



F/T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon George Eustice MP
Secretary of State for Environment,
Food and Rural Affairs
Defra
Seacole Building
2 Marsham Street London
SW1P 4DF

20 February 2020

Dear George,

I wrote to your predecessor, Michael Gove, on 24 October and 5 November 2018 concerning the Agriculture Bill. With those letters I provided a set of amendments to the Bill to deal with areas which impinge on the legislative competence of the Scottish Parliament in relation to producer organisations, fair dealing in supply chains and the WTO Agreement on Agriculture. Those amendments were designed to reflect devolved competences and bring the clauses into line with the devolution settlement. The amendments also dealt with the future UK Geographical Indications scheme, and provided a statutory underpinning for the oft-repeated commitment from your Government that post-Brexit trade deals will not allow domestic producers to be undercut by imported products which have not been produced to the same standards required of our own farmers, crofters and producers. They also sought to ensure that promises on future funding made during the EU referendum campaign are honoured by the UK Government.

Obviously, that Agriculture Bill made slow progress in Parliament and eventually fell. You have now introduced a fresh version of the Agriculture Bill, which contains many of the same provisions. I therefore attach a revised set of amendments, updated to take account of the changes you have made to the Bill, which I hope you will bring forward.

In relation to clauses 32, 36 and 37 on animal ID and organics, our officials have been discussing our concerns about the lack of consent mechanisms. I trust that you will be bringing forward amendments to rectify these omissions.

Yours sincerely,

FERGUS EWING

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

Agriculture Bill

Clause 27

In clause 27, page 22, line 9, at end insert—

“() Regulations under this section containing provision that extends to Scotland may be made only with the consent of the Scottish Ministers.”

In clause 27, page 23, line 27, at end insert—

“() Before making regulations under this section, the Secretary of State must consult persons—

- (a) who are representative of—
 - (i) qualifying sellers of, or
 - (ii) business purchasers of,
 the agricultural products to which the regulations will apply, or
- (b) who may otherwise be affected by the regulations.”

Clause 28

In clause 28, page 23, line 42, leave out “to the Secretary of State”

In clause 28, page 24, line 12, leave out “to the Secretary of State”

In clause 28, page 24, line 20, leave out “to the Secretary of State”

In clause 28, page 24, line 38, at end insert—

“() An application under subsection (1), (3) or (5) is to be made to and determined by—

- (a) the appropriate authority for the part of the United Kingdom in which the applicant has its registered office or principal place of business, or
- (b) where the applicant is made up of producers, producer organisations or, as the case may be, businesses operating in more than one part of the United Kingdom, the appropriate authority for any of those parts.”

In clause 28, page 25, line 5, leave out “The Secretary of State” and insert “The appropriate authority to which an application is made under this section”

In clause 28, page 25, line 24, at end insert—

““appropriate authority” means—

- (a) in relation to England, Wales or Northern Ireland, the Secretary of State,
- (b) in relation to Scotland, the Scottish Ministers;”

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Clause 29

In clause 29, page 26, line 9, leave out “the Secretary of State” and insert “an appropriate authority (within the meaning given in section 28(13))”

Clause 30

In clause 30, page 26, line 16, leave out “the Secretary of State” and insert “an appropriate authority (within the meaning given in section 28(13))”

In clause 30, page 26, line 29, at end insert—

“() Regulations under section 28 or 29 containing provision that extends to Scotland may be made only with the consent of the Scottish Ministers.”

Clause 40

In clause 40, page 36, line 20, at end insert—

“() Regulations under this section containing provision that extends to Scotland may be made only with the consent of the Scottish Ministers.”

Clause 42

In clause 42, page 38, line 17, leave out from “support” to end of line 19

In clause 42, page 38, line 20, leave out subsections (4) and (5)

New Clauses

To move the following Clause—

“Quality schemes for agricultural products and foodstuffs

- (1) Subsection (2) applies to any function of the Secretary of State under—
 - (a) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (“the EU Regulation”),
 - (b) the delegated and implementing Regulations,
 - (c) any regulations made by the Secretary of State under the EU Regulation, and
 - (d) any regulations made under section 2(2) of the European Communities Act 1972 relating to the enforcement of the EU Regulation or the delegated and implementing Regulations.
- (2) The Secretary of State may exercise the function only with the consent of the Scottish Ministers.
- (3) In subsection (1), the “delegated and implementing Regulations” means—
 - (a) Commission Delegated Regulation (EU) No 664/2014 supplementing the EU Regulation with regard to the establishment of Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules,

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

- (b) Commission Delegated Regulation (EU) No 665/2014 supplementing the EU Regulation with regard to conditions of use of the quality term “mountain product”, and
 - (c) Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of the EU Regulation.
- (4) The references in subsection (1) to the EU Regulation and the delegated and implementing Regulations are to those instruments—
- (a) as they have effect in domestic law by virtue of the European Union (Withdrawal) Act 2018, and
 - (b) as amended from time to time whether by virtue of that Act or otherwise.”

To move the following Clause—

“International trade agreements

- (1) A Minister of the Crown may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the agreement—
- (a) includes an affirmation of the United Kingdom’s rights and obligations under the SPS Agreement, and
 - (b) prohibits the importation into the United Kingdom of agricultural and food products in relation to which the relevant standards are lower than the relevant standards in the United Kingdom.

- (2) In subsection (1)—

“international trade agreement” means—

- (a) an agreement that is or was notifiable under—
 - (i) paragraph 7(a) of Article XXIV of General Agreement on Tariffs and Trade, part of Annex 1A to the WTO Agreement (as modified from time to time), or
 - (ii) paragraph 7(a) of Article V of General Agreement on Trade in Services, part of Annex 1B to the WTO Agreement (as modified from time to time), or
- (b) an international agreement that mainly relates to trade, other than an agreement mentioned in sub-paragraph (i) or (ii);

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

“relevant standards” means standards relating to environmental protection, plant health and animal welfare applying in connection with the production of agricultural and food products;

“SPS Agreement” means the agreement on the Application of Sanitary and Phytosanitary Measures, part of Annex 1A to the WTO Agreement (as modified from time to time);

“WTO Agreement” means the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994.”

To move the following Clause—

“Agricultural payments to the Scottish Ministers

After exit day, the Secretary of State must make available to the Scottish Ministers each year sums which are at least equivalent to the sums made available to the Scottish Ministers in the year prior to exit day for the purpose of expenditure under—

- (a) the European Agricultural Guarantee Fund, and
- (b) the European Agricultural Fund for Rural Development,

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

(both established under Article 3 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy).”

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

