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Committee  
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Scottish Parliament  
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17 December 2021

Dear Andrew,

Thank you for your letter to James Hynd of 29 November 2021 requesting an explanation on the rationale behind the proposed use of delegated powers in the Good Food Nation Bill. As the Bill manager, I am responding to your request and I trust that the undernoted answers your questions.

**Section 4 – Power to specify functions or descriptions of functions (as regards the effects of national good food nation plans)**

**Section 10 – Power to specify functions and descriptions of functions (as regards the effect of the good food nation plans)**

The same response is provided for the questions on these two provisions.

You note in your letter the rationale for taking the power given the detailed and lengthy lists required but ask for further explanation of why there are no functions or descriptions of functions listed on the face of the Bill and why these are all to be specified by way of subordinate legislation.

This approach is advantageous in that it will allow for consultation with stakeholders and the public on any draft secondary legislation specifying the functions. This would provide an additional opportunity consideration of how the duty would work in practice, allow for testing of the relevance and appropriateness of the duty and to help improve understanding of the purpose of the duty and how functions might work in practice. Setting out the specified functions and description of functions in secondary legislation also provides for flexibility in adding to or amending any measures under sections 4 and 10 without having to seek a further opportunity for primary legislation, taking up valuable parliamentary time, particularly when any such future changes are likely to be relatively minor in terms of scope and effect. Arguably, using secondary legislation to provide for the duty and functions allows for future proofing of the primary legislation more readily and enables future governments to adapt and augment the approach to being a Good Food Nation.

The approach being taken is consistent with the proposals for the Bill that were set out in the consultation and attracted no substantive comment or concern from respondents.

### **Section 7(2)(c)– Power to specify additional public authorities, thus requiring the authorities to produce plans**

You asked why there is no formal requirement to consult a public authority which is being specified. The intention is that the Scottish Ministers and specified public authorities would be expected to collaborate to ensure a joined up approach to the delivery of Good Food Nation policy in Scotland. This power is to provide flexibility so that further authorities can be added in the future. The reasons for wishing to add further authorities could be e.g. that this Parliament creates new relevant bodies through legislation in the future which might be expected to produce food plans or an existing body increases its role or functions in relation to food. The intention would be that there would be ongoing communication and informal consultation in both these scenarios. In response to your comment that it is not clear in what circumstances a public authority would need to be specified promptly this may be the case in the scenario where an authority is giving cause for concern with regard to their policies on food. But we note the committee's concern about the lack of a formal process of consultation in such circumstances and will provide further advice to Cabinet Secretary for Rural Affairs and Islands for her consideration during the bill process.

You asked whether the affirmative procedure might be more appropriate given the implications of producing a good food nation plan. Given that the intention is for a joined up approach to the delivery of Good Food Nation policy there is an expectation that there would be ongoing collaboration, communication and informal consultation between Scottish Ministers and specified public authorities to achieve this aim and the negative procedure is considered to be appropriate. Any additional public authority that was specified would have the benefit of the experience of other public authorities in producing good food nation plans and would be able to use these as the basis for their own plans. This also links to your comment on possible duplication of work and resources, which has also been raised in ongoing stakeholder engagement.

You also asked for a formal definition of a good food nation plan. The Bill provides that a good food nation plan is a document which must set out the main outcomes which the Scottish Ministers or public authority wish to be achieved in relation to food related issues, as well as the measures by which progress in achieving those outcomes may be assessed, and the policies which will be pursued to achieve those measures (sections 1(3) and 7(4)). A good food nation plan may include other material on food-related issues (sections 1(4) and 7(5)), and the content of a good food nation plan is to be determined with regard to the scope for food-related issues to affect outcomes relating to social and economic well-being, the environment, health and economic development (sections 1(5) and 7(6)).

The Bill defines “food-related issue” in Section 13 as:

#### *13 Meaning of “food-related issue”*

*(1) In this Act, “food-related issue” means—*

*(a) a food matter, or*

*(b) any other matter connected with—*

*(i) the availability of food,*

*(ii) the production, processing or distribution of food,*

*(iii) the preparation or service of food for consumers.*

*(2) In subsection (1), “food” and “food matter” have the same meanings as in the Food (Scotland) Act 2015 (see, respectively, sections 53(1) and 54 of that Act).*

We are aware that what “good food” means is also somewhat subjective - it will mean different things to different people in a wide range of circumstances. That is why we have chosen a broad description that seeks to include rather than exclude, so as to allow a broad interpretation and wide reach of policy action. The wording reflects the Scottish Government’s Good Food Nation policy which is a broad cross-cutting policy and does not specifically define “good food”.

Good food can refer to broad range of different positive aspects of food for different people and different areas of policy; for example being healthy and nutritious, environmentally sound and sustainably produced food or locally produced food. For this reason no formal definition of good food is given.

I hope that you find the answers I have provided to your questions helpful.

Best regards

Tracy McCollin

Head of Good Food Nation Team