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Rural Affairs and Islands Committee

Subordinate legislation considered by the Rural Affairs and Islands Committee on 22 November 2023

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Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.

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Executive Summary

1. This report details the Rural Affairs and Island Committee's consideration of the following instruments—

   The Quality Meat Scotland (Amendment) Order 2023

   The Committee agreed to recommend to the Parliament that it approves the instrument.

   The Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023

   The Committee agreed to recommend to the Parliament that it approves the instrument.

Quality Meat Scotland (Amendment) Order 2023

2. The Quality Meat Scotland (Amendment) Order 2023 was laid before the Scottish Parliament on 30 October 2023 and is subject to the affirmative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.

3. The purpose of the instrument is to increase the maximum levy rates in the Quality Meat Scotland Order 2008 to enable Quality Meat Scotland (QMS) to adjust the levies for the slaughter or export of cattle, sheep and pigs.

4. QMS performs a number of functions for the benefit of the red meat sector in Scotland, including the marketing of Scotch Beef, Scotch Lamb, and Specially Selected Pork, with the levy money forming a crucial part of its income. The rates are set annually by QMS, and are subject to Ministerial approval. QMS has the ability to increase charges if this is deemed to be appropriate in a financial year, but any increase must be within the ceiling of the maximum rates set by the 2008 Order.

5. The 2008 Order sets a ceiling of maximum levy rates that can be charged on animals presented for slaughter in Scotland. The levy comprises two elements—

   - a producer levy paid by the owner of the animal when it is presented to the market for slaughter; and
   - a processor levy paid by the owner of the animal at the time it is slaughtered.

   The levy is charged for all three main red meat species i.e., cattle (plus calves), sheep and pigs.

6. The rate of levy collected for sheep is currently at the maximum ceiling allowed under the 2008 Order. According to the policy note, the Scottish Government is seeking, via this instrument, to “future proof” the rates allowed for an approximately 10-year period.

7. In advance of the Committee’s consideration, clerks wrote to Scottish Government officials seeking further information relating to the SSI. The Cabinet Secretary for Rural Affairs, Land Reform and Islands responded to these questions in her response of 15 November 2023. The Committee also held a short consultation to seek stakeholders’ views. Further information about the consultation and the responses received can be found on the Committee’s web pages.

8. The Scottish Government’s letter of 15 November 2023 sets out the reasons for the proposed increase to the maximum levy and the perceived need to future-proof the QMS order, stating—

> The levy ceilings have not increased since 2008. QMS have flagged, for the first time since 2010, their intention to consult on an increase to the payable levy. Sufficient levy is necessary for QMS to carry out its functions for the benefit of the red meat sector in Scotland, including the marketing of Scotch Beef, Scotch Lamb, and Specially Selected Pork. Decisions ultimately rest with Ministers but should it prove necessary to raise the payable amounts, an increase in the ceiling is likely to be necessary since the levy ceiling for sheep is already at its maximum and the pig levy is very close to the maximum. Raising the ceilings by the amounts specified would mean that the SSI is likely to meet the needs of the sector for a number of years.

9. The Cabinet Secretary's letter also explains how the updated maximum levy amounts were arrived at, stating—

> The proposed new maximum rates were submitted by QMS, to the Scottish Government. QMS is currently undertaking a review of its strategy for the next five years, which includes assessing funding models to ensure their sustainability to deliver what industry needs, stating a wish to remain fit for the future of Scotland's iconic Scotch brands, promotional work and market development. The justification for the levy ceilings outlined the considerable inflation in costs faced by QMS in its day-to-day activities since the last raise in payable rates in 2010. The impact of a reduction in cow numbers and the increased movement of store cattle out of Scotland has also resulted in reduced income. The recommended ceiling figures reflect QMS activities as a service to the agricultural industry and the inflation rate of goods and services used by agriculture – current figures adjusted until 2022-23 and then those figures projected.

10. The policy note states that this will give QMS the ability to increase levy rates following any consultation it carries out with the industry and upon approval from the Cabinet Secretary. The Scottish Government’s letter of 15 November 2023 clarifies that, while there is no requirement for QMS to consult on any change to the payable levy, Ministerial approval is required at the start of each financial year, regardless of whether there is a change to the payable rates. The Cabinet Secretary also states that “Ministers would expect QMS to engage fully with producers and processors before seeking approval for any proposed increase to the levy within the constraints of the ceilings in the Order”.

11. The Scottish Government conducted a targeted four-week consultation which was sent to nine relevant organisations. The Cabinet Secretary's letter provides further information on the organisations who were targeted, stating—

> The target organisations were chosen, in conjunction with QMS, because they represent the levy payers, i.e. producers and processors. The organisations are members of the QMS Red Meat Resilience group. The two organisations which responded were the National Farmers Union Scotland (NFUS), who represent producers and the Scottish Association of Meat Wholesalers, who represent processors. There was no follow-up with those who chose not to respond.

12. Of the two responses received, the policy note states that one was broadly positive and “recognised that the change to the Order is about the ability to raise the rates

and stated that they broadly supported the suggested amendment of maximum levy rates".

13. The second respondent raised concerns regarding the benefit of the levy for the industry, stating—

> We believe that this is not the time to change the maximum levy rates. This consultation is taking place before there has been detailed engagement on the QMS strategy and a decision on maximum levy rates should wait until after that engagement has been completed.

14. In addition, the second respondent also stated that "a change in the levy ceiling within the Order must not be taken by QMS as industry agreement to an increase in the levy rates paid".

15. The policy note explains that, while the Scottish Government has considered the concerns raised by the second respondent, "the reasoning for the change to the maximum ceiling rates is, in officials' opinion, enough justification to proceed with making the requested changes to the Order, which is solely about raising the ceiling, not the rates".

16. The policy note also states that, following the consultation closing date, officials contacted both respondents. According to the policy note, having discussed the instrument with the second respondent, that respondent indicated their "understanding that the Order change is 'technical' in nature".

Delegated Powers and Law Reform Committee consideration

17. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 7 November 2023 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Rural Affairs and Islands Committee consideration

18. At its meeting on 22 November 2023, the Rural Affairs and Islands Committee took evidence on the instrument from the Cabinet Secretary for Rural Affairs, Land Reform and Islands and Scottish Government officials.

19. The Cabinet Secretary made some opening remarks, setting out the purpose and objective of the instrument. She highlighted that the maximum rates have not been amended since 2008 and that, since then, there has been only one increase in the payable rates. This occurred in 2010, when the rates increased from £4.57 to £5.50 for cattle, from 67p to 80p for sheep and from £1.05 to £1.26 for pigs. The change to the rates in 2010 took the sheep rate to the maximum and left 9p of headroom on pigs.

20. The Cabinet Secretary noted that levy income is fundamental to the running of QMS, which provides several functions to the benefit of the red meat sector in Scotland. She stated that "it is important to ensure that QMS has the ability, with the

agreement of industry, to raise the payable levy if it feels that there is a need to do so, and the draft order amends the Quality Meat Scotland Order 2008 for that purpose".

21. The Cabinet Secretary emphasised that the raising of the maximum rates does not mean that the payable rates would automatically increase. The Cabinet Secretary reiterated that any proposed increase in payable rates will require ministerial approval and that the Scottish Ministers would have to be satisfied that "QMS has fully engaged with levy payers, that stakeholder views have been heard and that the impact of the rise has been considered".

22. In particular, the Cabinet Secretary explained that the rates in the 2023 Order are the maximum rates that can be charged, and that QMS sets the payable levies annually within those ceilings, following ministerial approval.

23. The Committee sought responses from the Cabinet Secretary on a range of issues in relation to the instrument.

24. [The Scottish Government's letter of 15 November 2023](), states that QMS has indicated, for the first time since 2010, its intention to consult on an increase to the payable levy. The Committee questioned why this decision was being made now, particularly given the levy for sheep was set at the maximum payable rate in 2010. The Committee further questioned whether this provided adequate certainty for levy payers.

25. In her response, the Cabinet Secretary clarified that the levies are set annually, following ministerial approval, and that it is the responsibility of QMS to propose and consult on any changes to the levies. The Cabinet Secretary believed this was the appropriate time to consider the ceiling rates, citing inflationary pressures and "sizeable" challenges for the Scottish meat industry. The Cabinet Secretary went on—

> We have seen inflation soar, which is why it is important that we are considering the matter now, especially as the levy for sheep is at the ceiling and the levy for pigs is only 9p away from the maximum. That leaves no leeway should QMS, in discussion with the levy payers, decide that there needs to be a change to the levy to enable it to carry out its activities. The levy is fundamental to the running of the organisation.

26. Given the length of time between the 2008 Order and 2023 Order, the Committee asked for more information regarding the methodology used to determine the new levy ceiling. In her response, the Cabinet Secretary explained that the purpose of the instrument was "about future proofing the ceiling for years to come". She further explained that a variety of factors have been taken into account when developing the proposals for the ceiling rates set out in the Order and that the Scottish Government had looked at averages over the past 10 years to project potential costs.

27. The Cabinet Secretary also informed the Committee that similar discussions were taking place across the rest of the UK, where the relevant agencies are looking at the ceiling rates for their respective levies.

28. The Committee asked whether the Scottish Government had considered reviewing the levy ceiling on a more regular basis to avoid substantial increases in rates for

levy payers, noting certain total payable rates in the 2023 Order could represent a 100% increase in certain levies. The Committee also queried the level of parliamentary oversight, noting the length of time between the 2008 and 2023 Orders and whether the Parliament should have a greater role in scrutinising levy increases in the future.

29. In her response, the Cabinet Secretary sought to reassure the Committee that the 2023 Order was technical in nature and was concerned with raising the levy ceiling but any increase in the current rates would be a matter for QMS in consultation with levy payers on an annual basis.

30. With regard to parliamentary oversight, the Cabinet Secretary indicated that QMS was undertaking engagement across the country to discuss the issue of levies, as well as its wider strategy, with industry and that she would be happy to keep the Committee updated.

31. The policy note accompanying the 2023 Order states that no business and regulatory impact assessment (BRIA) was considered necessary as the instrument has no direct financial effects on the Scottish Government, local government or business.

32. Although the instrument has no direct financial effect, it would enable a higher levy to be charged in the future with no role for Parliament to scrutinise these changes once the 2023 Order has been agreed. The Committee, therefore, questioned why no analysis of the potential impact any levy increase could have on the industry was undertaken by the Scottish Government. The Cabinet Secretary contended that any BRIA would have been challenging to produce and "purely speculative", stating—

> There is no proposal on the table for an increase in levy rates. We do not know whether such a proposal will be made or what it would be, so it is not possible for us to make a definitive assessment or to say that there would be a direct impact on businesses when we do not know whether the levy will rise.

33. As stated above, the Scottish Government conducted a targeted four-week consultation which was sent to nine relevant organisations. Two responses were received. The Committee asked whether the Scottish Government was satisfied with the level of engagement with the industry. Scottish Government officials explained that, while only two organisations responded (NFUS and the Scottish Association of Meat Wholesalers), these were representative organisations with many members. Scottish Government officials also stated that—

> In consultation with QMS and using our own knowledge, we made sure that we reached levy payers. NFUS covers farmers and the Scottish Association of Meat Wholesalers covers processors. Those were the two respondents.

34. More broadly, the Committee asked about QMS's role within the industry and how it is supporting producers and farmers, given the challenges discussed above. The Cabinet Secretary outlined the role QMS plays in marketing and promoting the industry and its work with exporters, which equates to tens of millions of pounds annually. The Cabinet Secretary also highlighted QMS's recent consultation work on its five year strategy but acknowledged that "it is up to QMS to have that discussion with its levy payers to show exactly what it is doing on their behalf and why that role is so critical".

35. Should QMS in future propose to increase the levy, the Committee asked how such a decision would be made and what level of consultation with levy payers would take place, acknowledging that there is no legal requirement for QMS to consult with levy payers. In response, the Cabinet Secretary stated—

> I would expect to see engagement and consultation with industry. That is a given—the industry needs to be consulted about any potential increase in the levy rate, which would be up to QMS to do. Of course, I would hope that any proposals that it put forward would have that industry agreement.

36. The Committee sought assurances from the Cabinet Secretary that, if levy payers were not satisfied with proposed changes to levy rates, then the Scottish Government would have the authority to seek agreement from levy payers before approving any changes to the payable rates. In response, the Cabinet Secretary confirmed that—

> I am sure that we would have those discussions with QMS ... I do not think that we will be in that position. We have a very strong working relationship with QMS, and I know that QMS has that kind of same relationship with its levy payers, so that engagement from its side is important.

37. Finally, the Convener noted concerns about the quality of the policy note accompanying the instrument, which lacked sufficient detail on the proposed levy changes and the wider policy context and which had required a request for additional information from the Scottish Government in advance of the Committee's consideration.

38. Following the evidence session, the Minister moved motion S6M-11038 —

That the Rural Affairs and Islands Committee recommends that the Quality Meat Scotland (Amendment) Order 2023 [draft] be approved.

39. The motion was agreed to without division.

> The Rural Affairs and Islands Committee recommends that the Quality Meat Scotland (Amendment) Order 2023 be approved.

The Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023

40. The draft Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 was laid before the Scottish Parliament on 23 October 2023 and is subject to the affirmative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.

41. The stated purpose of the instrument is to amend the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015. The policy note explains that the Forestry Fees Regulations include provisions relating to phytosanitary certification fees, including an exemption to provide that such fees are not payable in relation to exports from Scotland to Northern Ireland in certain circumstances. The 2023 Regulations amend the Forestry Fees Regulations to change the date on which this exemption ceases to have effect from 31 December 2023 to 30 June 2025.

42. The Regulations would also amend the 'type of inspection' description in schedule 1 of the Forestry Fees Regulations, which outlines fees for inspections in connection with a plant passport authority. The 2023 Regulations remove the word 'physical' from schedule 1 of the Forestry Fees Regulations, providing greater clarity on the intended scope of activities which may be charged for as part of these inspections. The fee rates remain unchanged.

Delegated Powers and Law Reform Committee consideration

43. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 31 October 2023 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Rural Affairs and Islands Committee consideration

44. At its meeting on 22 November 2023, the Rural Affairs and Islands Committee took evidence on the instrument from the Minister for Green Skills, Circular Economy and Biodiversity and Scottish Government officials.

45. The Minister made some opening remarks, setting out the purpose and objective of the instrument. The Committee raised no issues in relation to the instrument.

46. Following the evidence session, the Minister moved motion S6M-10920 —

That the Rural Affairs and Islands Committee recommends that the Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 [draft] be approved.

47. The motion was agreed to without division.

The Rural Affairs and Islands Committee recommends that Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 be approved.