimum the current level of hypothecated taxation through Landfill Tax should be maintained or increased. The LCF model or equivalent should be retained as a source of environmental funding but with greater flexibility in the allocation of funding to remote and rural projects. We hope that the current and future Scottish Governments will commit themselves to this approach.

Stamp Duty

We note the measures to devolve Stamp Duty and have no view on whether or not it should be devolved. However, as with Landfill Tax, we reiterate the need to retain the current model of implementation, with regard to 100% relief from Stamp Duty Land Tax for charities.

Marine powers

We note that there is no provision in the Bill to devolve marine nature conservation. During the passage of the Marine (Scotland) Bill, RSPB Scotland supported the Scottish Environment Link position that marine nature conservation should be devolved, given the unique opportunity to do so at that time. The Executive Devolution of marine nature conservation agreed by the UK and Scottish Governments has the potential to address environmental concerns previously outlined by RSPB Scotland and LINK, but both the UK and Scottish Marine Acts are still in the early stages of implementation. In light of this, we can see some justification for not devolving nature conservation powers at this time. However, ultimately, we remain of the view that marine nature conservation powers should be legislatively devolved and, if it does not form part of this Scotland Bill, we look forward to a review in the near future into how the two Marine Acts are working together and would welcome the opportunity to participate in that debate. If no devolution takes place under this Bill, we hope that, in the course of the debate, both the UK and Scottish Governments will commit to such a review by 2015.

For further information please contact:

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RSPB Scotland is part of the Royal Society for the Protection of Birds, the UK-wide charity which speaks out for birds and wildlife, tackling the problems that threaten our environment. Nature is amazing - help us keep it that way.

APPENDIX

Landfill Communities Fund – Case Studies for Scotland Bill Committee January 2011

Location: Kelvingrove Museum & Park, Glasgow City

LCF Amount awarded: £7,238

LCF Distributor: Glasgow Council

Project Details:

As part of an innovative partnership with Kelvingrove Museum (Scotland's largest free visitor attraction) LCF funding was provided through Glasgow City Council to help deliver a new and varied programme of outdoor learning. This funding was used to purchase and install engaging interpretation about the surprising diversity of wildlife that can be found in the green spaces of Scotland's urban centres. The project complemented a wider programme involving RSPB field teachers and information officers who had been placed within the museum and surrounding park to deliver active environmental education to Glasgow school children. The interpretation benefits not only the 5,000+ school children who have enjoyed the guided nature walks, but also the hundreds of thousands of people who visit this site each year. The project also helps contribute towards Council and Government objectives: in learning about sciences and the natural world, the interpretation provides improved intellectual access, whilst the wider programme of outdoor learning helps encourage healthier, more active lifestyles by encouraging people to continue to learn about and enjoy the natural world that surrounds us all.

Location: RSPB Abernethy Forest Nature Reserve, Cairngorm National Park, Highlands

LCF Amount Awarded: £10,000

LCF Distributor: Inverness Council

Project Details:

Abernethy is one of the RSPB's flagship reserves and arguably the most iconic in the country, encompassing Scotland's largest remnant of ancient native Caledonian pinewood forest. Its expanse encompasses the richest biodiversity of all the RSPB reserves across the UK, with 3,500 recorded species. Of these, however, 800 are of conservation concern, making the reserve vitally important in terms of species conservation. LCF money was awarded to target conservation and enhancement of the native pinewood woodland - a UK Biodiversity Action Plan (UKBAP) Habitat, for the benefit of capercaillie and black grouse (both high priority UKBAP species). This targeted work, and the broader biodiversity benefits that it will bring, are in line with the objectives of both the Scottish Government's '*Scottish Biodiversity Strategy*' and the Species Framework Directive programme that is coordinated by Scottish Natural Heritage. The work undertaken will help improve biodiversity and the wildlife spectacle enjoyed by the 90,000 people who visit the reserve each year to enjoy its wild splendour.

Location: Aberdeen City

LCF Amount Awarded: £45,000

LCF Distributor: Aberdeen Countryside Project

Project Details:

Red kites were once common across the whole of the UK. However, sustained persecution in the Victorian era saw them driven to the brink of extinction, and continued illegal persecution has somewhat reduced the success of previous reintroduction programmes in Scotland. It was deemed important, therefore, to set up a new release site to help bolster the Scottish population in an area of low persecution. LCF money was awarded to help reintroduce red kites back into the Aberdeen and Aberdeenshire area through a dedicated relocation programme. The money was used to hire a project officer, build release cages, and purchase radio tracking and safety equipment for tree climbing. This project was delivered between 2007 and 2010 and has been a resounding success with over 100 red kites having been released into the Aberdeen area and in

2009 chicks fledged in Aberdeen for the first time in 150 years. Following breeding successes, the project has been able to be expanded to include public engagement work that raises awareness of these spectacular birds. Footage of the chicks on the nest has been shown in prominent public areas of Aberdeen and over 2,500 local school children have received inspiring and educational talks about their spectacular new wild neighbour.

Location: Lochwinnoch, Renfrewshire

LCF Amount Awarded: £250,000 (pending)

LCF Distributor: WREN

Project Details:

LCF money to the tune of £250,000 has been nominally awarded for a large habitat restoration project planned for RSPB's Lochwinnoch nature reserve in Renfrewshire. This substantial income will allow engineering works to take place that will help re-naturalise the water course in the area. This will help improve water conditions in the nearby Barr loch and its associated inflow and outflow channels. Wetland habitat, long a diminishing natural resource in the UK, will be created and profiled to provide optimum conditions for a wide variety of wetland species – including priority conservation species - that are reliant on this type of habitat. The works will contribute to the restoration of good ecological status of this wetland reserve under SEPA's Water Frameworks Directive. Improved habitat conditions at the reserve are anticipated to improve its biodiversity value and provide an enhanced experience for the 35,000 people that currently visit the reserve each year. We are confident that these improvements will entice more visitors and inward investment into the local vicinity.