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First Minister
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

CC:

Gillian Martin MSP, Acting Cabinet Secretary for Net Zero and Energy
Shirley-Anne Somerville MSP, Cabinet Secretary for Social Justice

16 July 2024

Dear First Minister,

Programme for Government and an enforceable human right to a healthy environment

We write as a broad coalition of environmental, human rights and health organisations to urge you to demonstrate strong leadership by taking forward your government's commitment to incorporate the human right to a healthy environment as part of a comprehensive Human Rights Bill, mitigating any concerns that this may be weakened or diluted. Recognition of this right is integral to delivering on your four priorities for Scotland, and we look forward to seeing this commitment in your Programme for Government.

We view this as a once-in-a-generation opportunity to deliver new rights protections and demonstrate Scotland's global leadership in tackling the triple planetary crisis of climate breakdown, biodiversity loss, and the pollution of our air, land, and water.

[The National Taskforce for Human Rights Leadership](#) recommends incorporating the right to a healthy environment with both substantive and procedural elements. This recommendation received resounding endorsement from the majority of respondents to [the Human Rights Bill consultation](#). On Human Rights Day 2023, the Environmental Rights Centre for Scotland (ERCS) presented the Scottish Government with a [petition](#), signed by 66 organisations and over 1500 individuals calling on the Scottish Government to introduce an enforceable right to a healthy environment with effective remedies.

Procedural environmental rights are already recognised in Scotland under the UNECE Convention on access to information, participation in decision-making, and access to justice in environmental matters (the Aarhus Convention), but Scotland [remains in breach of Article 9](#). The Government has



made a commitment to address this and the provisions in the Human Rights Bill should improve access to justice, as set out in [Make Human Rights Justice a Reality](#) and its thirteen recommendations.

The six substantive features of right to a healthy environment are: clean air; a safe climate; healthy and sustainably produced food; safe and sufficient water; non-toxic environments in which to live, work, study, and play; and healthy biodiversity and ecosystems. These rights are not currently recognised under Scots law but must be included as part of the new Bill. A [Scottish Environment LINK/ERCS report](#) outlines how to ensure these rights have ‘teeth’ by defining them to the highest standards and having robust enforcement mechanisms.

A healthy environment underpins and enables the realisation of all human rights for present and future generations. 164 out of 193 UN Member States now legally recognise the right to a healthy environment as essential to protecting human life, well-being and dignity, and because it provides protection against the full range of environmental harms, including damage to nature.

Incorporation of the right to a healthy environment also contributes to each of the four priorities you set out on your appointment as First Minister.

- **Economic growth:** the right to a healthy environment provides clarity and certainty to duty bearers, and businesses whose activities may adversely impact the right, by setting clear legal parameters for green growth and investment and supporting Scotland’s shift towards a circular economy. A statutory human rights framework provides direction for how businesses can operate responsibly towards a just transition and long-term, sustainable development.
- **Child poverty:** the right to a healthy environment helps meet your commitment to eradicating child poverty, providing a mechanism to address both place-based and inter-generational environmental injustices and to tackle the unequal distribution of environmental burdens and benefits. The [UN Committee on the Rights of the Child General Comment No. 26](#) sets out the wide-ranging interconnections between children’s rights and environmental protection. The Committee emphasises that environmental harm exacerbates the effects of child poverty and clarifies the obligations of States to address environmental harm and climate change. The substantive features of the right to a healthy environment will reinforce your commitment to deliver a [‘revolution in children’s rights’](#) through the UNCRC (Incorporation) (Scotland) Act 2024, and provide a framework to ensure that children experiencing poverty and place-based deprivation will be prioritised in decision-making, with due regard for their environmental rights.
- **Climate action:** the right to a healthy environment demonstrates the Scottish Government’s commitment to meeting its 2045 net zero targets, restores public confidence in ambitious climate policy and maintains a leadership role on climate justice internationally. A safe climate is one of the six substantive features of the right to a healthy environment, and the



preamble of the [Paris Agreement](#) states that parties should ‘respect, promote and consider their respective obligations on human rights.’ Incorporation of the right to a healthy environment can ensure that mitigation and adaptation policies are implemented in a just and fair way that respects and promotes human rights. It increases accountability from public bodies, ensuring that they do not neglect their duties to protect rights holders from climate disruptions, or pursue policies that increase emissions.

- **Public services:** the right to a healthy environment can be a catalyst for transformational change in how services are delivered to tackle environmental and health inequalities, mutually reinforcing the International Covenant on Economic, Social and Cultural Rights (ICESCR) and UNCRC incorporation. The right can alleviate pressure on public services by promoting preventative action to reduce the negative impacts of pollution and environmental degradation on the rights to life, health, food, water, culture, housing, property and a healthy environment. These benefits are particularly important for those who are most at risk from environmental harm including children, young people, people living in poverty, disabled people and other vulnerable and marginalised groups.

We welcome the Scottish Government’s commitment to deliver a new Human Rights Act within the current parliamentary session and reiterate that this must include an enforceable right to a healthy environment with both substantive and procedural elements.

Former UN Special Rapporteur Prof David Boyd’s recent [report](#) outlines the transformative impact the right to a healthy environment has had across the world and it could also be a gamechanger for Scotland.

We therefore urge you to ensure that the next Programme for Government maintains the commitment to incorporate an enforceable right to a healthy environment as part of a comprehensive Human Rights Bill. In the spirit of constructive dialogue, we would welcome the opportunity to meet with Ministers and discuss these matters further.

Yours sincerely,

Dr Shivali Fifield
Chief Officer, Environmental Rights Centre for Scotland

Endorsed by:

Action to Protect Rural Scotland (Katherine Jones, Director)
Amnesty International (Neil Cowan, Scotland Programme Director)
Amphibian and Reptile Conservation (Dr Tony Gent, Chief Executive Officer)
Action on Smoking and Health Scotland (Sheila Duffy, Chief Executive)
Borders Community Action (Juliana Amaral, Chief Executive)
Borders Forest Trust (Charles Dundas, Director)
Bright Green Nature (Dr Karen Blackport, Chief Executive Officer)



Buglife (Craig Macadam, Conservation Director)
Bumblebee Conservation Trust (Gill Perkins, Chief Executive Officer)
CEMVO Scotland (Aekus Kamboj, Environmental Projects Coordinator)
Children's Parliament (Cathy McCulloch, Director)
Common Weal (Amanda Burgauer, Director)
Community Land Scotland (Ailsa Raeburn, Chair)
Community Transport Association (David Kelly, Director for Scotland)
Edinburgh & Lothians Regional Equality Council (Parveen Ishaq, Executive Manager)
Equality Network (Dr Rebecca Don Kennedy, Chief Executive Officer)
Faith for the Climate (Dr Shanon Shah, Director)
Fauna & Flora International (Peg Shaw, Community Support Specialist in Scotland)
Fidra (Catherine Gunby, Executive Director)
Friends of the Earth Scotland (Florence Garabedian, Interim Chief Executive Officer)
Global Justice Now (Liz Murray, Head of Scottish Campaigns)
Health and Social Care Alliance Scotland (Lucy Mulvagh, Director of Policy, Research and Impact)
Human Rights Consortium Scotland (Mhairi Snowden, Director)
InspirAlba (Ailsa Clark, founder and Executive Director)
John Muir Trust (Thomas Widrow, Campaigns Manager)
Just Fair (Jess McQuail, Director)
Keep Scotland Beautiful (Barry Fisher, Chief Executive)
Landworkers' Alliance (Dr Tara Wight, Scotland Policy and Campaigns Coordinator)
Marine Conservation Society (Gareth Cunningham, Director of Conservation and Policy)
Medact (TJ Chuah, Interim Co-Director)
North East Mountain Trust (Dave Windle, Chair of Trustees)
North East Scotland Climate Action Network Hub (Alison Stuart, Chief Executive Officer)
Nourish Scotland (Simon Kenton-Lake, Senior Officer)
Oxfam Scotland (Jamie Livingstone, Head of Oxfam Scotland)
Parents for Future Scotland (Sam Bartlett, Chair)
Peoples Health Movement Scotland (Dr Tony Robertson, Steering Group member)
Planning Democracy (Clare Symonds, Chair)
The Poverty Alliance (Peter Kelly, Chief Executive)
Raptor Persecution UK (Dr Ruth Tingay)
Rewilding Britain (Kevin Cumming, Rewilding Director)
RSPB Scotland (Anne McCall, Director)
SCIAF (Lorraine Currie, Chief Executive Officer)
Scotland's International Development Alliance (Frances Guy, Chief Executive)
SCOTLAND: The Big Picture (Peter Cairns, Director)
Scottish Community Alliance (Elizabeth Docherty, Director)
Scottish Crofting Federation (Donna Smith, Chief Executive)
Scottish Environment LINK (Deborah Long, Chief Officer)
Scottish Independent Advocacy Alliance (Suzanne Swinton, Chief Executive Officer)



Scottish Rural Action (Artemis Pana, National Coordinator)
Scottish Wild Land Group (Beryl Leatherland, LINK rep and ex-Chair)
Scottish Wildlife Trust (Ruchir Shah, Director of External Affairs)
Scottish Women's Budget Group (Sara Cowan, Coordinator)
Scottish Youth Parliament (Ellie Craig, Chair)
Shelter Scotland (Alison Watson, Director)
Soil Association Scotland (David McKay, Co-Director)
Stop Climate Chaos Scotland (Mike Robinson, Chair)
Stop Ecocide International (Jojo Mehta, Co-founder & Chief Executive Officer)
Together Scotland (Juliet Harris, Director)
Traditional Arts and Culture Scotland (Steve Byrne, Director)
Trees for Life (Steve Micklewright, Chief Executive Officer)
UCU Scotland (Jeanette Findlay, President)
Uplift (Tessa Khan, Founder and Executive Director)
Wellbeing Economy Alliance Scotland (Aileen McLeod, Director)
Wild Justice (Dr Mark Avery, Chris Packham CBE and Dr Ruth Tingay, Co-Directors)
Woodland Trust Scotland (Alastair Seaman, Director)
WWF Scotland (Lang Banks, Director)