IMPLEMENTING THE SMITH AGREEMENT – THE UK GOVERNMENT’S DRAFT LEGISLATIVE CLAUSES

NFU Scotland’s response

- NFU Scotland (NFUS) welcomes the discussion on the future of Scotland’s position within the UK.
- NFUS recognises that the Smith Commission report covers much ground and sets the pace for a significant handover of powers to the Scottish Parliament. NFUS is encouraged that many of the principles highlighted in its response to the Smith consultation were incorporated into the final Heads of Agreement in various forms.
- This response therefore focuses primarily on the key recommendations that will affect agriculture and rural Scotland, and how these tie in with our members’ key asks for a future devolution settlement.

Introduction

1. NFUS adopted a neutral stance throughout the campaign period prior to last year’s referendum, however hosted a number of debates for our 8,500 members up and down Scotland from March-September 2014.
2. Post-referendum, NFUS was invited by Lord Smith to submit a response to the Commission examining the handover of further powers to Scotland. Throughout October 2014, we consulted widely with the membership and established a position that bridged much of what previously had divided members across the Yes and No campaigns prior to the referendum.

3. Primarily, it is important to put on record that the majority of members believe that devolution has been good for Scotland and positive for Scottish agriculture. In accepting a future within the UK there is a view that further meaningful powers should be devolved to Holyrood.

4. However, NFUS also suggests that devolution is a process, and considers that dialogue and debate on Scotland’s position within the UK will carry on beyond this year’s General Election, the forthcoming Scotland Bill, and the 2016 Scottish Parliamentary election. It is noted that caution must be applied to avoid unintended consequences and a hard, fast handover of powers to Scotland must not be done in haste without proper analysis and consideration of finances. Delivering a sustainable settlement for the short term is a key priority, but perhaps would best be secured for the long term with a level of political symmetry in other parts of these islands. In this spirit, we are encouraged by the proposals that are currently under scrutiny.

5. With a possible change of Government following the upcoming General Election in May, NFUS considers it vital that Scottish and UK Ministers – whatever their politics – co-operate to bring forward the best package of legislation that will bring powers back into the hands of Scottish people. NFUS asks politicians to focus on securing the future of Scotland’s vibrant farming and food and drink industry against a backdrop of economic pressures in the supply chain, a burgeoning regulatory environment and environmental factors.

Draft legislative clauses – what is included

6. NFU Scotland is encouraged that the UK Government’s Command Paper recognises a number of the recommendations made in Lord Smith’s Heads of Agreement report.
7. Within the Bill's clauses is the proposed devolution of the responsibility for the management of Crown Estate asset. This is an intriguing proposal and one which is cautiously welcomed by NFUS on behalf of its farming and crofting members who are currently tenants of Crown Estate farm land.

8. On the whole, NFUS' tenant farming members enjoy a good working relationship with the Crown Estate as landowners, and there have been some reservations expressed about what, if any, impact the devolution of Crown Estate Commissioners and revenues could have on these relations. Particular concerns have been raised about the possibility of local authorities being handed responsibility for Crown Estate management of farm land. It is important that any manager of Crown Estate farm land continues the good track record of the current landlord in making land available to rent. NFUS queries what, if any, impact this could have on capital investment decisions on Crown Estate farm land.

9. NFUS also notes comments made by the Crown Estate in oral evidence to the Devolution (Further Powers) Committee on 5 March which suggested that the UK Crown Estate would continue to invest in further assets in Scotland following the devolution of current assets. Whilst this is a movement away from previous understanding about the operation of the Crown Estate in Scotland post-devolution, NFUS considers that once the existing Crown Estate assets in Scotland are handed over to Scotland, investment in Scotland by the 'Scottish Crown Estate' will be of primary concern and, so long as good management and continued investment in current assets continue, UK Crown Estate purchasing further assets in Scotland is negligible.

10. NFUS was interested in the recommendations included in Lord Smith’s Heads of Agreement that the UK Government should seek, with respect to food labelling, to agree changes to the European country of origin rules so that a 'made in Scotland' brand is recognised under EU law. Suggestions were also made for the UK Government explore whether to revise the current legal and practical arrangements in respect of levy raising to ensure that Scotland is able to decide at any stage whether to opt into UK arrangements and, if so, receives an equitable share of any UK monies levied.
11. The Command Paper outlines that the governments of the UK will continue to work together to investigate possible changes to food standards, labelling and levies and NFUS is very supportive of the attention and movement that has already been made on these issues in recent weeks. Revision of the legal and practical arrangements for levy-raising in particular is an important issue that progress is required on, so NFUS encourages further partnership working between the devolved administrations to seek positive change in this respect.

12. NFUS notes that the Command Paper sets out the devolution of various taxes and duties in line with Lord Smith’s recommendations, and has no further comments to add in relation to these. However, we do welcome the UK Government’s intention set out in the Command Paper to devolve Air Passenger Duty to the Scottish Parliament. During the Smith consultation phase, this was an issue raised time and again by NFUS members who considered it vital to increasing internal connectivity within Scotland and acting as a stepping-stone to furthering movement, investment and enterprise in Scotland’s more remote areas.

Going further

13. NFUS was greatly encouraged by the attention given in Lord Smith’s Heads of Agreement to improve intergovernmental working across the UK. We note that the Command Paper recognises the need to improve transparency and communication between governments.
14. NFUS was particularly interested in Lord Smith’s recommendation that the views of other devolved nations need to be reflected when drawing up any revised governance arrangements in relation to Scottish Government representation of the UK in the EU. This was a strongly-held belief of the NFUS membership throughout the consultation process and a concession we were very pleased to see in the subsequent Heads of Agreement. The report also suggested this might be achieved by ensuring Scottish Ministers are fully involved in agreeing the UK position in EU negotiations relating to devolved policy matters and that their views are taken into account; and by presuming that a devolved administration Minister can speak on behalf of the UK at a meeting of the Council of Ministers where the devolved administration Minister holds the predominant policy interest across the UK.

15. NFUS hopes that UK and Scottish Ministers will work in this spirit in negotiating the future Scotland Bill and takes this opportunity to stress the imperative importance of this point and will engage further with the process to see how this could be developed to ensure better representation at an EU level in future negotiations.