

**Carbon Emission Land Tax
Community Land Scotland - Preliminary Policy Position
February 2024**

Background

The John Muir Trust (JMT) has proposed a Carbon Emission Land Tax (CELT), the principal effect of which is likely to fall on degraded peatland which emits stored carbon.

The JMT proposal, in principle, has been picked-up by the Scottish Government who intend to explore options for Councils to introduce a carbon land tax, as announced by the Green Skills & Biodiversity Minister at the Scottish Greens Conference in October 2023.

JMT had been proposing that this tax measure be included in the forthcoming Land Reform (Scotland) Bill, now to be introduced to Parliament in 2024. It is unclear if that proposal will be accepted.

The JMT have been seeking support for their proposition from a range of bodies, including Community Land Scotland. They already have a range of bodies, mainly at this stage Environmental NGOs signed up to support, but also organisations such as the Scottish Trade Union Council.

It seems unlikely however there will be any working Carbon Land Tax before 2026/27 at the earliest, and even that may seem optimistic. However, Community Land Scotland is formulating a preliminary policy position in order to make the Scottish Government and parliament aware of the perspective of the community owning sector, and to be able to respond to any consultation by the Scottish Government.

Headline conclusions:

- While there is no immediate prospect of a carbon land tax being levied (i.e., within the next two to three years), the possibility of a tax of this sort being levied seem to be increasing.
- The only way for Community Land Scotland members to ultimately protect themselves from any tax liability would be to ensure they met the goals to reduce carbon emissions from their land, utilising grants available to do so.
- The availability of grant support for woodland planting and peatland restoration should remain available for prolonged periods, even if that meant a special scheme for community owned and the non-profit distributing land ownership.
- Regulation rather than taxation may be a more flexible route to reduce emissions for our members interests.

Current position of carbon taxation in Scotland

- The Scottish Government has committed to consider options for a Land Carbon Tax this could, in theory, accelerate possible action to permit a local council tax on carbon emissions.
- However, this would most probably require primary legislation which currently does not feature in any legislative plans by the Scottish Government.
- The announcement to explore options for a local carbon land tax does not constitute a commitment to legislate. If such a proposal was to emerge from the consideration of the issues, then a full legislative procedure would need to ensue.
- It seems unlikely however there will be any working Carbon Land Tax before 2026/27 at the earliest, and even that may seem optimistic.

- However this is the **current** position but the scope for this to rapidly change is likely linked to the obvious and deepening climate emergency and the general failure of almost all national states to meet carbon reduction targets.
- Due to this Community Land Scotland is taking a **precautionary approach** to policy in this area as it seems inevitable that at some stage carbon emissions taxation will emerge.

The John Muir Trust proposal:

The John Muir Trust's proposal is a behavioural change tax. It is not meant to raise revenues for the long term but rather encourage large landowners to manage their land for climate, nature and communities:

1. The tax should be discretionary with no council obliged to introduce it
2. Local autonomy must be balanced with consistency, fairness and simplicity so a national framework should be developed
3. Large-scale landholdings should be assessed by a relevant public agency (SEPA/NatureScot) for actual and potential carbon emissions and sequestration
4. The criteria for large scale should be set at 1,000ha – this would mean 48% of Scotland's total land area would be liable for assessment
5. Standardised banding should be established nationally along the lines of Council Tax with councils setting their own rates per hectare
6. The tax will focus only on natural carbon sequestration – not renewable energy production
7. The tax should focus on carbon storage and biodiversity regeneration in perpetuity

JMT is advocating for an exemption for community-owned land. However this exemption may be problematic:

- If Community Land Scotland members were party to polluting actions which were subject to existing regulation or taxation they are not exempt, nor can a ready case be made for such exemptions. A charity or non-profit distributing status is not and should not be a licence to pollute.
- On that basis community landowners should not be exempt. However in recognition of their status as primary providers of public goods and with no personal profit motive, they could apply for tax relief, as long as all available grants to help reduce or eliminate carbon emissions had been accessed.
- Community Land Scotland should actively encourage its members to get as close to becoming zero carbon operators as is achievable and encourage the take-up of support systems designed to help with this wherever appropriate.

The John Muir Trust proposals are clearly designed for the purpose of disincentivising the emissions of carbon from land, not for generating revenue for tax authorities. Tax authorities, in this case the local authority, may however be attracted to the possibility of this new tax for revenue raising reasons at a time of heavily constrained public expenditure and rising demands for more spending, not least to cope with the climate emergency.

Current Scottish Government mechanisms

The Scottish Government are aware of the problems of peatlands emitting. They have chosen to address this by way of incentivising action to restore peatlands and significant effort is going into doing this. A current budget of £20 million per annum is available as grant aid to landowners and managers to restore peatlands. There is a target (under potentially upward revision) for 250,000

hectares of peatland being restored over a decade, though this now seem very optimistic as less than 10,000 hectares per year has been achieved in recent years. The current budget has been significantly underspent and the scheme faces challenges in getting landowner sign-up and with shortages of the necessary skills and equipment to undertake the work to the correct standards.

In forming policy to address such issues any government has a range of options. They may:

- do nothing and hope for the right outcome from voluntary actions to do the right thing
- they can regulate the emissions and require action by owners and managers to rectify 'polluting' actions or inaction, as they do across a range of fronts (the John Muir Trust state they recognise regulation could be a legitimate approach but prefer the tax route)
- they may choose the taxation route, as they have done, for example, in the landfill tax or on vehicle emissions
- they may incentivise desired actions through grant support.

Of the four broad approaches the Scottish Government has chosen the grant incentive route and committed considerable resources to help achieve this. It is also (controversially) seeking to attract significant private investment to boost peatland restoration and tree planting, with some suggestions to them to end grant support in favour of underwriting private investment sources.

Preliminary Community Land Scotland policy position

- Community Land Scotland prefers a grant incentive mechanism to peatland restoration which must be allowed to run for a prolonged period of time to give it time to work.
- However sitting alongside a grant incentive mechanism a regulatory system should exist as a supporting measure and when it could be determined that the incentive grants alone were not working.
- Community Land Scotland would not want any carbon emissions tax implemented until the grant incentive mechanism and regulation had been shown to be failing to deliver the necessary actions.
- In any circumstances when considering any carbon emissions tax proposal Community Land Scotland would want Parliament to be completely satisfied that such a system of taxation would:
 - result in the community landowners being able to continue to operate viably
 - result in a continuing ability for community owners to invest in wider public interest and social goals
 - be effectively and fairly administered in the crofting areas
 - would not be counterproductive to the aim of delivering investment in restoration
 - be capable of fairly sitting alongside wider UK carbon emissions taxes that may emerge and the existing Emissions Trading Scheme

Policy lines for Community Land Scotland

- Community Land Scotland acknowledges the scale of the climate emergency and its shared threat to human existence is such that it is right that governments seek a range of policy approaches to decisively address the issues.
- Community Land Scotland is committed to support its members in actions to reduce carbon emissions emanating from their land or activity on that land to as low as is achievable.

- Community Land Scotland also accept that it may be necessary for members to inset or offset stubborn to remove residual emissions to achieve net zero.
- Community Land Scotland recognises that, probably, the only real guarantee against future regulatory costs or paying future taxation on emissions is to have reduced emissions as far as is practicable and, potentially, to turn the liability of emitting land into an asset.
- Community Land Scotland recognises that reducing peatland emissions is a complex task. This involves a full understanding of the condition of the peatlands; developing plans for restoration, which might include land use changes that may have to be negotiated with tenants; ongoing monitoring; securing the resources to fund any works; finding the skills and equipment necessary to undertake the work; and ensuring ongoing maintenance. Depending on the extent of the degraded land in need of restoration this could take some years to achieve.