

UK Agriculture Bill

Explanatory Notes on Scottish Government Amendments

Clauses 22 - 24 - Producer Organisations

Clause 22 (Producer and interbranch organisations: application for recognition)

As drafted in the Bill at introduction, this clause provides for organisations of agricultural producers, associations of recognised producer organisations, and organisations of agricultural businesses to apply to the Secretary of State for recognition. In the Scottish Government's view, this relates to matters in a devolved policy area, namely the promotion of an effective agricultural market to replace the EU producer organisation regime and therefore, in line with the devolution settlement, decisions on such applications in relation to Scotland should be taken by the Scottish Ministers.

The Scottish Government amendments to this clause would:

- Require such applications be made to—
 - the appropriate authority for the part of the UK where the applicant is principally based (i.e. for England, Wales or Northern Ireland, the Secretary of State, and for Scotland, the Scottish Ministers), or
 - if the applicant is made up of members operating in more than one part of the UK, the appropriate authority for any of those parts.
- Require that appropriate authority to make notifications of decisions on applications to the CMA and applicant.

Clause 23 (recognised organisations: competition exemption and further provision)

As drafted in the Bill at introduction, this clause provides for the Secretary of State to make further provision about recognised organisations, and that regulations may include a requirement for permission from the Secretary of State for the delegation of functions by recognised organisations. In the Scottish Government's view, this relates to matters in a devolved policy area, namely the promotion of an effective agricultural market to replace the EU producer organisation regime and therefore, in line with the devolution settlement, such permissions should be sought from the Scottish Ministers.

The Scottish Government amendments to this clause would require the delegation of functions to require permission from the appropriate authority (as set out in the amendments for clause 22).

Clause 24 (regulations under clauses 22 and 23)

As drafted in the Bill at introduction, this clause allows the Secretary of State to delegate functions in relation to clauses 22 and 23, and to make regulations for sector-specific exceptions or additional provisions following consultation with a representative of that sector. In the Scottish Government's view, this relates to matters in a devolved policy area, namely the promotion of an effective agricultural

market to replace the EU producer organisation regime and therefore, in line with the devolution settlement, the decision to delegate such functions and make such regulations, where they extend to Scotland, should only be taken with the consent of Scottish Ministers.

The Scottish Government amendments to this clause would allow regulations to give the power to delegate functions to an appropriate authority (as set out in the amendments for section 22), and ensure that regulations under section 22 or 23 containing provision that extend to Scotland may be made only with the consent of the Scottish Ministers.

Clause 25 (Fair dealing obligations of first purchasers of agricultural goods)

As drafted in the Bill at introduction, this clause provides a power for the Secretary of State to make regulations to promote fair contractual dealing by the first purchasers of agricultural products, with no requirement for consultation. In the Scottish Government's view, this involves matters in a devolved policy area, namely the regulation of unfair contractual terms in commercial contracts by agricultural producers in Scotland. Therefore, in line with the devolution settlement, where such regulations extend to Scotland, these should only be made with the consent of the Scottish Ministers.

The Scottish Government amendments to this clause would require that regulations containing provisions that extend to Scotland may be made only with the consent of the Scottish Ministers, and that before making regulations the Secretary of State should consult with representatives of the producers and first purchasers (in line with a similar duty under clause 24(5) of the Bill in relation to regulations concerning producer organisations etc.).

Geographical Indications

There is no provision in the Bill, as drafted at introduction, in relation to geographical indications. In the Scottish Government's view, the devolved administrations should have an appropriate role in any future UK scheme on Geographical Indications, particularly because of their importance to Scottish food producers. The Scottish Government would like provision to be made in the Agriculture Bill in relation to the future exercise of functions, including legislative functions, in relation to the current EU regime (primarily under 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,) as that becomes retained EU law subject to amendment by virtue of the European Union (Withdrawal) Act 2018.

Therefore, the Scottish Government's proposed amendment seeks to ensure that the exercise of relevant functions conferred on the Secretary of State in relation to the relevant retained EU law under including in relation to its enforcement, should be subject to the consent of the Scottish Ministers.

Clause 26 (WTO Agreement on Agriculture: regulations)

As drafted in the Bill at introduction, this clause grants the Secretary of State powers to:

- Set limits on the total amount of domestic support for agriculture for the whole of the UK, and for England, Scotland, Wales and Northern Ireland separately.
- Define a process for how domestic farm support should be classified for WTO purposes, including dispute resolution with the Secretary of State as final arbiter.
- Gather information from the devolved administrations to allow for the classification and reporting of agricultural support to the WTO.

In the Scottish Government's view, this involves matters in a devolved policy area, namely the implementation of international obligations as regards matters which are not reserved (in relation to agricultural support). Therefore, in line with the devolution settlement, where such decisions relate to Scotland, they should only be taken with the consent of the Scottish Ministers.

The Scottish Government amendments to this clause would:

- Require that the power to make regulations so far as extending to Scotland can only be exercised with the consent of Scottish Ministers.
- Remove any specific reference to the Secretary of State as final arbiter in the dispute resolution process for WTO classification of domestic support.
- Remove the subsection requiring devolved authorities to provide certain information to the Secretary of State.