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Rural Affairs and Islands Committee

Subordinate legislation considered by the Rural Affairs and Islands Committee on 28 June 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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Committee Membership



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The draft Agriculture and Horticulture Development Board (Amendment) Order 2023

1. At its meeting on 28 June 2023, the Rural Affairs and Islands Committee considered the [Agriculture and Horticulture Development Board \(Amendment\) \(Order\) 2023](#).
2. The Minister for Energy and the Environment, Gillian Martin, accompanied by Scottish Government officials, attended the meeting to provide evidence to the Committee on the instrument and to move the associated motion.
3. The instrument is a UK SI made under the Natural Environment and Rural Communities Act 2006. The 2006 Act provides that the Order cannot be made without the Scottish Ministers' consent, which can only be given after a draft Order has been laid before, and approved by, the Scottish Parliament. The instrument was laid in the Scottish Parliament on 14 June 2023.
4. This instrument amends the Agriculture and Horticulture Development Board Order 2008 (S.I. 2008/576) which established the [Agriculture and Horticulture Development Board \(AHDB\)](#). These amendments—
 - extend the scope of the AHDB to work with non-levy paying agricultural and related sectors across the UK;
 - change the levy approval process whereby the obligation for the AHDB to seek Ministerial approval of the levy rate annually is replaced with the obligation to seek Ministerial approval for new levy rates only;
 - provide for the ability to seek Ministerial approval to charge a levy rate of zero for particular sectors for a period of time in exceptional circumstances;
 - clarify that the term of office for the AHDB Chair of a Board member can be for up to two terms and no more than eight years in total;
 - update provisions that enable levy deductions to be made by third party levy collectors to cover any administration costs they may incur; and
 - make technical changes to the levy payment processes for cereals and oilseeds.

Policy background

5. The 2008 Order places a duty on the AHDB to impose a levy for each industry covered within its scope. In 2022, the UK and devolved governments delivered legislative reforms to the 2008 Order which ended statutory levies in the horticulture and potato sectors and implemented a new regular vote for levy payers in the remaining AHDB sectors of cereals and oilseeds (UK-wide) and dairy (GB-wide), as well as to beef, lamb and pork in England only.
6. The policy note describes the amendments made by this instrument, the draft 2023 Order, as “a further set of modernising amendments to the 2008 Order to enable financial and efficiency improvements to AHDB operations”.
7. The instrument expands the scope of the 2008 Order in relation to the range of agricultural industry sectors that the AHDB may operate in across the UK and which the policy note states “will benefit from AHDB expertise”. The additional activities that the AHDB may undertake under its expanded scope are to be funded on a commercial basis through those industry sectors and will not involve a statutory levy.
8. Whereas the 2008 Order requires that levy rates must be approved on an annual basis by the appropriate authority regardless of whether those rates are being changed, this instrument provides that the AHDB will not have to seek approval from the appropriate authority for levy rates until such time as those levy rates are proposed to be changed.
9. The instrument allows for a zero-rated levy to be imposed on an industry sector, subject to approval by the appropriate authority, for a temporary period where extenuating circumstances are judged to justify the provision of short-term financial assistance to an industry. Currently, it is not possible to set a zero-rated levy under the 2008 Order.
10. This instrument clarifies that the term of office for the AHDB Chair or a Board member can be for up to two terms and no more than eight years in total. The current maximum term of office under the 2008 Order is for four years and this change will bring the provisions of the 2008 Order in line with Cabinet Office guidance on public appointments.
11. The policy note states that the current regulations allow that in the case of some industries that pay a levy, third party levy collectors may cover the administration cost that they may incur from collecting the levy. These levy deduction provisions are therefore “inconsistent across the different industries and have not been reviewed or updated for several years”. This instrument will amend the levy deduction provisions so that the AHDB may reduce the levy a buyer would have been required to pay to the AHDB to cover the administrative costs of the buyer, and it will also allow the AHDB to apply the same provisions across all sectors “for consistency and fairness”.
12. The instrument would make technical updates to the provisions for when a levy must be paid by industries. The policy note sets out that the changes would make consistent across all industry sectors that a levy must be paid within 30 days of receiving the levy invoice, thereby bringing the 2008 Order in line with modern

standard invoice and payment practice.

13. A joint consultation exercise by the UK and devolved governments on the proposed changes was conducted between 4 December 2022 and 28 February 2023. The consultation was targeted at representative trade bodies from across the UK. The NFU Scotland responded on behalf of Scottish interests. The policy note states that most respondents agreed with all the proposals.

Committee consideration of the motion

14. The Minister moved motion S6M-09530—

that the Rural Affairs and Islands Committee recommends that the Agriculture and Horticulture Development Board (Amendment) Order 2023 be approved.
15. The motion was agreed to without division.

