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

Legislative Consent Memorandum on the UK Agriculture Bill LCM - S5 - 38a



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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 Rural Economy and Tourism and matters falling within the responsibility of the Cabinet Secretary for Transport, Infrastructure and Connectivity.



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Rec.committee@parliament.scot



0131 348 5211

Committee Membership



Convener
Edward Mountain
Scottish Conservative
and Unionist Party



Deputy Convener
Maureen Watt
Scottish National Party



Peter Chapman
Scottish Conservative
and Unionist Party



John Finnie
Scottish Green Party



Emma Harper
Scottish National Party



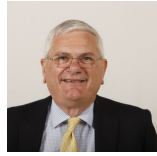
Richard Lyle
Scottish National Party



Angus MacDonald
Scottish National Party



Oliver Mundell
Scottish Conservative
and Unionist Party



Mike Rumbles
Scottish Liberal
Democrats




Colin Smyth
Scottish Labour



Stewart Stevenson
Scottish National Party

Background

1. The Agriculture Bill was introduced to the House of Commons on 16 January 2020. 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.
2. This [supplementary Legislative Consent Memorandum \(LCM\)](#) augments the [original LCM](#) on the Agriculture Bill (LCM-S5-38) which was lodged on 4 May 2020. The REC Committee considered the original LCM at its meeting of 13 May 2020, and agreed to recommend in its [report](#) that the Parliament should agree the draft motion it contained .
3. The original LCM confirmed the Scottish Government’s intention to pursue further discussions with the UK Government regarding the requirement for the Scottish Ministers’ consent to provisions within the Bill relating to organic products and animal identification and traceability. This supplementary LCM reflects the outcome of those discussions.
4. The Bill requires legislative consent from the Scottish Parliament for clauses on Food Security, Fertilisers, Identification and Traceability of Animals, Red Meat Levy, and Organic Products, but not on Fair Dealing with Agricultural Producers and Producer Organisations, or on provisions to comply with the WTO Agreement on Agriculture.
5. The Scottish Government has indicated that there remains some outstanding disagreement between it and the UK Government regarding certain detailed provisions in the Bill which it considers are not entirely consistent with devolved responsibilities.
6. The supplementary LCM states that—
 Scottish and UK Governments have been working together on refining both the organic products and animal identification and traceability provisions of the Bill to make them as effective as possible for the Scottish interest. The UK Government agreed to lodge further amendments to the Bill for these provisions and these were tabled on 29 June 2020 and have now been agreed to in Committee. These meet the Scottish Government’s concerns in relation to organic products and animal identification and traceability. They go some way to meeting the Scottish Government’s concerns on the WTO Agreement on Agriculture.

Scrutiny by other committees

7. The Delegated Powers and Law Reform (DPLR) Committee considered the delegated powers in the LCM at its meeting on 25 August 2020. In its [correspondence](#) to the REC Committee on the LCM of 25 August 2020, the Committee restated its view (as it did with the original LCM) that the Scottish Parliament should have the opportunity to effectively scrutinise the exercise of all legislative powers within devolved competence. The DPLR Committee highlighted that the powers to regulate organic products are a good example of powers which will be capable of being exercised by UK Ministers to make legislation which is in a devolved area but is not subject to approval or annulment by the Scottish Parliament.
8. However, the Scottish Government response to the DPLR Committee notes in relation to clauses 32(1) (Identification and Traceability of Animals) and 36-37 (Organic Products) that the Scottish Parliament will be able to consider “consent” decisions by the Scottish Ministers under the scrutiny arrangements which are currently being discussed between Scottish Government and Scottish Parliament officials. Further, the Scottish Government undertakes in the Supplementary LCM that until these new scrutiny arrangements are in place under a new SI protocol, Scottish Ministers will notify the Parliament in line with the existing protocol.
9. As regards Clause 40 (Power to secure compliance with the WTO Agreement on Agriculture), the DPLR Committee has stated that—
 - ” As regards the power to make regulations, there remains no requirement to consult or seek the consent of the Scottish Ministers where the Secretary of State proposes to make regulations under clause 40 that would be within the devolved competence of the Scottish Parliament. The absence of a statutory requirement to seek the consent of the Scottish Ministers means that the proposed protocol will only apply if the UK Government chooses to seek the consent of the Scottish Ministers in practice. If it does not do so, there will be no consent decision that the Scottish Parliament could scrutinise.

Consideration by the Rural Economy and Connectivity Committee

10. The Committee took evidence on the LCM from the Cabinet Secretary for Rural Economy and Tourism and his officials on 26 August 2020.
11. The Committee asked for and received assurance that the further amendments to the Bill that the Scottish Government sought would be given due consideration as part of the bill process. The Committee also asked for further clarity on trade deals with the USA and the EU in relation to the Agriculture Bill. The Cabinet Secretary described his ongoing discussions with the UK Government on this issue, stating that in his view the EU expected current standards for UK imports to be maintained, and that deregulation could jeopardise this.
12. Full details of the Committee's discussion of the LCM on 26 August 2020 can be viewed in the [Official Report](#) of its meeting (scheduled to be published on 28 August 2020).

Conclusions and recommendations

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

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

