



The Scottish Parliament
Pàrlamaid na h-Alba

Published 15 May 2020
SP Paper 728
5th Report, 2020 (Session 5)

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

Legislative Consent Memorandum on the UK Agriculture Bill (LCM(S5)38)



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Contents

Executive Summary	1
Background	2
Scrutiny by other committees	3
Scrutiny of the Legislative Consent Memorandum	4
Conclusion and recommendation	5

Rural Economy and Connectivity Committee

Remit: To consider and report on matters relating to the rural economy within the responsibility of the Cabinet Secretary for the Rural Economy and Tourism and matters falling within the responsibility of the Cabinet Secretary for Transport, Infrastructure and Connectivity.



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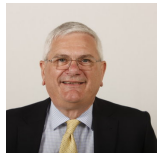
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Executive Summary

1. This report details the Rural Economy and Connectivity Committee's consideration of the [Legislative Consent Memorandum](#) on the UK Agriculture Bill (LCM(S5)38).

The Committee recommends to the Parliament that it should agree the associated legislative consent motion to be lodged by the Cabinet Secretary for Rural Economy and Tourism.

Background

2. The [Agriculture Bill](#) was introduced to the House of Commons on 16 January 2020. Many aspects of it are similar to the Agriculture Bill introduced in the 2017-19 session, which fell on dissolution of the UK Parliament, although it does contain some new provisions. It gives the UK Government broad powers to provide support for agriculture in England, both for an initial agricultural transition period and for the longer term, and to extend similar powers to Wales and Northern Ireland.
3. The Cabinet Secretary for Rural Economy and Connectivity, Fergus Ewing, lodged the Legislative Consent Memorandum on the UK Agriculture Bill [LCM\(S5\)38](#) on 4 May 2020.
4. Whilst the Scottish Government has indicated that it can accept the main purpose of the Agriculture Bill, as it agrees that replacement legislative underpinning is required in a number of the areas covered by the Bill, it does not support all elements of the Bill's provisions. It also does not accept that the approach taken in relation to certain aspects of this Bill is entirely consistent with devolved responsibilities.
5. The LCM states that—
 - ” The Scottish Government intends to lodge a legislative consent motion in relation to certain provisions of the Bill, namely food security, fertilisers and the red meat levy only. The Scottish Government intends to continue to work with the UK Government to secure an approach to the provisions on organic products (clause 37(1)(a)), the identification and traceability of animals (clause 32(1)) and the WTO provisions that the Scottish Government can support. As such, there is no recommendation, at this time, that these provisions on organics, animal identification and traceability and WTO should be considered by the UK Parliament and they do not form part of the proposed legislative consent motion.
6. The Scottish Government therefore recommends that Parliament be invited to agree to the consent of the provisions on red meat, fertilisers, food security only at this time. The Scottish Government also recommends that the Parliament should note that a supplementary LCM could be brought forward to cover organic products and livestock identification and traceability, at a later stage in the Bill's progress should the UK Government bring forward amendments to introduce statutory consent requirements within the Agriculture Bill.
7. The draft motion which the Scottish Government intends to lodge is set out at paragraph 28 of the LCM as follows—
 - ” That the Scottish Parliament agrees that the provisions related to food security, fertilisers and the red meat levy in the Agriculture Bill, introduced into the House of Commons on 16 January 2020, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

Scrutiny by other committees

8. The Delegated Powers and Law Reform Committee (DPLRC) considered the LCM on 5 and 12 May 2020. The [DPLRC wrote to the REC Committee on 12 May 2020](#) to advise that it was content with the response it received from the Scottish Government in relation to the likely circumstances in which the UK Government and the Scottish Government will each exercise powers under the Bill within devolved competence.
9. The DPLRC also highlighted to the REC Committee that the response received from the Scottish Government does not contain a commitment to notify the Scottish Parliament in advance of consenting to the UK Government making legislation within devolved competence, or to obtain the Scottish Parliament's views.
10. [Associated correspondence between the DPLRC and the Cabinet Secretary for Rural Economy and Tourism](#) is available on the DPLRC's correspondence webpages under the heading 'Agriculture Bill (UK Parliament)'.
11. The Committee also received [correspondence from the Environment, Climate Change and Land Reform Committee](#) on the environmental impact of the Agriculture Bill, highlighting its views on issues such as funding and powers shared between the UK Government and the devolved administrations.

Scrutiny of the Legislative Consent Memorandum

12. The memorandum was referred to the Rural Economy and Connectivity Committee as lead committee by the Parliamentary Bureau on 12 May 2020.
13. As part of its scrutiny of the LCM, the Committee took evidence from the Cabinet Secretary for Rural Economy and Tourism and his officials on 13 May 2020. The Committee asked the Cabinet Secretary for clarity on a number of issues.
14. The Committee asked for further detail on the Scottish Government's reasoning for only recommending consent for certain provisions in the Bill, which is unusual. The Cabinet Secretary referred the Committee to the reasoning in the LCM, saying that the Scottish Government was content with some provisions in the Bill, but was of the view that other provisions would require further discussion with the UK Government before agreeing an approach. The Committee asked what the implications would be if agreement was not reached in these discussions. The Cabinet Secretary indicated that the legal position related to such an outcome would need to be clarified, but that his objective was to protect the Scottish Government's position, recognising that, on occasion, the two governments may not be able to reach agreement in certain matters.
15. In terms of funding for the agriculture sector, where former EU competence is involved, the Committee asked what commitments the Scottish Government has had on whether full replacement funding has been provided, if that would be included in the Block Grant, and what impact policy divergence between the UK Government and the Scottish Government may have on funding. The Cabinet Secretary said that it was his understanding that none of the provisions in the Agriculture Bill related to replacement for EU funding, although he was also of the view that the UK Government should provide more clarity on its proposals on this matter.
16. It was put to the Cabinet Secretary that it is difficult to understand how the Bill can be progressed without a common framework alongside it to set out the working relationship between the administrations, dispute mechanisms, etc. The Cabinet Secretary referred the Committee to paragraphs 32 and 33 of the LCM, which outlines how areas covered by this Bill have been proposed for the development of frameworks.
17. Full details of the Committee's discussion of the LCM on 13 May 2020 can be viewed in the [Official Report of its meeting](#).

Conclusion and recommendation

18. After considering the LCM on the Agriculture Bill, the Committee agreed that it was content to recommend that the Parliament should agree the associated draft motion.

The Committee therefore recommends to the Parliament that it agrees the associated legislative consent motion to be lodged by the Cabinet Secretary for Rural Economy and Tourism.

