

Agriculture Bill

Briefing for the AERA Committee

Background

The Agriculture Bill (“the Bill”) was introduced into Parliament on 16 January 2020. It is currently at Committee Stage in the House of Commons.

It is a UK-wide enabling Bill, although the main body of provisions applies to England only, with Wales and Northern Ireland taking a limited number of specific provisions in the Bill’s separate Schedules 5 and 6 respectively. There are no Scotland-specific provisions, the Scottish Government having decided to introduce an Agriculture (Retained EU Law and Data) (Scotland) Bill into the Scottish Parliament instead.

Purpose

The Bill essentially provides the legal framework required to transition out of the EU; to replace the Common Agricultural Policy and provide financial support after exiting the EU; and, in England, delivers a range of reforms and creates a new domestic agriculture system based on the principle of paying public money for the delivery of public goods.

This briefing provides a summary of the UK-wide provisions that are devolved and on which legislative consent will be required; those that are reserved but which do not engage the legislative consent process; those provisions specific to Northern Ireland; and the remaining parts of the Bill that do not extend to Northern Ireland. Finally a list of the delegated powers in Schedule 6 is attached at Annex A.

UK-wide provisions requiring legislative consent

There is a number of UK-wide provisions in the Bill as introduced to Parliament, and on which legislative consent will be required, as these relate to a devolved matter.

Duty to report to Parliament on UK food security (clause 17)

This places a duty on the Secretary of State to lay a report before Parliament on UK food security. It is a reserved matter in part as food is one of the UK’s critical national infrastructure sectors, and so relates to national security. However, it is also a devolved matter in part in relation to food and drink supply.

Fertilisers (clause 31)

This allows the UK to continue to legislate in respect of the policies provided for in the new EU Regulation (2019/1009) on fertilising products. It provides for a continuation of the current regime, making good the loss of section 2(2) powers under the European Communities Act 1972.

Identification and traceability of animals (clause 32)

This inserts a new section 89A into the Natural Environment and Rural Communities Act 2006 to enable the Secretary of State to make secondary legislation allowing the Agriculture and Horticulture Development Board (AHDB) to undertake a new statutory role in managing a new Livestock Information Service in England.

The functions that may be assigned to the AHDB include the collecting, managing and making available information regarding the identification, movement and health of animals; or the means of identifying animals. These are functions which are devolved.

Organic products (clauses 36 and 37)

This is in relation to the certification of: organic products; activities relating to organic products; and persons or groups of persons carrying out activities relating to organic products. Those parts of the clause which relate to trade are reserved, whereas those parts which relate to organic products are devolved.

UK-wide provisions not requiring legislative consent

The Bill also contains some clauses that apply UK wide, but which do not require legislative consent as they fall under an area of reserved competence.

Fair dealing with agricultural producers (clause 27)

This includes the publishing or enforcement of sector specific statutory codes of practice to counteract any unfair trading that may arise due to the relatively weak market position of primary producers compared to others in the supply chain.

Producer organisations (clauses 28-30)

This includes recognition and exemption from competition law for Producer Organisations.

WTO Agreement on Agriculture (clauses 40-42)

This includes powers to set financial ceilings for the level of agricultural support paid in both England and the devolved Administrations; establish a decision-making process to classify agricultural support in accordance with WTO criteria; and require the devolved Administrations to provide information in relation to any proposed or existing farm support.

The WTO Agreement on Agriculture sets limits on how much domestic support can be provided by a country, and is categorised into different “boxes” depending on the extent to which the support distorts trade on agricultural markets.

Provisions Specific to Northern Ireland

The Bill extends a limited number of provisions to Northern Ireland. These can be found in Schedule 6 to the Bill.

The rationale behind taking these provisions is to ensure that the status quo can be maintained until such time as future agricultural policy in Northern Ireland is agreed. It will provide a power to continue the basic payment scheme beyond 2020, as well as having the ability to make important simplifications where it would be sensible to do so, and also enable Northern Ireland to keep pace with the rest of the UK.

Furthermore, the Northern Ireland-specific provisions were included having regard to a set of overarching principles. These were that:

- there would be the continuation of a legal basis to provide the current suite of Pillar 1 agricultural support payments (and options) post EU exit;
- the provisions would not constrain the Executive's ability to continue to deliver current schemes and implement options available under the Rural Development Programme and Common Market Organisation provided by existing and retained EU legislation, for so long as Ministers consider this appropriate; and
- The Executive would have sufficient flexibility to develop and implement future agricultural policy consistent with the principles agreed by JMC (EN), which included the functioning of the UK's internal market.

The provisions in question are in relation to:

Schedule 6 Part 1 – Financial support after exiting the EU

This Part provides DAERA with powers to modify retained direct EU legislation governing direct payments and support for rural development following the UK's exit from the EU.

Schedule 6 Part 2 – Intervention in agricultural markets

This Part provides DAERA with an ability to give, or agree to give, financial assistance to agricultural producers in Northern Ireland whose incomes are being, or are likely to be, adversely affected by exceptional market conditions.

DAERA would also be able to make use of any available powers under retained direct EU legislation which provides for the operation of public intervention and aid for private storage mechanisms; and have a power to modify retained direct EU legislation relating to public intervention and private storage aid.

Schedule 6 Part 3 – Collection and sharing of data

This Part provides DAERA with the ability, and a power, to require a person in, or closely connected with, an agri-food supply chain to provide information about matters

connected with that person's activities connected with the supply chain so far as those activities are in Northern Ireland.

DAERA is required to specify the purposes for which this information is being processed, and to publish a draft of the requirement before it is imposed.

This Part also provides DAERA with a power to enforce the information requirements.

Schedule 6 Part 4 – Marketing standards and carcass classification

This Part provides DAERA with a power to make provision about the marketing standards with which specified agricultural products marketed in Northern Ireland must conform; and to make provision about the classification, identification and presentation of bovine, pig and sheep carcasses by slaughterhouses in Northern Ireland.

Schedule 6 Part 5 – Data protection

This Part preserves the status of existing data protection legislation, including the General Data Protection Regulation, and specifies that any exercise of data will be compliant with it.

Schedule 7 Part 5 – The CMO Regulations: Consequential amendments

This Part provides details of consequential amendments to the CMO Regulation in relation to marketing standards and carcass classification in Northern Ireland. It disapplies the relevant Articles for products marketed, or slaughterhouses situated, in Northern Ireland.

It also saves any Regulations made by the European Commission under Article 19(6), Article 20 points (p) to (t) and Article 21 of the CMO Regulation in relation to slaughterhouses in Northern Ireland; and any Regulations made by the European Commission under Section 1 or Section 3 of Chapter 1 of Title 2 of the CMO Regulation in relation to products marketed in Northern Ireland.

Affirmative resolution procedure

The Committee will wish to note that the majority of these Northern Ireland-specific provisions would be subject to the affirmative resolution procedure, thus ensuring that decisions on their use are entirely a matter for the Executive and the Northern Ireland Assembly. To assist the Committee, the delegated powers in Schedule 6 have been listed at Annex A.

Other provisions (to note)

Part 1 Financial Assistance (clauses 1-6, 8 and 11-13)

These clauses provide the Secretary of State with new powers to provide financial assistance to those managing the land and delivering public benefits (such as improved air and water quality); and to phase out direct payments to make way for this system. These provisions do not apply to Northern Ireland.

Red meat levy (clause 33)

This is a GB only provision, as the red meat levy does not extend to Northern Ireland.

Agricultural tenancies (clause 34)

This provision amends the Agricultural Holdings Act 1986, which does not extend to Northern Ireland.

Prepared 14 February 2020

DAERA

Delegated Powers in Schedule 6

- Make regulations modifying retained EU legislation that governs the CAP basic payments scheme (affirmative);
- Provide for the continuation of the basic payment scheme beyond 2020, and to provide for the direct payments ceiling to be determined by DAERA (affirmative);
- Make regulations modifying the coupled support scheme (affirmative);
- Make regulations modifying retained direct EU legislation relating to the financing, management and monitoring of the CAP (negative, unless it modifies primary legislation, in which case affirmative);
- Make regulations modifying retained EU legislation relating to rural development (affirmative);
- Give, or agree to give, financial assistance to agricultural producers whose incomes are being, or are likely to be, adversely affected by disturbance in agricultural markets (a DAERA power which doesn't require the making of regulations);
- Modify retained direct EU legislation relating to public market intervention and private storage aid (affirmative);
- Require a person in the agri-food chain to provide information (a DAERA power which doesn't require the making of regulations);
- Make regulations requiring a person in the agri-food supply chain to provide information (affirmative);
- Make regulations for the enforcement of data collection and sharing requirements (affirmative);
- Make provision about marketing standards (affirmative);
- Add or remove an agricultural product to or from the specified list of agricultural products, or alter the description of an agricultural product (affirmative); and
- Make provision about the classification, identification and presentation of bovine, pig and sheep carcasses by slaughterhouses (affirmative).