

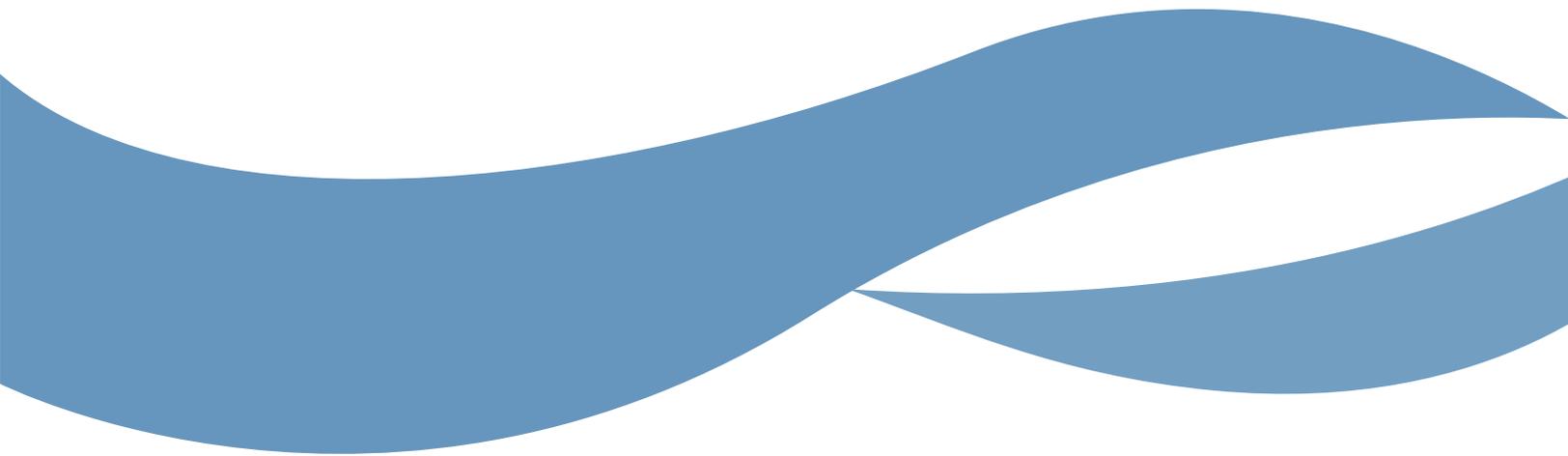
Agriculture (Retained EU Law and Data) (Scotland) Bill

Stage 2 Briefing

16 June 2020

About Scottish Land & Estates

At Scottish Land & Estates (SLE) our work helps to ensure that rural Scotland thrives. We are a membership organisation for landowners, rural businesses, and rural professionals. We promote the wide range of benefits land-based businesses provide: tourist attractions, leisure facilities and landscapes enjoyed by the public, as well as housing, employment, tourism & enterprise and farming opportunities. We represent the interests of our members and wider rural Scotland to the UK and Scottish Governments to help ensure that policy and legislation reflects the unique requirements of rural Scotland and its communities.



Summary

Scottish Land & Estates (SLE) welcomes the opportunity to provide views on the draft Agriculture (Retained EU Law and Data) (Scotland) Bill, **and we encourage MSPs to consider some necessary improvements to this bill.**

The Bill largely brings necessary EU law into domestic law and creates powers for ministers to modify retained EU law. New powers are also created relating to the collection of data.

This Bill enables Ministers to make changes to CAP legislation and payment provisions, but without defining what the scale or scope of those changes might be. It provides powers to make changes to payments and to cap payments, but again fails to define the scale of these changes nor what any resulting savings may be used for. The lack of a sunset clause means that the powers are not time-limited and could roll on beyond 2024 and the proposed transition period in Stability and Simplicity.

We must use this opportunity to identify what we want to achieve from investment in rural Scotland, particularly in our uplands and our less favoured areas. This Bill, as it stands, misses the opportunity to deliver a clear direction for the industry to transition towards.

In our [#Route2050 paper](#) we detail our vision for the future of Scottish land management and rural policy, recommending that one priority should be investment in research, innovation and trialling interventions to secure uptake of farm level measures that reduce emissions, sequester more carbon and deliver on existing legislative commitments. We would encourage the committee to consider this paper as the Bill progresses.

SLE has always argued that whilst this Bill is a predominately enabling one there were some key points where amendments should be made. Amendments on procedure, consultation and point of expiry when a bill is obviously meant to be short lived are focussed on the principle of legislative best practice. It is right that these, albeit relatively small issues, be fixed now. Other amendments: the introduction of a purpose clause, reporting for the purposes of food security and an intention to deliver suitable future agriculture policies when this Bill expires go beyond correct drafting and instead seek to deliver clearer direction for the sector and move things forward as we look to recover from Covid-19 and deliver on Scotland climate ambitions.

Objectives and Principles (Amendments 36, 37, 24)

Amendments 36, 37 and 24 set out principles for any secondary legislation. These amendments have been written within the context of the 10 January 2019 debate where the Cabinet Secretary committed to create the Farming and Food Production Future Policy Group. The amendments follow the broad principles laid out within the aims and objectives for this group. In our evidence to the REC committee for Stage 1 of this Bill we urged that this Bill be amended to include a purpose clause that would provide a clear indication of the direction of travel for policy to the sector. These amendments could also be used

to aid the sector in delivering on Scotland's Net-Zero emissions targets. The inclusion of a purpose clause does not create a requirement for additional funding or for specific policy to be brought forward. It instead sets out a suite of principles that could be applied to the secondary legislation that can be created from this bill.

We would urge the committee to support amendment 36 in the name of Colin Smyth. Failing that we feel amendment 37 (Rachel Hamilton) and 24 (John Finnie) also provide the clear indication of a direction of travel for policy that the sector needs.

Regulations: Procedure (Amendments 1, 8, 11, 14, 28, 29, 16)

Amendments; 1, 8, 11, 14, 28, 29 and 16 relate to the changing of negative procedure to affirmative. **We support all of these changes.** In terms of **amendment 14** in the name of John Finnie and **amendment 28** in the name of Fergus Ewing, we are happy to support either of these.

Regulations: Consultation (Amendments 2, 3, 5, 6, 23, 9, 10, 12, 13, 15, 17, 18, 18A, 19, 20, 20A)

Large parts of this bill provide powers for Scottish Ministers to simplify, improve and modify current regulations and bring forward further legislation. We feel a commitment to consult with relevant individuals or stakeholder is important to ensure Scottish Government understands the ambition of the sector to embrace change and maximise opportunities, rather than sticking with the status quo.

We fully support amendments 2, 3, 5, 6, 23, 9, 10, 12, 13 and 19.

We are happy to support amendment 15 in this grouping or amendment 29 in the Regulations: Procedure grouping.

Changes to carcass classification could have an enormous impact on the production and processing sector, therefore **we fully support amendment 17** in the name of John Finnie.

We fully support amendments 18 and 20 in the name of Colin Smyth, in the interest of ensuring consultation includes necessary groups but takes no longer than absolutely necessary we would also **encourage support for amendments 18A and 20A** in the name of Rachel Hamilton.

Conferral of functions under section 3 (Amendment 4)

In line with the position taken for the previous grouping **we support amendment 4** in the name of John Finnie. It is right that appropriate groups are consulted and narrowing this down ought to ensure it takes no longer to consult on this than absolutely necessary.

Statement by the Scottish Ministers under section 4 (Amendment 38)

It is likely that improvements, simplifications and modifications to retained CAP legislation could result in budgetary savings. It is right that there be a plan as to how that surplus will be reallocated. We would hope that any such surplus be reallocated to deliver on improving resilience, business skills and climate change adaptation or mitigation. **We therefore strongly support amendment 38** in the name of Peter Chapman.

Expiry of powers (Amendment 7, 7A, 42, 22, 26)

When this Bill was introduced there were reassurances that it was to be short lived. The aim was that, in alignment with the stability and simplicity consultation, by 2024 the policy would begin to move toward a longer term, completely new agricultural or rural policy. That being the case, there is an opportunity now to ensure focus and clarity by stating an expiry date and enabling both industry and government to work towards a system which meets the changing needs of both society and agriculture in Scotland. A “sunset clause” for this act will provide a clear direction for the sector as to the scale and pace of change required. The amendments proposed largely involved an expiry date at the end or shortly after the end of the next parliament. They also include the potential to extend by a year or further if required. We view a sunset clause as legislative best practice and would **encourage the committee to support amendment 42** in the name of Colin Smyth. **Amendment 7 and 26** also address our concerns.

Purpose for which information may be required or processed (Amendment 21, 40, 41)

We support the inclusion of managing risks to animal or human health in **amendment 21**. This would deliver benefits for business management and livestock welfare.

The UK Agriculture Bill includes a section on reporting for food security, we would argue that as Scotland will be providing data for the UK report there ought to be a comparable analysis for Scotland. This information can be used to understand supply chain, processing capacity and also growth potential for adding value within Scotland, which is why **we support amendments 40 and 41** in the name of Colin Smyth.

Requirements on the Scottish Ministers to report and bring forward legislative proposals (Amendment 31, 32)

SLE have continued to argue that value of any transition is in knowing what we are transitioning to. Whilst the proposed purpose clause goes a significant way in providing comfort that there is a direction

of travel. A progress report would go much further in cementing confidence in that direction of travel and the pace of change expected of the sector.

The concern with the current position is that Scottish Minister could continue fixing minor elements whilst the body of policy remains as retained EU law rather than making the most of the opportunity to deliver a Scottish policy written for our unique circumstances.

We have seen several key reports in recent years. The [Simplification Task Force](#), set up as part of the Stability and Simplicity Consultation to identify recommendations for such changes, published its findings on 13 January 2020. This report follows very similar recommendations to the [2014 Pack Report- Doing Better Initiative to Reduce Red Tape](#). That is not to discredit their work but rather highlight that issues within agricultural policy delivery and scheme design are not new.

The Agriculture Champions and National Council of Rural Advisers both delivered key recommendations and the current Farming and Food Production Future Policy Group will report their recommendations soon. We know from the Stability and Simplicity consultation that there was an ambition to apply these recommendations in initial improvements whilst also creating pilots and trials for future policy. With the added requirements of Scotland's Net Zero emissions targets and the Covid-19 Green Recovery both of which will need large input from land based solutions there is a need to understand how these things fit together and are used in forming future policy.

We now have the opportunity to utilise past and current analysis and recommendations when designing future schemes and making more immediate "quick fixes". This wealth of knowledge must not be forgotten.

We strongly support amendments 31 and 32 in Rachel Hamilton's name.

Covid-19 Recovery Consideration

In light of the current pandemic, we would encourage the government to use the economic and green recovery effort to ensure the agricultural sector is put into the best possible position to recover from this and grow. Land Management has the potential to meet many of the needs of a green recovery while enabling rural communities to thrive economically and socially.

To do this there needs to be a clear effort to build resilience and adaptability into the sector. Whilst pandemics are rare, market shocks, weather intensity and economies have enormous impacts. Changes to agricultural policy and government support can lead to better business practice and greater clarity for all involved, while making the changes needed to provide a truly green recovery.

For more detailed information

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