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Rural Economy and Connectivity Committee Comataidh Eaconomaidh Dùthchail is Co- cheangailteachd

Legislative Consent Memorandum on the UK Agriculture Bill



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Rural Economy and Connectivity Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Economy and Connectivity.



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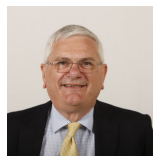
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Background

1. [The UK Agriculture Bill \("the Bill"\)](#) was introduced to the House of Commons and given its First Reading on 12 September 2018. The Second Reading took place on 10 October 2018. A legislative consent memorandum has been lodged by the Scottish Government on the Bill.
2. The Bill seeks to provide the legal framework required to transition out of the EU, replace the Common Agricultural Policy (CAP) and deliver a range of reforms. It lays the foundations for a future system based on public money for public goods, for the next generation of farmers and land managers. The Bill consists of 7 parts and includes a variety of provisions. For example, it deals with:
 - giving the Secretary of State new powers to provide financial assistance to those managing the land and delivering public benefits such as air and water quality, public access and productivity.
 - the phasing out of direct payments.
 - the potential to 'delink' payments from farming requirements
 - data collection
 - market interventions and standards
 - producer Organisations and Fairness in the Supply Chain; and.
 - World Trade Organisation obligations.

Devolved competence

3. The UK Government and the Scottish Government have differing views as to how the Bill affects devolved administrations. The UK Government has stated that it does not need to seek consent from the Scottish Parliament on this Bill because it considers that it does not legislate in areas of devolved competence in Scotland.
4. The Scottish Government considers that the UK Agriculture Bill is a relevant Bill under Rule 9B.1 of the Parliament's Standing Orders. However, it has said that it will not bring forward legislative consent motions for primary Brexit legislation such as the Agriculture Bill until the Sewel Convention is 'made operable again'.
5. In the Scottish Parliament Chamber on 26 September 2018 Fergus Ewing MSP, Cabinet Secretary for Rural Economy and Connectivity said - "unfortunately, the current UK Agriculture Bill impinges on devolved powers in three respects." These three areas are -
 - clauses 22- 24 on producer organisations: Debate surrounds whether the purpose of this clause is the promotion of an effective agricultural market (which is devolved) or the regulation of anti-competitive practices (which is reserved).

- clause 25 on fair dealing obligations: Debate is around whether the clause is directed at unfair contractual terms, which is a devolved matter, or anti-competitive agreements and practices which is reserved.
- clause 26 on the World Trade Organisation (WTO) agreement on agriculture: Debate has arisen as to whether the purpose of the WTO clause is to regulate international trade (which is reserved) or to implement and observe international obligations (which is devolved).

A [SPICe briefing on the Bill](#) sets out the detail on how the respective views of the Scottish and UK governments differ.

Scrutiny of the LCM

6. The Cabinet Secretary for the Rural Economy and Connectivity, Fergus Ewing MSP, lodged the LCM on 29 October 2018. The memorandum was referred to the Rural Economy and Connectivity Committee as lead committee by the Bureau on 30 October 2018. As the Bill does not include any powers for Scottish Ministers to make subordinate legislation, the Delegated Powers and Law Reform Committee did not consider the LCM.

Conclusion

At its meeting on 07 November 2018, the Committee considered the LCM in relation to the Agriculture Bill. It made no recommendation but agreed to note both the memorandum and the Scottish Government's reasons for not lodging a motion.

The Committee also agreed to request that the Scottish Government keep it updated on the progress of its proposed amendments to the Bill; and on its discussions with the UK Government on the operation of legislative consent convention as these relate to the Bill.

