

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.

Summary

The Agriculture Bill is a crucial part of the UK Government's plan for future farming and land management policy. As expected, the Bill provides broad powers to current and future governments, enabling them to provide financial assistance and make other policy interventions around land use and agriculture.

- **Food Security:** We welcome the inclusion of Food Security in this bill but would encourage the reporting to also include reference to emissions, climate change impact and sustainability of supply to ensure a more complete understanding of the situation.
- **WTO Agreement on Agriculture:** We note the ongoing concerns of Scottish Government surrounding WTO clauses. Whilst trade is a reserved matter, we think the Bill has missed the opportunity to clarify the inclusion of devolved nations in setting WTO compliant ceilings and in the wider assessment of impacts from quotas and tariffs. If this is not challenged Scotland risks failing to have an effective say in post-Brexit trade deals.
- **Food Standards and Trade:** We share the concerns raised on the lack of protection for standards in domestic production and the impact that lower standards for imports will have on the ability of UK producers to compete on a level playing field.
- **Embedding the principles of fair funding:** We continue to be of the opinion that this Bill presents an opportunity to embed the principles of fair funding for inter-UK allocation, as detailed in Lord Bew's Review. The current method by which funding is allocated throughout the UK is somewhat of a mystery surrounded by historical precedence. Now is the time to add some transparency to the methodology of how any budget would be allocated, this can be done without binding future governments.

Introduction and Context

The CAP currently provides nearly £4 billion of support annually to farmers and crofters across the UK, of which approximately £500 million comes to Scotland and is delivered to farmers and crofters via Direct Payments (Pillar 1) and the Scottish Rural Development Programme (Pillar 2). Leaving the Common Agriculture Policy enables a radical rethink on how Scotland supports agriculture and achieves environmental targets.

Although many aspects of farming and land management are devolved, the UK Agriculture Bill will have an impact on farming across all parts of the UK. It is absolutely vital that the Westminster Agriculture Bill considers the views and needs of Scottish agriculture. It is not just the outcomes of this legislative process that will shape agriculture in the future but also the decision-making processes that are established via the Agriculture Bill. It is important that this primary legislation is rigorously scrutinised to provide the best foundation for subsequent secondary legislation. **There should not be a reliance on statutory instruments and secondary legislation to correct already known deficiencies in the primary legislation.**

A long-term vision from the UK Government is key to stability and confidence in the sector. It is imperative that future policy does not prevent rural businesses from taking advantage of these opportunities. Ahead of the 2019 General Election we launched our manifesto "[Our Plan for a Thriving Rural Scotland](#)" which called for key issues such as trade and common frameworks to be addressed immediately, and for climate change to be front and centre of all policy. Our vision is to have the true value and contribution of rural land-based businesses recognised and valued both publicly and politically.



Agriculture is directly responsible for contributing £670 million to the Scottish economy.
(gov.scot.Agriculture Fact and Figures)



In 2015, the partial asset value of Scottish Natural Capital was estimated to be £291 billion, 37% of the UK asset value.
(Scottish Natural Capital: Ecosystem Service Accounts, 2019)



In 2016 Scotland represented 45% of overall UK carbon sequestration with an estimated value of £995 million.
(Scottish Natural Capital: Ecosystem Service Accounts, 2019)

Thriving rural businesses provide wider social, economic and environmental benefits for all, as detailed in our paper '[#Route2050: A direction of travel for Scottish land management to 2050](#)', which sets out a 30-year vision for rural Scotland. Our concern is with doing what is best for Scottish farming and rural development and in our view maintaining a functioning UK-wide agricultural system is important. SLE remains open to supporting whichever route best achieves that goal.

Scottish Extent

Part 8, Clause 52 of the bill details the extent of the bill, the following parts of the bill extend to Scotland; Part 2 - Chapter 1 (Clause 17), Part 3 - Chapters 2 and 3, Part 4 - excluding Clause 34 (Agricultural Tenancies), Part 5 - excluding Clause 35 (Marketing Standards) and Clause 38 (Carcass Classification), Part 6, Part 8, Schedule 1 and Schedule 2.

Legislative Consent has been sought for; Part 2 Clause 17, Part 4 Clauses 31-33, Part 5 Clause 36-37. It has not been sought for the other Clauses which extend to Scotland as Westminster views them as within their competence. Scottish Government dispute this, especially in relation to WTO Agreement on Agriculture and Producer Organisations. Constitutional disputes surrounding reserved areas and the creation of common frameworks must be addressed sooner rather than later. The legislative consent memorandum from Scottish Government can be seen [here](#).

Food Security

Previously the Food and Agricultural Markets section enabled Government to provide financial assistance or other interventions in the case of exceptional market conditions. This is covered in **Clause 18- 20** which does not extend to Scotland and is covered by the **Agriculture (Retained EU Law and Data) (Scotland) Bill**.

However, it now includes **Clause 17** which relates to Food Security. This new clause places a requirement for Government to report to Parliament on UK food security. It outlines that every five years Government must present a report analysing UK self-sufficiency, food safety, supply chain resilience, household expenditure and global food availability. Legislative consent has been sought from Scottish Parliament for this clause. Food production in itself is not a public good; however, **food security is a natural strategic priority for a nation**. We welcome the inclusion of Food Security in this Bill but would encourage that **reporting be more frequent** and also **include reference to emissions, climate change impact and sustainability of supply to ensure a more complete understanding of the situation**.

WTO Agreement on Agriculture

Clauses 40-42 give the Government the power to ensure that the UK complies with its Schedule of Commitments and obligations to the World Trade Organisation (WTO). The Government will be given the power to classify the levels of support in terms of their potential to be trade distorting and to comply with the Agreement on Agriculture. Amber box payments allow a WTO member to put in place a ceiling for trade distorting support and the Secretary of State will implement this within UK law. The Secretary of State will also be able to use a proportion of trade distorting support and apply this across the UK, for example, in cases of crisis. The Secretary of State will be permitted to set ceilings on green and blue box payments to apply across the UK.

Clarity is needed on the potential for financial constraints for Scottish agricultural policy and any issues surrounding devolved competence. The UK Government contends it will be responsible for ensuring that all UK policies on domestic support in relation to agriculture are WTO compliant, as the UK will be the signatory to the WTO rather than any of the devolved nations. There has however been some movement on this according to page 9 of the LCM.

“In any event, clauses 40 to 42 contain provisions which would affect the executive competence of the Scottish Ministers as regards the exercise of functions concerning agricultural support in Scotland. The UK Government has now indicated that it considers that consent is required, to the extent that the provisions affect the executive competence of the Scottish Ministers, but not otherwise.”

The issues surrounding WTO Agreement on Agriculture is clearly one which needs resolving. **SLE would like to see clarity on the agreement and consultation process between the Secretary of State and devolved authorities to ensure that decisions are not forced upon them without due consideration of their impact.**

Protecting Standards

After the UK leaves the EU, Scottish businesses will enter an unprecedented era of change in terms of international trade. Strong and committed leadership will be fundamental to ensuring we create the right conditions for Scotland's producers to continue to thrive. We would like to see the UK Government ensure that trade in agri-food products is as free as possible with our principal markets. **In the event of disrupted trade supply routes, public procurement should stipulate the use of domestic produce to enhance the potential for supply in our domestic markets.** This can be done without contravening the WTO Agreement on Agriculture.

Scotland's producers need guarantees from the UK Government that domestic production and environmental standards are upheld as part of future international trade deals. Our extremely high environmental and food safety standards are amongst our key selling points, and this must be protected after we leave the EU to ensure we do not find ourselves in a 'race to the bottom'. As a responsible nation, Scotland must ensure it does not export its farming function to other countries, particularly where environmental, animal health and food safety is not guaranteed.

As we embark on negotiating trade deals, it is hugely disappointing that the UK Government have not taken the opportunity to enshrine a clear commitment to preventing substandard imports undercutting domestic food produced to high British farming standards. This issue has united farming, consumer, environmental and animal welfare organisations and codifying the commitment in law would strengthen the government's hand in trade talks create a line that could not be deviated from

If this is not addressed, we face a very real prospect of British farming being undermined by imported food which can be produced to a standard which would be unacceptable, disproportionately cheaper and illegal in the UK. All we ask for is a level playing field.

Principles of Fair Funding

We continue to be of the opinion that this bill presents an opportunity to embed the principles of fair funding for inter-UK allocation, as detailed in [Lord Bew's Review](#). The current method by which funding is allocated throughout the UK is somewhat of a mystery surrounded by historical precedence. Now is the time to add some transparency to the methodology of how any budget would be allocated, this can be done without binding future governments.

Within the review recommendations there was reference to the allocation of funding, whilst funding beyond 2022 was outside the scope of this review, the recommendations certainly align with the appetite of stakeholders.

“We suggest UK government Ministers consider engaging collectively with their devolved administration counterparts to agree some principles for the initial 2022 intra-UK allocation of agriculture funding, whatever the mechanism for managing the consequences of subsequent changes to that funding. Ministers should try to avoid giving farmers in any one part of the UK an unfair competitive advantage when deciding future allocations.”

“We advocate including in those principles a recognition both of the social value of upland farming in particular and the challenges facing those practising it, and of the potential for delivering environmental public goods alongside sustainable food production, wherever in the UK that potential exists.”

Common Frameworks

The Scottish agricultural sector has similarities and differences with every country in the United Kingdom. However, even if the detail of delivering policies is different, it will be important that there is a common policy framework across the UK. One which ensures there are no barriers to trade or broad difference in welfare standards. Any UK policy or framework has to be created with equal collaboration across all of the devolved administrations.

SLE welcomed the agreement between the UK government and devolved administrations on the principles that will underpin the creation of common frameworks. The UK Governments updated [Frameworks Analysis Document](#) clearly shows the areas and level of action required in the development of common frameworks. Frameworks will be needed across a broad range of policy activity. Of the 21 policy areas where future legislation may be needed to implement common rules, 15 relate to agriculture, food production or the environment.

Whilst agriculture and rural development are devolved, at present Scotland does not have absolute control because the framework within which Scottish decisions are made is set by the Common Agricultural Policy at the EU level. Scotland is able to tailor implementation of the policy, not decide on its own policy. We accept this situation because the CAP provides the policy consistency across the EU that allows trade, from which we benefit. An over-arching policy framework provides a degree of consistency, for example on the level to which farmers are subsidised, so that there is a level playing field that enables open markets. We agree to cede some sovereignty in decision-making because we gain something in return: we gain the ability to trade without infringement or additional cost.

Route2050: A direction of travel for Scottish land management to 2050

[#Route2050](#) sets out our priorities for future rural investment and reward. SLE is in an almost unique position, with members involved in a range of sectors including agriculture, forestry, housing, & tourism. Each of these require high standards of land management and each is reliant on the other to deliver their full potential. Agriculture is of course devolved, and we are clear that Scotland must be able to meet its policy objectives on its own terms.

Which is why the development of common frameworks that respect the devolution and Scotland's autonomy is so crucial. We believe that rural businesses will underpin increased societal and environmental wellbeing throughout Scotland and the UK along with the direct creation of jobs and the indirect increase in opportunities for product and service provisions. What seems clear is that if it is managed in an integrated way, the land can deliver more in the way of outcomes to society.

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.

There needs to be a clear effort to build resilience and adaptability into the sector. Whilst pandemics are rare, sudden changes to market situation, weather intensity and global economies have enormous impact on the sector. Changes to agricultural policy and government support should be better used to instil good habits and better business practice.

For more detailed information:

Eleanor Kay

Policy Adviser (Agriculture)

✉: eleanor.kay@scottishlandandestates.co.uk

☎: 07483 054293