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Rural Affairs, Islands and Natural Environment  
Committee  
Scottish Parliament  
Edinburgh  
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22 April 2022

Dear Finlay,

Thank you for the constructive and helpful Stage 1 Report on the Good Food Nation (Scotland) Bill. I would also like to take this opportunity to thank all those who have engaged with us to help shape the Bill, and in particular all those who provided evidence.

I am grateful for the comments and recommendations in the report and I enclose the Scottish Government's response to the Committee's recommendations in the Stage 1 report.

I hope that the Committee finds this response helpful.

Yours sincerely,

**MAIRI GOUGEON**



## SCOTTISH GOVERNMENT RESPONSE TO STAGE 1 REPORT

### Introduction

- a) In the response below the Scottish Government addresses the issues raised in the Committee's report where either a response was sought or otherwise where a response following the Stage 1 debate on the general principles of the Bill is considered helpful.

### Framework legislation

25. **The Committee notes this is a framework bill which provides for a legal requirement to publish good food nation plans but does not make provision for the detail of the plans beyond the requirements set out in section 1(3) to (5). It acknowledges the concerns raised by the majority of stakeholders that the bill does not provide for more detail relating to either the purpose and direction of travel for Scotland's food system or a coherent cross-government framework of food-related policies and legislation and their view is that, to be effective, the bill should provide this detail.**
26. **The Committee notes and welcomes the Cabinet Secretary's reassurances that the detail and scope called for by a significant number of those who gave evidence will be reflected in the draft good food nation plans. The Committee, therefore, fully expects the consultation on the plan to clearly articulate these wider ambitions and that these should also be reflected in the plan when it is laid before the Parliament.**

### The Scottish Government response

- b) The Scottish Government notes the Committee's comments and has listened carefully to the concerns of stakeholders around the detail of the Bill. As noted in the Cabinet Secretary's evidence session and by the Committee this is a framework Bill and so its scope is focussed on the plans that will enable progression of our Good Food Nation ambitions.
- c) The Scottish Government reiterates that the detail and scope called for by many of those that gave evidence will be reflected in the draft good food nation plans. As the Bill sets out, the plans will need to have regard to social and economic wellbeing, the environment, health and economic development, and thus the content of the plans and their implications will be broad. The Scottish Government agrees with the Committee that the consultation process associated with the good food nation plans should clearly set out the wider ambitions in relation to food policy in Scotland.

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## National good food nation plan

41. **The Committee has explored in detail the issue of whether targets or more detailed outcomes should be included in the bill. The Committee notes the strong views expressed by many stakeholders that some targets or more detailed outcomes on the face of the bill are essential to drive progress; and strong views expressed by other stakeholders that statutory targets or more detailed outcomes would restrict the Scottish Ministers' flexibility.**
42. **The Committee has given due consideration to all the views expressed to it over the course of its inquiry and a number of possible targets were proposed but there was no overall clear consensus. The Committee agrees it would not be appropriate to include detailed targets on the face of the bill and that the national good food nation plan is the best place for these to be set out. The Committee asks for further information in advance of the Stage 1 debate about how these detailed targets would be reflected in the national good food nation plan.**
43. **The Committee is more persuaded by representations made to it about the bill being amended to include more high-level objectives to reflect the broad vision and ambitions for the good food nation policy. The Committee urges the Scottish Government to give further thought to how high-level objectives could be included in the bill at Stage 2, and whether section 1(5) should be widened, and to update the Parliament on its thinking in advance of the Stage 1 debate.**

### The Scottish Government response

- d) The Scottish Government notes and agrees with the Committee's view regarding targets. As set out in the Committee's report there was no overall consensus with respect to including detailed targets on the face of the Bill and this reflects the challenges in setting out targets that remain meaningful, up to date and representative of the whole scope of food policy within this legislation. As we have previously noted, targets will be included in national good food nation plan, the drafts of which will be subject to consultation.
- e) The Scottish Government notes the Committee's view and has listened to those that gave evidence regarding including more high-level objectives in the Bill. The Scottish Government agrees that it would be valuable to set out our ambition in the Bill in order to underpin what we are aiming to achieve through this Bill. We are giving further consideration to including appropriate provisions within the Bill and note the Committee's comments that these should reflect the broad vision and ambitions for the good food nation policy.

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## Oversight and accountability

55. **The Committee agrees that effective oversight of the good food nation policy, and accountability for the statutory good food nation plans, are essential to achieving the good food nation ambitions. The Committee does not believe that the current oversight provisions in the bill – the requirement to lay all national plans in the Scottish Parliament (sections 1 and 6) and to lay a progress report every five years (section 5) – are sufficient. Accordingly, the Committee recommends the bill is amended at Stage 2 to strengthen the oversight function.**
56. **The Committee notes that, as currently drafted, there would be a limited statutory role for the Scottish Parliament in relation to the good food nation plans. The bill does not provide for parliamentary approval of the national good food nation plans or consideration of the section 5 progress report.**
57. **The Committee believes the Parliament should have a greater role in relation to the good food nation plans. The Committee recommends the bill should be amended to require parliamentary approval after the national good food nation plan has been laid. This will give Parliament its place in the good food nation process and provide parliamentary accountability of the Scottish Government in achieving its good food nation aims. The Committee recommends parliamentary approval should be required after the first national plan has been laid under section 1 of the bill and any revised plans subsequently laid under section 6.**
58. **In relation to oversight of the good food nation plans more generally, the Committee notes there are significantly differing views about what this oversight function should look like and who should be tasked with it. The Committee is not in a position to make a clear recommendation as to where this oversight function should sit.**
59. **The Committee also notes the Scottish Government’s long-standing position that a new oversight body is not required but that it is currently considering this under the terms of the Bute House Agreement. The Committee notes with concern that this consideration is in its early stages. The Committee’s assumption is that any oversight role deemed necessary would be provided for through this Bill.**
60. **The Committee urges the Scottish Government to report back with an update on its thinking in advance of the Stage 1 debate. The Committee believes further information, and reassurance, about an oversight function is essential.**

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## The Scottish Government response

- f) We note the Committee's comments in paragraph 44 and 55 that a progress report is required to be laid every five years (section 5). To clarify, section 5 requires that a progress report is laid every two years.
- g) We have taken on board the recommendations in relation to the oversight function and we will carefully consider how to further address the points made by the Committee and can confirm that any oversight role identified will be dealt with within the context of this Bill.
- h) It is the Scottish Government's position that it is for Government to develop and publish the national good food plan following consultation. However, we have taken on board the Committee's views with respect to the role of Parliament in scrutinising this work: we agree that enhancing Parliament's role in the development of the national good food nation plan requires further consideration.

## Right to food

- 67. **The Committee welcomes the Scottish Government's commitment, through the Bute House Agreement, to create a statutory right to food and notes the Scottish Ministers' preference for this to be incorporated via the forthcoming human rights legislation.**
- 68. **The Committee notes the views of some stakeholders who want the right to food to be incorporated into this bill. Members recognise, however, that human rights legislation is the best vehicle to provide for a right to food and the Committee is, therefore, content with the right to food not being formally incorporated into Scots law via this bill.**
- 69. **The Committee, however, also calls for the bill to align closely to the proposed right to food, especially until a statutory right to food is in place. The Committee would welcome further information about the timescale for the proposed human rights legislation.**

## The Scottish Government response

- i) The Scottish Government welcomes the Committee's agreement that human rights legislation is the best vehicle to provide for a right to adequate food. As noted in the evidence sessions section 3(2)(a) of the Bill sets out a duty on Scottish Ministers to have regard to Article 11 (so far as it concerns adequate food) of the International Covenant on Economic, Social and Cultural Rights and a new Human Rights Bill will be introduced to Parliament during this (2021-26) parliamentary session.

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## Section 2 – preparation of plan: consultation

77. **The Committee agrees that any consultation undertaken by the Scottish Ministers on the draft national good food nation plan must be as wide, inclusive and participatory as possible, in line with its own guidance and equalities duties. The Committee agrees with the evidence it received that the consultation methods used should be tailored for each specific audience and that ‘one size will not fit all’. The Committee, therefore, welcomes the commitments made by the Cabinet Secretary, and her officials, that the Scottish Government’s approach to consultation will be as open, accessible and inclusive as possible.**

### The Scottish Government response

j) Noted. The Scottish Government intends for any future consultations on the national good food nation plan to be as open, accessible and inclusive as possible.

## Section 3 – preparation of plan: consideration of international instruments

83. **The Committee is content with the policy intention set out in section 3. The Committee notes, and agrees with, the provision that any amendments to the list of international instruments should be made under the affirmative procedure.**

### The Scottish Government response

k) Noted.

## Section 4 – effect of plan

96. **The Committee believes that section 4 – the requirement on the Scottish Ministers to have regard to the national plan when exercising specified functions to be set out in subordinate legislation – is key to the effectiveness of the plans. It is regrettable that a draft list has not been available for the Parliament to scrutinise alongside the primary legislation.**

97. **The Committee welcomes, however, the Cabinet Secretary’s confirmation that the proposed specified functions or functions falling within a specified description will be included with the consultation on the draft national good food nation plan.**

98. **The Committee recommends the Scottish Government consult on whether the list of specified functions or functions falling within a**

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**specified description remain fit for purpose or should be revised when undertaking future consultations under section 2.**

The Scottish Government response

- l) The Scottish Government welcomes the Committee's comments on specified functions and will give further consideration to the Committee's recommendation on consulting on whether the specified functions or functions falling within a specified description remain fit for purpose or should be revised when undertaking future consultations under section 2.

**Parliamentary scrutiny of the specified functions or functions falling within a specified description**

103. **The Committee notes the negative procedure was chosen as it was felt the purpose of section 4 did not meet the criteria "usually reserved for the affirmative procedure" and that the subordinate legislation could include "quite detailed and lengthy lists". The Committee, however, believes section 4 should meet the criteria for the affirmative procedure and that subordinate legislation made under section 4 should be given the more detailed parliamentary scrutiny which is part of the affirmative procedure.**
104. **Accordingly, the Committee believes there should be a stronger role for the Parliament in scrutinising these specified functions. The Committee believes a proportionate approach needs to be taken and recommends, therefore, that the first set of regulations made under section 4 should be considered under the affirmative procedure, with subsequent amendments considered under the negative procedure. This would enable this Committee to reassure itself that the range of functions raised in evidence have been properly taken into account.**

The Scottish Government response

- m) The Scottish Government notes the Committee's response and will give further consideration to the proposal that the first set of regulations made under section 4 should be considered under the affirmative procedure, with subsequent amendments considered under the negative procedure.

*Duty to 'have regard' to the national good food nation plan*

108. **The Committee notes the Scottish Government's explanation about what the duty to 'have regard' would mean in practice and the Cabinet Secretary's comments about the national plan including information about how the Scottish Ministers could demonstrate they have had**

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**regard. The Committee welcomes these comments and recommends the Scottish Government include this information in the national plan.**

The Scottish Government response

- n) The Scottish Government will consider how best to demonstrate that Ministers have complied with the duty to ‘have regard’ to the national good food nation plan when formulating policy.

111. **The Committee recognises this reporting provision is an important aspect of the Scottish Government’s proposed oversight mechanisms.**
112. **The Committee notes the Bill does not require the Scottish Government to consult with stakeholders in advance of publishing its section 5 reports and the Committee queries the value of a progress report which is not informed by key stakeholders’ views. The Committee seeks further information from the Scottish Government, in advance of the Stage 1 debate, about how it intends to inform its section 5 reports and how it will engage with key stakeholders as part of this process.**
113. **As these section 5 reports will be fundamental in the path towards achieving the good food nation ambitions, the Committee expects they will be given an appropriate level of scrutiny, both by the Parliament and by any body is charged with an oversight function for the national good food plan. The Committee commits to scrutinise these reports over the course of this parliamentary session in order to track the Scottish Government’s progress towards a good food nation. When responding to the Committee’s recommendations in relation to an oversight body, the Committee asks that the Scottish Government include information about how it expects this body will scrutinise section 5 reports.**

The Scottish Government response

- o) The Scottish Government welcomes the Committee’s commitment to scrutinising the section 5 reports and looks forward to working with the Committee to obtain their views on the reports. As noted by the Committee the section 5 reports are fundamental to achieving the good food nation ambitions and will enable stakeholders to track progress against the indicators set out in the good food nation plan. Once published the Scottish Government will lay the report before the Scottish Parliament as currently set out in the Bill.
- p) As noted above in paragraph g) the Scottish Government intends to consider the points raised about a possible oversight function, this will include consideration of the

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Committee's views in relation to scrutiny of section 5 reports. The committee's comments with respect to the role of stakeholders' views will be factored into our consideration.

**116. The Committee notes the Scottish Ministers are not required to consult as part of its section 6 reviews of the national good food nation plan and in advance of revising the national plan. The Committee asks the Scottish Government, in its response to this report, to reflect on whether it would be open to a requirement to consult as part of the review process.**

#### The Scottish Government response

q) The Scottish Government notes the Committee's view on the requirement to consult as part of its section 6 review and will give this further consideration during the Bill process.

**126. The Committee notes that, whilst some local authorities embraced the good food nation vision some time ago, other authorities will be at an earlier stage of their good food nation journey. The Committee considers it essential to ensure that these authorities have access to information and advice to support the development of their plans. The Committee calls on the Scottish Government, therefore, to set out in its response to this report how it intends to provide this information and advice.**

**127. The Committee notes health boards' chief executives' request for clarification about how the requirement to produce a good food nation plan would sit alongside health boards' existing mechanisms and plans. The Committee asks for a direct response on this point in the Cabinet Secretary's response to this report and in advance of the Stage 1 debate.**

#### The Scottish Government response

r) The Scottish Government notes the points raised by the Committee about the differences between local authorities in relation to their good food nation journeys. This has been raised in our ongoing discussions with COSLA and we have committed to give further consideration to ways to help, such as the provision of guidance.

s) The Scottish Government notes the Committee's comments in relation to the letter received from NHS Board Chief Executives and their concerns about how the good food nation plans will sit alongside health boards' existing mechanisms and plans. The Scottish Government will work with health boards to address the points raised.

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138. **The Committee sees the potential value of extending the section 7 requirement to other public bodies in appropriate circumstances but is concerned that the bill would give the Scottish Ministers the power to do so without any formal consultation with stakeholders or scrutiny by the Scottish Parliament. The Committee believes there should be some level of consultation and scrutiny associated with the decision to specify additional relevant authorities.**
139. **Accordingly, the Committee notes the DPLRC’s recommendation that the bill should be amended to require the Scottish Government to consult in advance of specifying an additional relevant authority under section 7(2)(c). The Committee asks the Scottish Government for its response to this recommendation.**
140. **The Committee also recommends that the Scottish Ministers, and relevant authorities, use their progress reports (required under section 5 and section 11 respectively) as a vehicle to set out any comments or recommendations on whether any additional relevant authorities should be specified.**

#### The Scottish Government response

- t) The Scottish Government notes the Committee’s comments with regard to formal consultation and scrutiny in section 7 and that regulations under section 7(2)(c) be made under the affirmative procedure and will give this further consideration.
- u) The Scottish Government notes the recommendation that the progress reports required under section 5 and section 7 be used to set out any comments or recommendations on whether any additional relevant authorities should be specified.

148. **The Committee has already set out its main conclusions and recommendations in relation to the question of whether more detailed targets or outcomes should be included in the bill earlier in this report.**
149. **Whilst the Committee agrees it would not be appropriate to include detailed targets on the face of the bill, it is more persuaded by representations made to it about the bill being amended to include high-level objectives to reflect the broad vision and ambitions for the good food nation policy. The Committee urges the Scottish Government to give further thought to how high-level objectives could be included in the bill at Stage 2 and to update the Parliament on its thinking in advance of the Stage 1 debate.**

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## The Scottish Government response

v) Noted, response provided above in paragraphs d) and e).

158. **The Committee believes that the current oversight provision in relation to relevant authorities' plans – to lay a progress report under section 11 – and to use existing reporting mechanisms could be strengthened. Accordingly, the Committee recommends the bill is amended at Stage 2 to enhanced the oversight function.**
159. **The Committee has already noted the Scottish Government's consideration of whether a new national oversight body is required and has asked the Scottish Government to report back with an update on its thinking in advance of the Stage 1 debate. The Committee asks this update to include proposals around what role a national oversight body could have to support and monitor relevant authorities' progress against their good food nation plans and outcomes.**

## The Scottish Government response

w) Noted, response provided in paragraphs g) and h).

164. **Similar to the Committee's conclusions in relation to the national good food nation plan, members agree that any consultation undertaken by relevant authorities on their good food nation plans must be as wide, inclusive and participatory as possible, in line with their own guidance and equalities duties. The Committee also agrees that the consultation methods used by relevant authorities should be tailored for each specific audience and that 'one size will not fit all'.**

## The Scottish Government response

x) Noted.

168. **The Committee notes the Scottish Government's decision to publish its draft national plan before relevant authorities' draft their plans and for the consultation to include the specified functions. The Committee encourages dialogue between the Scottish Government and relevant authorities at this point in order to inform and support relevant authorities' development of their plans.**

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## The Scottish Government response

- y) The Scottish Government note the Committee's recommendation and will continue to engage with relevant authorities to support development of their plans.

175. **As the Committee concluded in relation to section 4, members believe that the requirement for relevant authorities to have regard to their plans is key to the effectiveness of the plans. The Committee would prefer the bill to include a mechanism to monitor how relevant authorities are implementing the bill provisions and demonstrating they are having regard to their good food nation plans when exercising these functions. The Committee has asked for an update on the Scottish Government's thinking in relation to the oversight provisions included in the bill.**
176. **The Committee notes the Scottish Government's decision to publish the proposed specified functions with the draft national plan before relevant authorities' draft their plans. The Committee urges the Scottish Government to liaise with the proposed relevant authorities when drafting this list and in advance on the consultation.**

## The Scottish Government response

- z) The Scottish Government has provided a response in relation to oversight functions in paragraphs g) and h). We note the proposal that the Scottish Government liaise with the relevant authorities when drafting the list of proposed specified functions and will continue our ongoing engagement with the relevant authorities to ensure such liaison takes place.

179. **The Committee notes that section 11 is the only oversight provision for relevant authorities set out in the bill. The Committee has already set out its view that the oversight provisions relating to relevant authorities should be strengthened.**
180. **The Committee agrees with relevant authorities' comments that the reporting mechanisms should not be burdensome.**
181. **The Committee seeks further information from the Scottish Government, in advance of the Stage 1 debate, about what information it envisages section 11 progress reports would include and what scrutiny mechanisms will be in place to monitor relevant authorities' progress.**

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### The Scottish Government response

aa) The progress reports required by section 11 will be informed by the progress report that will have been published by the Scottish Government as required by section 5 and will be guided by that. As noted above the Scottish Government has committed to working with COSLA to give further consideration to ways to help, such as the provision of guidance.

**183. The Committee notes that relevant authorities are not required to consult as part of its section 12 reviews of their good food nation plans and in advance of revising their plans. The Committee asks the Scottish Government, in its response to this report, to reflect on whether relevant authorities should be required to consult as part of the review process.**

### The Scottish Government response

bb) The Scottish Government notes the Committee's view on the requirement to consult as part of its section 12 review and will give this further consideration during the Bill process.

**186. The Committee notes the DPLRC reported that it was content with the section 15 power for Scottish Ministers to make ancillary provision in relation to the bill and the section 17(2) power to commence provisions.**

### The Scottish Government response

cc) Noted.

**190. The Committee has no comment to make in relation to the estimated costs for the Scottish administration.**

### The Scottish Government response

dd) Noted.

**204. The Committee notes the financial memorandum only sets out the estimated costs for the relevant authorities to draft and consult on their good food nation plans, to report every two years and review, and potentially revise, every five years.**

**205. The Committee also notes, however, that the FM does not set out any costs relating to the implementation of the bill. Although this is a framework bill, and the detailed content of the plans is not set out in the legislation, there is a clear intention that these plans will support**

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**relevant authorities to progress their food-related policies and to make meaningful strides in achieving the good food nation ambitions.**

**206. The Cabinet Secretary sought to reassure the Committee on this point, arguing that discussions are on-going with local authorities and health boards around these possible costs. The Committee notes there is no scope for parliamentary scrutiny of these costs. The Committee requests that a revised financial statement is provided to the Parliament in advance of Stage 2 setting out the Scottish Government's expectations about what costs may fall to relevant authorities and how this will be resourced.**

#### The Scottish Government response

ee) The Scottish Government note the comments of the Committee in relation to the costs of the implementation of the Bill and would reiterate that the costs in the Financial Memorandum provide an estimate of the costs of preparing the plan, the costs of implementing the plan have not been provided as the plans do not yet exist.

**207. The Committee agrees with the general principles of the bill.**

