



Stop Climate Chaos Scotland

Climate Change (Scotland) Bill Briefing on Stage 3 amendments

This briefing sets out Stop Climate Chaos Scotland (SCCS) views on the list of amendments for stage 3. SCCS is a coalition of more than sixty charities, unions and churches representing more than two million people in Scotland.

The table below lists the grouping number, the amendment number, the section of the Bill to which it applies, SCCS comment on the amendment, and our position. **Amendments are grouped as per the Grouping of amendments list** (although we have not commented on all amendments). Where there is nothing in the far right column SCCS does not have a position - although we have still chosen to comment. **A simple list indicating support per the marshalled list is appended.**

Group	Amendment No(s)	Section in Bill	Title of grouping / SCCS Comment	SCCS Position
1	6 Patrick Harvie	1	The 2050 target SCCS has campaigned for a 2050 target of at least an 80% reduction in greenhouse gas emissions, and we welcome the inclusion of this wording in the Bill. The wording 'at least' is intentional because we do recognise that an 80% reduction only gives us a 50/50 chance of staying below a 2°C rise in global temperatures. The science is constantly moving and we may well need to look at a higher target as the science develops.	Support
2	94, 100 Sarah Boyack	Before 2A, 2A	Setting and modification of interim target A weak 2020 target would mean larger cumulative emissions and increases the risk of not meeting the 80% 2050 target. A 34% target is also incredibly unambitious – research from SCCS suggests a business as usual scenario would deliver a 32% reduction in emissions. 2% above 'business as usual' is simply not acceptable for a 'world leading' Bill. One of the greatest strengths of the Climate Change Bill is the vision and international leadership it shows. Therefore, SCCS welcomes any move that could put us on an improved trajectory.	Support 94 alongside 94A, 95 and 100
	94A Stewart Stevenson		SCCS warmly welcomes this Government amendment and firmly believes Scotland can and should set and meet an interim target of at least 42% reductions in greenhouse gas emissions by 2020.	Strongly support

	7 Patrick Harvie	2	SCCS campaigned for an interim target of 50% by 2020.	Support but note that 94 etc pre-empts this
	8 Alison McInnes	2	SCCS believes 42% best reflects scientific consensus of a percentage reduction in greenhouse gas emissions reductions for 2020. As a developed nation, Scotland has a responsibility to lead the way and to make deep and early cuts.	Strongly support but note that 94 etc pre-empts this
	95 Sarah Boyack	2	This is consequential to amendment 94.	Support
	96 Patrick Harvie	2A	This amendment removes the provision to amend the interim target after Copenhagen which would be unnecessary if Scotland stood firm and committed to an interim target of over 42% as proposed by amendments 7 or 8.	
	97, 98, 99 Stewart Stevenson	2A	These amendments seek to provide for further devolution of certain powers, notably Energy and Transport, currently reserved under Schedule 5 of the Scotland Act.	
	9, 10 Stewart Stevenson	2A	These are technical amendments which tidy up the provision for revising the interim target in light of a deal at Copenhagen.	
	101 S-A Somerville	After 2A	This amendment provides for a similar request for advice as in amendment 94 but without reference to the target setting criteria.	
	108 Patrick Harvie	12A		
	114, 119, 120, 143 Sarah Boyack	19, 45D, 47, 65	These are consequential to 94.	Support
3	11 Alison McInnes	3	Setting annual targets – amounts This amendment would move us to annual targets of at least 3% year-on-year. This has long been a top priority for SCCS and was a welcome commitment in the SNP manifesto.	Strongly support
	12 Patrick Harvie	3	This subsection would be unnecessary if we moved directly to annual targets of at least 3%.	Support

	13 Stewart Stevenson	3	This is a technical drafting amendment.	Support
	14, 16 Stewart Stevenson	3	These amendments ensure reference to both the interim and 2050 target in section 3.	Support
	15 Patrick Harvie	3	This amendment would move us to annual targets of at least 3% year-on-year. This has long been a top priority for SCCS and was a welcome commitment in the SNP manifesto.	Support
	17 Patrick Harvie	3	SCCS has campaigned for annual targets of at least a 3% year-on-year reduction in greenhouse gas emissions, and we welcome the amendment providing for this in the Bill. Clearly, anything above 3% would serve to encourage early action faster which can only improve our chances of staying below a 2°C rise in global temperatures. To that extent therefore, we welcome this amendment.	
	18 Stewart Stevenson	4	The setting of a scientifically rigorous interim target makes this section superfluous.	Support
4	102 S-A Somerville	4	Setting annual targets – criteria This amendment, while well-intentioned, does not ensure that the concept of a 'fair and safe' cumulative budget is incorporated within the Bill. What matters in relation to climate change is the total cumulative amount of greenhouse gases emitted, not meeting a specific percentage target. By simply ensuring the cumulative limit between now and 2050 meets the end 'point in time' target, this amendment adds little to the existing provisions within the Bill. With this in mind we prefer Alison McInnes' amendments 103 and 104.	103 and 104 are preferable

	103, 104 Alison McInnes	4	<p>This amendment either stands alone, or complements Patrick Harvie’s amendment 20A (if passed). It seeks to ensure that when ministers set batches of annual targets they do not only take account of the requirement of meeting interim and long-term targets, but also the desirability of achieving a safe and fair cumulative emissions total. It not only provides a safeguard against delaying action to the last moment possible, but a guide to help set appropriate annual targets which adequately reflect changing scientific advice on safe emissions levels.</p> <p>The language the amendment uses is drawn mainly from the Kyoto protocol to which the UK is a signatory. We recognise that at stage 2 the Minister suggested that reference to anthropogenic (human) interference with the climate might exclude consideration of natural sources of GHGs. However, we believe the language is entirely appropriate – in fact it refers to concentrations of GHGs (from any source) that are safe (in that they prevent human impacts causing dangerous results).</p> <p>This amendment is much more practical, and necessary than Amendment 102 in the name of Shirley-Anne Somerville, which unfortunately, does not ensure the concept of a fair and safe cumulative budget is incorporated within the Bill.</p>	Strongly support
	105, 116 S-A Somerville	5, 22	<p>This amendment, while well-intentioned, does not ensure that the concept of a ‘fair and safe’ cumulative budget is incorporated within the Bill. What matters in relation to climate change is the total cumulative amount of greenhouse gases emitted, not meeting a specific percentage target. By simply seeking advice from the relevant body concerning a cumulative limit between now and 2050, this amendment adds little to the existing provisions within the Bill. With this in mind we prefer Patrick Harvie’s amendment 20A.</p>	
5	19, 21 Stewart Stevenson	5	<p>Role of relevant body in relation to annual targets</p> <p>These amendments would seem to reduce transparency and the scope for parliamentary scrutiny, given it would allow for advice from the relevant body to be published after the order setting targets is published, rather than before.</p>	Oppose
	20 Stewart Stevenson	5	<p>SCCS believes this amendment more than adequately expresses the advice the relevant body should be providing. We support this amendment alongside 20A below.</p>	Support

20A Patrick Harvie	5	<p>This amendment serves multiple purposes – and merits support from all parties.</p> <p>Firstly, it ensures some of the good criteria included in section 22, including advice on the respective contributions from energy efficiency, energy generation, land use, and transport, actually comes into play. This is because sections 22 to 27 do not come into force until a Scottish 'advisory body' is established (see section 21). This amendment would rectify this problem and ensure that when Ministers seek advice from the 'relevant body' (outlined by Ministers to be the UK Committee on Climate Change in the first instance) they receive the best possible advice to guide them to the delivery of the objectives of this Bill.</p> <p>Secondly, recognising the Scottish Government's belief that Section 49A (mandating ministers to establish an emissions performance standard for power stations in guidance issued under powers available to them under the Electricity Act) is not competent, it offers a partial alternative to that provision, and one which complements Section 29(4)(c&d), inserted by a Liberal Democrat amendment at stage 2, requiring Ministers to report on the average emissions per megawatt hour of electricity generated in Scotland, and the anticipated average emissions of new capacity approved in Scotland. This amendment would request advice from the relevant body to act as a benchmark against which the figures reported under Section 29(4)(c&d) could be assessed.</p> <p>Finally it seeks, in a similar manner, to obtain advice on a benchmark against which figures reported under Section 29(4A) could be assessed. This provision, inserted with unanimous committee support at Stage 2, requires reporting of cumulative emissions. Without this benchmark we could be in a situation where, in 2036 for example, we have used up our total cumulative budget yet are still reporting on it!</p>	Strongly support
20AA Stewart Stevenson	5		Oppose
106 Patrick Harvie	5	This is a necessary clarifying consequential to amendment 20A.	Strongly support

	29 Stewart Stevenson	22	This is similar to earlier amendments to Section 5 where the wording applies to the relevant body, and is repeated here in the section applying to a Scottish advisory body. It is an acceptable formulation if not ideal. It has to be noted that section 22 which this amends may never come into force as the Government has no current intent to create or designate a Scottish body. The amendment to section 5 is therefore more significant. Indeed in our reading any provision in section 5 would continue to apply if the Government were to appoint a Scottish Advisory Body, and this amendment is only necessary to ensure there are not conflicting remits placed on Ministers and an advisory body by sections 5 and 22 respectively.	
	30 Stewart Stevenson	22	This is a good future-proofing amendment.	Support

6	22, 23 Stewart Stevenson	7A	<p>Achievement of annual targets – domestic effort and carbon credits</p> <p>The purpose of the original domestic effort amendment secured at Stage 2 was to ensure a large majority (at least 80%) of annual reductions were achieved in Scotland. This amendment effectively reverses this incentive and under a worst case scenario, when placed alongside their existing access to 20% credits has the effect of allowing a total of some 60% [assumes the EU ETS sector in Scotland is just 40% of our emissions] of reductions to be achieved outside of Scotland.</p> <p>This amendment removes the incentive to drive domestic emissions reductions, and creates a huge loophole in the Bill that deprives investors of the certainty they need to see in order to commit funds towards a green economy. If the ETS sector actually grew in the coming years so as to make up a bigger proportion of Scotland's total emission then it would be possible for the domestic contribution to be even less than that suggested above.</p> <p>The original domestic effort target amendment was supported by Stop Climate Chaos Scotland and Scottish and Southern Energy as it both ensured the Climate Change Bill acknowledged Scotland's moral responsibility to reduce its own emissions and provided the necessary incentive to drive investment. This amendment will have the effect of shifting the economic incentive to invest in low carbon energy and technologies away from Scotland and to those countries putting in place strong domestic commitments. The Scottish Government's amendment chooses to ignore the fact that a saving purchased through the EU Emissions Trading Scheme has a very high chance of being represented by credit from a project in India, China, Africa or another developing country. This means that the responsibility of the developed world to reduce its own emissions is ignored and we continue to pollute. Furthermore independent analysis of these international emissions credits known as CDMs has shown them to offer only very poor guarantees of actually delivering a reduction that would not have occurred in their absence - in other words there has been no emissions reduction actually achieved by the purchase of the credit.</p>	Strongly oppose
	24 Stewart Stevenson	7A	This is a technical drafting amendment.	Support
	25 Stewart Stevenson	12A	SCCS prefers the domestic effort target plus additional limits on Scottish Government purchases set with advice from the relevant body (under sections 18a-18c) to the limits set in 12A on the face of the Bill.	Oppose

	26, 27 Stewart Stevenson	18A		
	90 Stewart Stevenson	65	SCCS can only offer support for amendment 90 if amendment 22 is not agreed to. We would reiterate here that amendment 22 completely changes the nature of the domestic effort target.	
7	107, 113 Malcolm Chisholm	12, 18A	Type of carbon unit that may be purchased by Scottish Ministers Amendment 107 would provide some security that any credits purchased by Ministers to help meet Scottish targets were genuinely additional and helped deliver sustainable development. Amendment 113 removes the subsection that allows Ministers to arbitrarily exclude certain types of carbon credits from counting against the limit on carbon credits. We cannot see any positive reason which is worth the risk of abuse by a future Government that the current wording permits.	Strongly support
8	109, 112 Patrick Harvie	14	Scottish share of emissions from international aviation and shipping These amendments ensure that our accounting for aviation emissions reflects their true impact, given that emissions at altitude have greater climate changing potency.	Strongly support
	110, 111 Des McNulty	14	These split the orders for aviation and shipping as recommended by TICC, and are compatible with 109. 111 gives more time to make an order for shipping. This is reasonable given the more limited data availability and analysis for this sub-sector so far.	Support
9	28, 31, 34, 35, 51 Stewart Stevenson	19, 29, 31B, 38	Minor amendments and drafting changes	
10	32 Stewart Stevenson	30, 36	Parliamentary consideration of reports etc This amendment provides for parliamentary consideration of reports under section 30 (that is proposals and policies for meeting annual targets). SCCS very much welcomes this amendment which would give parliament an opportunity to debate and comment on the proposals and policies in 2010, 2011, and every five years thereafter.	Strongly support
	33 Stewart Stevenson	30	SCCS welcomes the recognition of these key sectors, as identified in the original TICC Stage 1 Report.	Support
	37 Stewart Stevenson	34	This amendment tidies up improvements to reporting on all other reports than s30.	Support

11	38 Stewart Stevenson	36	<p>Public bodies – climate change duties</p> <p>These amendments would dramatically weaken the duty as agreed at Stage 2, supported by the Labour, Lib Dem and Green TICC members. We do not believe these amendments respect the spirit of what the Minister said in the debate on the amendment on 2 June, when he said the Scottish Government would work with whatever decision the Committee made and that he expected to end up “in the same place”, but preferred time for discussions with COSLA. His amendments are effectively wrecking amendments. The current duty incorporates reducing greenhouse gas emissions, adaptation and sustainable development and defines public bodies according to the Freedom of Information (Scotland) Act 2002. It specifies that public bodies must act in the way best calculated to “contribute to the delivery of the targets” in the Bill and to “help deliver” adaptation programmes. They can and will decide what is appropriate for their area.</p> <p>Amendment 38 completely removes adaptation, which we believe is an irresponsible position to take, when the newly published UK Climate Projections report, has highlighted the serious impacts of flooding etc. If Scottish society is to adapt to the impacts of climate change, all our public bodies need to be charged with both reducing greenhouse gas emissions and adapting to the impacts. To sideline adaptation risks ill thought out and poorly financed proposals to combat e.g. increased flood risk and land slips.</p> <p>Amendment 38 is minimalist in ambition at a time when urgent early action is needed. It requires public bodies merely to cut greenhouse gas emissions attributable to their activities, in so far as reasonably practicable. And it links sustainable development to the weak greenhouse gas emissions cuts action and not to overall functions, as the Bill does at present.</p> <p>COSLA has argued that any council decision could be challenged through judicial review on the basis that an alternative option should have been chosen to reduce emissions more, but there is no evidence that the courts would apply such a broad duty in the way COSLA suggests. COSLA is also wrongly suggesting that there is a conflict between subsidiarity and the statutory duty. The legislation as written does not prescribe how public bodies comply with the duty.</p>	Strongly oppose
	39, 40, 41, 42 Stewart Stevenson	36	These are minor changes to ‘tidy up’ references to ‘relevant’ public bodies, and to describe climate change duties in this Part, rather than in the Act.	Support

	43 Stewart Stevenson	36	This is a consequential amendment to the other wrecking amendments.	Strongly oppose
	44, 45, 46, 47, 48 Stewart Stevenson		These are minor changes to 'tidy up' references to 'relevant' public bodies, and to describe climate change duties in this Part, rather than in the Act.	Support
	49 Stewart Stevenson	36	Amendment 49 limits the definition of public bodies to the definition from the Ethical Standards in Public Life etc. (Scotland) Act 2000. This is not as wide as the FOI Act, does not include Scottish Ministers, and, crucially, the FOI Act definition is likely to be broadened to cover, for example private prisons and other organisations in relation to public services they deliver.	Strongly oppose
	52 Stewart Stevenson	38	This amendment was one the Minister promised to bring after John Park agreed not to move his amendment at Stage 2. It states that, where Scottish Ministers require public bodies to report on how they have carried out their climate change duties, the reports should include information on how their procurement policies and procurement activity have contributed to compliance. SCCS strongly supports this as procurement has a major role to play in reducing greenhouse gas emissions.	Strongly support
	5 Cathy Peattie	62	This amendment simply ensures that the equal opportunities requirements in the Bill apply to public bodies as well as to Scottish Ministers and the advisory body. It defines those public bodies as defined in Section 36 (2).	Strongly support
	5A Stewart Stevenson	62	Amendment 5A would, if amendments 38, 43, 49 and 91, are agreed, define them according to the narrower definition in the Ethical Standards in Public Life etc. (Scotland) Act 2000.	Strongly oppose
	91, 92 Stewart Stevenson	65, 67	These are consequential amendment to the other wrecking amendments.	Strongly oppose
12	53 Stewart Stevenson	47	Application of biodiversity duty This tidies up an amendment from Stage 2 which ensures any trust or body corporate established under provisions relating to forestry is bound by the nature Conservation (Scotland) Act.	Support

13	121 Sarah Boyack	48	Contribution of planning and building regulation to reduction of emissions This amendment would require Ministers to set out how they intend to update planning and building regulations in order to ensure that both microgeneration and increased insulation are incentivised. Through incentivising both of these, the Scottish Government can help ensure emissions reductions from the built environment, while at the same time supporting the microgeneration industry to be in a position to deliver zero-carbon new buildings in 2016-17.	Strongly support
	137, 137A, 137B, 138 Sarah Boyack 138A Stewart Stevenson	After 51B	These amendments also have the support of the Energy Efficiency and Microgeneration (Scotland) Bill steering group. These amendments would strengthen the current requirement in Scottish Planning Policy 6 (renewable energy) for use of the planning system to reduce greenhouse gas emissions from the built environment through the promotion of microgeneration technologies. 138 would also require Ministers to report on progress, to enable Government and Parliament to ensure the provisions are being effectively implemented.	Strongly support
14	122, 123 Des McNulty	48		
15	54 Stewart Stevenson	49A	Energy generating stations – efficiency guidance This would leave out section 49A which requires Ministers to use powers they have to set emissions performance standards for energy generating stations. Emissions performance standards are a vital tool on the way forward to ensuring clean energy supplies.	Strongly oppose
	147 Liam McArthur	After 31A	This amendment, by requiring Ministers to report annually on the electricity generation sector's impact upon Scottish emissions, would improve transparency. SCCS believes this would complement amendment 20A which would require Ministers to seek advice on appropriate emissions performance.	Support
16	55,56 Stewart Stevenson	50	Assessment of energy performance of buildings	
	57 Stewart Stevenson	50	This amendment would require Scottish Ministers to set out a timetable for when they intend to make use of their new powers to make the recommendations in non-domestic energy performance certificates compulsory, which are conferred under section 50. We believe this report is essential, since it leads to greater clarity and transparency, allowing businesses and building owners to plan effectively for the introduction of these measures.	Support

	58 – 66 Stewart Stevenson	50A	These tidying amendments would bring section 50A, which applies to homes, into line with section 50, which applies to non-domestic buildings. They would require Ministers to set out a timetable explaining when the powers would be used.	Support
17	67 Stewart Stevenson	After 50A	While we welcome the intention behind this amendment: to increase the incentives for individuals to install energy saving measures; we do not believe it goes far enough. Specifically, this would create a voluntary approach from local authorities, whereas the existing sections 50B, 50C and 50D would require local authorities to bring forward an incentive scheme. Clearly 50B-50D are preferable, in that they will deliver far more energy saving measures.	Oppose
	67A – 67E, 67F, 125, 125A, 125B	After 50A	These amendments attempt to address some of the shortcomings in amendment 67 identified above. However, even if amended we believe that the Government approach to council tax discounts outlined in amendment 67 is inadequate, unambitious and would not deliver the volume of energy saving improvements that sections 50B – 50D, as currently drafted, would deliver.	
	126 – 130 Sarah Boyack	50B, 50C, 50D	These amendments also have the support of the Energy Efficiency and Microgeneration (Scotland) Bill steering group. These amendments would improve the existing measures for council tax discounts for energy efficiency measures set out in sections 50B – 50D. Specifically the would give local authorities greater flexibility in how they implement the incentives, and would allow local authorities to provide a 100% discount if they feel it appropriate (and as Northern Ireland intends to do for the most energy efficiency homes).	Support
	68 – 70 Stewart Stevenson	50B, 50C, 50D	These amendments would delete the council tax discount scheme for energy efficiency measures which were inserted into the Bill at stage 2. As mentioned above, we believe the Government’s alternative proposal is weaker than the measures inserted at stage 2, and would not deliver the same volume of energy saving measures. We therefore oppose these amendments.	Oppose
	131	After 50D	Non-domestic rates reductions to promote energy efficiency This amendment also has the support of the Energy Efficiency and Microgeneration (Scotland) Bill steering group. This amendment would deliver business rates rebates to incentivise businesses to install energy saving measures. Sarah Boyack MSP has developed this proposal over a number of years, in association with a number of NGOs and other organisations who are members of a steering group advising and supporting her. We strongly urge the Parliament to support this amendment.	Strongly support

	132	After 50D	This appears to be an alternative approach to that delivered through amendment 131 above. The coalition prefers the approach taken through amendment 131.	Prefer 131
	93	Long Title	This amendment changes the long title to the bill to allow for council tax discounts for energy efficiency to be included.	Support
18	133 Lewis Macdonald	50D	District heating This amendment would require the Scottish Government to bring forward changes to regulations to exempt equipment associated with combined heat and power plants from business rates. Since combined heat and power plants have the potential to substantially reduce greenhouse gas emissions, we strongly support the intention behind this amendment.	
19	134 Lewis Macdonald	After 50D	Energy efficiency – modification of repairing standard for tenanted housing This amendment is also supported by the Scottish Federation of Housing Associations, Shelter Scotland and Energy Action Scotland. This amendment would set minimum energy efficiency standards at point of rental for private rented accommodation, in line with the minimum standard that already applies to the social rented sector through the Scottish Housing Quality Standard. The private rented sector is particularly difficult to tackle in terms of energy efficiency: studies have shown that while energy efficiency levels in the social rented sector have risen steadily over recent years, those in the private rented sector have remained nearly static. Private sector landlords now have access to finance to enable energy efficiency improvements through the Energy Saving Scotland Small Business Loans Scheme. This requirement would apply to landlords and would be enforced by local authorities: it would not create further burdens on tenants. Indeed, tenants would benefit from lower fuel bills. We strongly urge support for this amendment.	Strongly support
20	135 Sarah Boyack	After 50D	Climate change burdens The intention behind this amendment, to reduce greenhouse gas emissions, is supported by the coalition.	
21	71-84 Stewart Stevenson	51A, 51B	These are tidying amendments.	Support
	144, 145 Sarah Boyack	67		
22	136 Des McNulty	After 51B	Promotion of water conservation and water-use efficiency The intention behind this amendment is supported by the coalition.	

23	139 Cathy Peattie	51C	Energy performance of Scottish civil estate This amendment would extend the requirement on Government to procure buildings in the top quartile to all buildings which become part of the Scottish Civil Estate, including buildings which are not newly-built. As currently drafted, the legislation does not require any significant increase in standards over those that apply universally under building regulations. This amendment would provide a welcome boost to the nondomestic retrofit industry, which section 51C as currently drafted does not. A recent report found that emissions from Scottish Government buildings increased by 2.5% last year. This amendment would help to rectify this problem, and would show genuine Government leadership in reducing the 17% of emissions that come from non-domestic buildings.	Strongly support
	140 Cathy Peattie	51C	This amendment allows the Scottish Government, through regulations, to specify exemptions from the requirement to procure buildings in the top quartile of energy performance, for example where the Scottish Government has made a previous policy decision to relocate Government offices to a specific location, and where no 'top quartile' building is available in that location and the cost of retrofitting would be unreasonable. The coalition supports this amendment only if amendment 139 (above) is passed.	Support only if 139 is agreed to
24	85, 87, 88, 89 Stewart Stevenson	53, 64, After 64	Waste regulations	
	3, 4 Des McNulty	64		
25	2 Des McNulty	59	Charges for supply of carrier bags	
26	86 Brian Adam	Before 61A	Public engagement	Support
27	141 Patrick Harvie	After 62	Scottish Executive budget – impact on greenhouse gases This puts existing commitments to provide a 'carbon assessment of budgets' on a statutory footing, and ensures they will continue into future Governments.	Strongly support

28	142 Alison McInnes	After 62	<p>Judicial review This amendment is designed to ensure Ministers are properly accountable to parliament and the public for the conduct of their duties under the Act. In theory, Minister's decisions under this Act are judicially reviewable. The problem is that access to judicial review in Scotland is costly, difficult and not in line with the Aarhus Convention. This amendment would enshrine the principles of Aarhus in the Act, ensuring that the Scottish courts would comply with them in such cases. There were several shortcomings in the Minister's evidence and argument at Stage 2, in particular around transposition into an EU directive, rules on standing, prohibitive costs, scope, and independence of the courts.</p> <p>Transposition- The Minister failed to recognise or note that the provisions of Aarhus on Access to Justice in particular (as opposed to those on access to information and participation) have yet to be translated into an EU directive. Interestingly the Minister also overlooked the fact that there are infraction proceedings pending against the UK arising under the Participation provisions of Aarhus, and wider complaints pending with the Aarhus Compliance Commission. We understand that this is one reason why the Scottish Courts are already considering protective costs orders (PCOs) (see below).</p> <p>Standing - The Minister argued that clarity of rules on standing was unnecessary. Yet in similar circumstances with regard to the Land Reform (Scotland) Act 2003, this Parliament, the Courts (and the Executive of the time) took the opposite view and chose to actively clarify rights of standing, with respect to NGOs, in line with Aarhus. There is a need for clarity in this case also.</p> <p>Costs - On the matter of costs we welcome the fact that PCOs are already being considered. While the Courts have recognised the principle, it is worth noting that the original case which recognised the possibility of such orders being granted was heard in December 2005 but no orders have yet been made. In this situation the risk of costs remains a significant deterrent to access to justice, and the situation must be clarified.</p> <p>Scope - The Minister may not have been made aware of any 'undesirable gaps in the court's approach', but case law with respect to environmental judicial review focuses exclusively on the procedural matters raised, not the substantive ones (in contrast to human rights cases). This is a potential source of non-compliance with Aarhus, and the opportunity to address this shortcoming should be taken.</p> <p>Independence of the Courts - Finally, the Minister noted that rules of court are 'generally set by the Lord President', and while put to Parliament, are not made by Ministers. We value the continuing independence of the Courts, but in matters concerning compliance with international treaties it is entirely reasonable for Parliament to set a framework.</p>	Strongly support
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Stop Climate Chaos Scotland (SCCS) is a growing coalition of organisations campaigning on climate change. SCCS brings together environment, faith and development organisations, trade unions, community activists, and women's and students' groups.

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