



# Agriculture (Retained EU Law and Data) (Scotland) Act 2020

## 2020 asp 17

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 26th August 2020 and received Royal Assent on 1st October 2020**

An Act of the Scottish Parliament to confer powers to modify certain retained EU law relating to agriculture, including power to make new provision about marketing standards in relation to agricultural products and the classification of carcasses; to make provision about the collection and processing of information connected with food supply chains and agricultural activities; and for connected purposes.

### **PART 1**

#### RETAINED EU LAW

##### *Introductory*

#### **1 Defined terms**

- (1) This section defines or explains terms used in this Part.
- (2) The “main CAP legislation” means—
  - (a) the Direct Payments Regulation,
  - (b) the Rural Development Regulation,
  - (c) the Horizontal Regulation,
  - (d) the Common Provisions Regulation so far as relating to the operation of the Rural Development Regulation,
  - (e) any delegated or implementing Regulations made (whether by the Commission or the Council) under any of the Regulations referred to in paragraphs (a) to (d),
  - (f) any subordinate legislation implementing or otherwise relating to any of the Regulations referred to in paragraphs (a) to (e).
- (3) The “Direct Payments Regulation” means Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules

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for direct payments to farmers under support schemes within the framework of the common agricultural policy.

- (4) The “Rural Development Regulation” means Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development.
- (5) The “CMO Regulation” means Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.
- (6) The “Horizontal Regulation” means 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.
- (7) The “Common Provisions Regulation” means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund etc.
- (8) “Modify” includes amend, revoke and repeal (and related expressions are to be construed accordingly).

**Commencement Information**

**11** [S. 1](#) in force at 5.11.2020 by [S.S.I. 2020/315](#), [reg. 2\(a\)](#)

*Direct payments, rural development support etc.*

**2 Power to simplify or improve CAP legislation**

- (1) The Scottish Ministers may by regulations modify the main CAP legislation.
- (2) The Scottish Ministers may only make modifications under subsection (1) that they consider would simplify or improve the operation of the provisions of the legislation.
- (3) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

**Commencement Information**

**12** [S. 2](#) in force at 5.11.2020 by [S.S.I. 2020/315](#), [reg. 2\(b\)](#)

**3 Power to provide for the operation of CAP legislation beyond 2020**

- (1) The Scottish Ministers may by regulations modify the main CAP legislation for the purpose of securing that the provisions of the legislation continue to operate in relation to Scotland for one or more years beyond 2020.
- (2) The power conferred by subsection (1) includes power to make provision for determining, in respect of any year, a national ceiling of the kind referred to in Article 6 of the Direct Payments Regulation to be applicable in relation to Scotland for the year.

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- (3) Provision made by virtue of subsection (2)—
  - (a) must require a determination in respect of a year to be published as soon as practicable after it has been made, and
  - (b) may confer functions on any appropriate person in connection with, or with the making of, a determination in respect of a year.
- (4) Regulations under this section are subject to the affirmative procedure.

**Commencement Information**

**I3** S. 3 in force at 5.11.2020 by S.S.I. 2020/315, reg. 2(c)

**4 Power to modify financial provision in CAP legislation**

- (1) The Scottish Ministers may by regulations modify any provision of the main CAP legislation relating to—
  - (a) the setting or determining of ceilings on the amounts of any payments or expenditure for any purpose under the legislation,
  - (b) the reallocation or transfer of amounts or proportions of such ceilings between or among different purposes under the legislation.
- (2) The provisions of the main CAP legislation that may be modified under subsection (1) include in particular—
  - (a) Articles 6, 7, 11 and 14 of the Direct Payments Regulation,
  - (b) Articles 58 and 59 of the Rural Development Regulation,
  - (c) Articles 30 and 32 of the Horizontal Regulation.
- (3) Regulations under this section are subject to the affirmative procedure.
- (4) In this section, “ceilings” includes limits and other restrictions.

**Commencement Information**

**I4** S. 4 in force at 5.11.2020 by S.S.I. 2020/315, reg. 2(d)

**5 Duration of the powers under sections 2, 3 and 4**

- (1) No regulations may be made under section 2(1), 3(1) or 4(1) after 7 May 2026.
- (2) Subsection (1) does not affect the continuation in force of any regulations made under section 2(1), 3(1) or 4(1) before that date.

*Market intervention*

**6 Power to modify CAP legislation on public intervention and private storage aid**

- (1) The Scottish Ministers may by regulations modify the legislation governing public intervention and aid for private storage.

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- (2) The Scottish Ministers may only make modifications under subsection (1) for the following purposes—
- (a) securing that provisions of such legislation cease to apply for a period,
  - (b) securing that provisions of such legislation cease to have effect,
  - (c) simplifying or improving the operation of provisions of the legislation.
- (3) In this section, the “legislation governing public intervention and aid for private storage” means—
- (a) Articles 8 to 21 of the CMO Regulation,
  - (b) the following so far as relating to public intervention or aid for private storage—
    - (i) Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products,
    - (ii) Commission Delegated Regulation (EU) 2016/1238 of 18 May 2016 supplementing the CMO Regulation with regard to public intervention and aid for private storage,
    - (iii) Commission Implementing Regulation (EU) 2016/1240 of 18 May 2016 laying down rules for the application of the CMO Regulation with regard to public intervention and aid for private storage,
    - (iv) Commission Delegated Regulation (EU) 2017/1182 of 20 April 2017 supplementing the CMO Regulation as regards the Union scales for the classification of beef, pig and sheep carcasses and as regards the reporting of market prices of certain categories of carcasses and live animals.
- (4) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

**Commencement Information**

**I5** S. 6 in force at 1.1.2021 by [S.S.I. 2020/373](#), [reg. 2\(2\)\(a\)](#)

*Aid for fruit and vegetable producer organisations*

- 7 Power to simplify or improve CAP legislation on aid for fruit and vegetable producer organisations**
- (1) The Scottish Ministers may by regulations modify the legislation governing aid for fruit and vegetable producer organisations.
- (2) The Scottish Ministers may only make modifications under subsection (1) that they consider would simplify or improve the operation of the provisions of the legislation.
- (3) In this section, the “legislation governing aid for fruit and vegetable producer organisations” means—
- (a) Articles 32 to 38 of the CMO Regulation,
  - (b) the following so far as relating to aid for fruit and vegetable producer organisations—

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- (i) Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing the CMO Regulation with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing the Horizontal Regulation with regard to penalties to be applied in those sectors,
  - (ii) Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of the CMO Regulation with regard to the fruit and vegetables and processed fruit and vegetables sectors.
- (4) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

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**Commencement Information**

**I6** S. 7 in force at 1.1.2021 by S.S.I. 2020/373, reg. 2(2)(b)

*Food Promotion Scheme*

**8 Power to revoke the EU Food Promotion Scheme**

- (1) The Scottish Ministers may by regulations modify the legislation establishing the EU Food Promotion Scheme for the purpose of securing that it ceases to have effect in relation to Scotland.
- (2) The “legislation establishing the EU Food Promotion Scheme” means—
- (a) Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries,
  - (b) Commission Delegated Regulation (EU) 2015/1829 of 23 April 2015 supplementing Regulation (EU) 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries,
  - (c) Commission Implementing Regulation (EU) 2015/1831 of 7 October 2015 laying down rules for application of Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries.
- (3) Regulations under this section are subject to the negative procedure.

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**Commencement Information**

**I7** S. 8 in force at 1.1.2021 by S.S.I. 2020/373, reg. 2(2)(c)