

Respondent Information and Answer Return Form

Please Note this form **must** be completed and returned with your response.

Please send your response to us by email or by post using the following details:

Our email address is: HumanRightsOffice@gov.scot

Our postal address is:
Human Rights Strategy & Legislation Unit
Directorate for Equality, Inclusion and Human Rights
Scottish Government
Area 3H North
Victoria Quay
Edinburgh
EH6 6QQ

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Organisation

Full name or organisation's name

APRS (Action to Protect Rural Scotland)

Phone number

0131 225 7012

Address

Dolphin House, 4 Hunter Square, Edinburgh

Postcode

EH1 1QW

Email Address

kat@aprs.scot

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Questionnaire

The questions in this document refer to information contained in '[A Human Rights Bill for Scotland: Consultation](#)'.

Questions 1 – 5 refer to Part 4: Incorporating the Treaty Rights

Question 1

What are your views on our proposal to allow for dignity to be considered by courts in interpreting the rights in the Bill?

- Allow
- Don't Allow

Please give us your views:

Question 2

What are your views on our proposal to allow for dignity to be a key threshold for defining the content of minimum core obligations (MCOs)?

- Allow
- Don't Allow

Please give us your views:

Question 3

What are your views on the types of international law, materials and mechanisms to be included within the proposed interpretative provision?

Please give us your views:

Question 4

What are your views on the proposed model of incorporation?

Please give us your views:

Question 5

Are there any rights in the equality treaties which you think should be treated differently? If so, please identify these, explain why and how this could be achieved.

- Yes
- No

Please provide reasons for your answer:

Questions 6 – 11 refer to Part 5: Recognising the Right to a Healthy Environment

Question 6

Do you agree or disagree with our proposed basis for defining the environment?

- Agree
- Disagree

Question 7

If you disagree please explain why:

Question 8

What are your views on the proposed formulation of the substantive and procedural aspects of the right to a healthy environment?

Please give us your views:

APRS agree with ERCS and endorse use of the Aarhus definition of the environment, which makes specific reference to ecosystems and the biosphere and would like to see this reflected in the Bill.

We welcome the formulation of substantive aspects of the right to include clean air, safe climate, safe and sufficient water, non-toxic environments, and healthy biodiversity and ecosystems. We support the proposals from ERCS/LINK for further definitions for each of the substantive features of a healthy environment, drawing on international science and policy forums. The proposals are contained in this document https://www.ercs.scot/wp/wp-content/uploads/2023/07/The-Substantive-Right-to-a-Healthy-Environment_June-23_online.pdf

In particular:

- We welcome the Scottish Government's acknowledgment that they are currently in breach of Article 9(4) of the Aarhus Convention. **SG must now set out a clear timetable for access to justice reforms as specified in ERCS's Action Plan evaluation.**
- The procedural element of the right should meet Aarhus requirements, **including access to environmental information, public participation in environmental decision-making, access to justice and effective remedies**

Question 9

Do you agree or disagree with our proposed approach to the protection of healthy and sustainable food as part of the incorporation of the right to adequate food in ICESCR, rather than inclusion as a substantive aspect of the right to a healthy environment?

Please give reasons for your answer.

Agree

Disagree

We strongly disagree with not including the right to healthy and sustainably produced food within this Bill because we believe it is a core feature of the substantive right to a healthy environment. The right to food must be recognised as a standalone feature.

Please provide your reasons why:

Question 10

Do you agree or disagree with our proposed approach to including safe and sufficient water as a substantive aspect of the right to a healthy environment? Please give reasons for your answer.

- Agree
 Disagree

Please give us your views:

ERCS agree with the proposed approach, and advocate extending the definition to recognise adequate sanitation.

Question 11

Are there any other substantive or procedural elements you think should be understood as aspects of the right?

- Yes
 No

If yes, please specify what substantive or procedural elements and explain how this could be achieved:

We welcome the proposal to incorporate the right to a healthy environment with a duty to comply for public bodies and private actors delivering public functions

- We need to see dedicated reforms with clear timelines to make the Right to a Healthy Environment fully enforceable.
- **Rights must be enforceable in a court of law, with appropriate mechanisms in place to effectively hold public bodies and polluters to account.**
- The establishment of a dedicated environmental court with a comprehensive jurisdiction would increase access to justice, address the current fragmentation in routes to remedy, and develop judicial expertise to improve effectiveness and efficiency
- The substantive features of the right are interdependent and require standalone protections.
- Each feature must be defined according to expert guidance and international best practice, and adhere to the highest standards, with appropriate enforcement mechanisms to ensure compliance.
- The Scottish Government must ensure policy coherence and coordination across all Sectors to have due regard to the five features.

Questions 12 – 18 refer to Part 6: Incorporating Further Rights and Embedding Equality

Question 12

Given that the Human Rights Act 1998 is protected from modification under the Scotland Act 1998, how do you think we can best signal that the Human Rights Act (and civil and political rights) form a core pillar of human rights law in Scotland?

Please give us your views:

Question 13

How can we best embed participation in the framework of the Bill?

Please give us your views:

Question 14

What are your views on the proposed approach to including an equality provision to ensure everyone is able to access rights in the Bill?

Please give us your views:

Question 15

How do you think we should define the groups to be protected by the equality provision?

Please give us your views:

Question 16

Do you agree or disagree that the use of 'other status' in the equality provision would sufficiently protect the rights of LGBTI and older people? If you disagree, please provide comments to support your answer.

- Agree
- Disagree

Question 17

If you disagree, please provide comments to support your answer.

Question 18

Do you think the Bill framework needs to do anything additionally for LGBTI or older people?

- Yes
- No

Please give us your views:

Questions 19 – 26 refer to Part 7: The Duties

Question 19

What is your view on who the duties in the Bill should apply to?

Please give us your views:

Question 20

What is your view on the proposed initial procedural duty intended to embed rights in decision making?

Please give us your views:

Question 21

What is your view on the proposed duty to comply?

Please give us your views:

Question 22

Do you think certain public authorities should be required to report on what actions they are planning to take, and what actions they have taken, to meet the duties set out in the Bill?

Please give us your views:

Question 23

How could the proposed duty to report best align with existing reporting obligations on public authorities?

Please give us your views:

Question 24

What are your views on the need to demonstrate compliance with economic, social and cultural rights, as well as the right to a healthy environment, via minimum core obligations (MCOs) and progressive realisation?

Please give us your views:

Question 25

What are your views on the right to a healthy environment falling under the same duties as economic, social and cultural rights?

Please give us your views:

Question 26

What is your view on the proposed duty to publish a Human Rights Scheme?

Please give us your views:

Questions 27 – 37 refer to Part 8: Ensuring Access to Justice for Rights Holders

Question 27

What are your views on the most effective ways of supporting advocacy and/or advice services to help rights-holders realise their rights under the Bill?

Please give us your views:

Question 28

What are your views on our proposals in relation to front-line complaints handling mechanisms of public bodies?

Please give us your views:

Question 29

What are your views in relation to our proposed changes to the Scottish Public Services Ombudsman’s remit?

Please give us your views:

Question 30

What are your views on our proposals in relation to scrutiny bodies?

Please give us your views:

Question 31

What are your views on additional powers for the Scottish Human Rights Commission?

Please give us your views:

Question 32

What are your views on potentially mirroring these powers for the Children and Young People’s Commissioner Scotland where needed?

Please give us your views:

Question 33

What are your views on our proposed approach to ‘standing’ under the Human Rights Bill? Please explain.

Please give us your views:

Question 34

What should the approach be to assessing ‘reasonableness’ under the Human Rights Bill?

Please give us your views:

Question 35

Do you agree or disagree that existing judicial remedies are sufficient in delivering effective remedy for rights-holders?

Agree

Disagree

Question 36

If you do not agree that existing judicial remedies are sufficient in delivering effective remedy for rights-holders, what additional remedies would help to do this?

Question 37

What are your views on the most appropriate remedy in the event a court finds legislation is incompatible with the rights in the Bill?

Please let us know your views:

Questions 38 – 44 refer to Part 9: Implementing the New Scottish Human Rights Act

Question 38

What are your views on our proposals for bringing the legislation into force?

Please give us your views:

Question 39

What are your views on our proposals to establish minimum core obligations (MCOs) through a participatory process?

Please give us your views:

Question 40

What are your views on our proposals for a Human Rights Scheme?

Please give us your views:

Question 41

What are your views on enhancing the assessment and scrutiny of legislation introduced to the Scottish Parliament in relation to the rights in the Human Rights Bill?

Please give us your views:

Question 42

How can the Scottish Government and partners effectively build capacity across the public sector to ensure the rights in the Bill are delivered?

Please give us your views:

Question 43

How can the Scottish Government and partners provide effective information and raise awareness of the rights for rights-holders?

Please give us your views:

Question 44

What are your views on monitoring and reporting?

Please give us your views:

About you

Please tell us which of the following categories best describe you (select all that apply):

- Legal profession
- Organisation - Private
- Organisation – Public
- Rights holder
- Other – please specify

Additional space for answers

(Please specify the question information relates to)