

Agriculture and Rural Communities (Scotland) Bill

[AS AMENDED AT STAGE 2]

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Agriculture and Rural Communities (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision enabling the support of agriculture, rural communities and the rural economy through the creation of a framework for that support; to make provision for continuing professional development for those involved in agriculture and related industries, to make provision in relation to the welfare and identification of animals, to repeal spent and superseded agricultural enactments; and for connected purposes.

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PART 1

OBJECTIVES AND PLANNING

1 Overarching objectives of agricultural policy

- (1) For the purposes of this Act, the objectives of Scottish agricultural policy are—
- (a) the adoption and use of sustainable and regenerative agricultural practices,
 - (b) the production of high-quality food,
 - (ba) the promotion and support of agricultural practices that protect and improve animal health and welfare,
 - (c) the facilitation of on-farm nature restoration, climate mitigation and adaptation, and
 - (d) enabling rural communities to thrive.
- (2) The Scottish Ministers may, by regulation, amend the objectives of agricultural policy under subsection (1).
- (3) Regulations under this section are subject to the affirmative procedure.

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2 Rural support plan

- (1) The Scottish Ministers must—
- (a) prepare a plan (a “rural support plan”) giving information about the expected use during the plan period of the powers conferred on them by section 4, and
 - (b) exercise their functions under this Act having regard to that plan.

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- (2) A rural support plan must set out—
- (a) the plan period,
 - (b) the Scottish Ministers' strategic priorities for providing support during the plan period, and
 - 5 (c) in such manner and giving such detail as the Scottish Ministers' consider appropriate, a description of each support scheme that—
 - (i) is in operation, or
 - (ii) the Scottish Ministers expect to come into operation during the plan period.
- (3) A rural support plan may include such further information as the Scottish Ministers consider appropriate.
- 10 (4) A plan prepared under this section must be laid before the Scottish Parliament, and published, by the Scottish Ministers—
- (a) in the case of the first plan, as soon as practicable after this section comes into force, and
 - 15 (b) in the case of a subsequent plan, at least 6 months before the end of the plan period of the preceding plan.
- (5) The Scottish Ministers may amend the rural support plan within the plan period if—
- (a) their strategic priorities for providing support change, or
 - 20 (b) it appears to them that any information set out in the plan in accordance with subsection (2)(c) has ceased to be accurate and complete.
- (6) Where the Scottish Ministers amend a plan, they must as soon as reasonably practicable—
- (a) lay the amended plan before the Scottish Parliament, and
 - (b) publish it.
- (7) For the purposes of this section, the “plan period” is the period to which the plan relates and—
- 25 (a) in the case of the first plan, is the period of 5 years beginning with the day on which it is published,
 - (b) in the case of each subsequent plan, is the period of five years beginning on the day after the preceding plan period ends.
- 30 (8) The plan period of a rural support plan is not affected by the Scottish Ministers amending the plan under subsection (5).
- (9) A reference in this Act to the rural support plan is (unless the context otherwise requires) a reference to the plan which has most recently been published under this section.
- 35 (10) For the purposes of this section, “support scheme” means a scheme operated by the Scottish Ministers for the provision of support under or by virtue of this Act.

3 Rural support plan: matters to be considered

- (1) The Scottish Ministers must have regard to the following matters when preparing or amending a rural support plan under section 2.

- (2) The matters are—
- (a) the objectives set out in section 1,
 - (b) the proposals and policies contained in the climate change plan which relate to agriculture, forestry and rural land-use,
 - 5 (c) any other statutory duty of the Scottish Ministers relating to agriculture, rural land use, biodiversity or the environment,
 - (d) developments in the law and policy of the European Union,
 - (e) the desirability of the agricultural sector operating with fair work principles,
 - 10 (f) the objectives of a plan produced under section 1 of the Good Food Nation (Scotland) Act 2022,
 - (g) the need for sustainable food systems and supply chains in delivering food security,
 - (h) the benefits of a diverse and resilient agricultural sector including small producers, tenant farmers, crofters and agricultural co-operative societies.
- (3) For the purpose of subsection (2), the “climate change plan” means the plan laid before the Scottish Parliament under section 35 of the Climate Change (Scotland) Act 2009.
- 15 (4) The Scottish Ministers may by regulations modify this section to add, adjust or remove a matter to which regard must be had.
- (5) Regulations under subsection (4) are subject to the affirmative procedure.

PART 2

SUPPORT FOR AGRICULTURE, RURAL DEVELOPMENT AND RELATED MATTERS

Power to provide support

4 Power to provide support

- (1) The Scottish Ministers may provide support for or in connection with the purposes described in schedule 1.
- 25 (2) The Scottish Ministers may by regulations modify schedule 1 by—
- (a) adding a purpose,
 - (b) amending the description of a purpose (including by defining a word or expression),
 - (c) removing a purpose.
- (3) Regulations made under this section are subject to the negative procedure.
- 30 (4) In this Part, except where the context otherwise requires—
- (a) a reference to support (other than a reference to the provision of support by a third party described in section 5) is to support provided under this section, and
 - (b) a reference to financial support is a reference to support under this section that is provided financially.

5 Funding third party support

- (1) Without prejudice to the purposes described in schedule 1, support may be provided to—
- (a) the maker or operator of a third party scheme in connection with the establishment or operation of that scheme (including in connection with the provision of support under that scheme),
 - (b) a person who otherwise provides support for or in connection with a purpose described in schedule 1.
- (2) A “third party scheme” is a scheme for the provision of support (whether financially or otherwise) for or in connection with a purpose described in schedule 1, but which is not made by the Scottish Ministers.

General provision about support

6 Form of support and conditions

- (1) Support may be provided—
- (a) in such manner as the Scottish Ministers consider appropriate including, in particular, financial support by way of grant, loan or guarantee, and
 - (b) under or in accordance with a scheme established by regulations made under section 13(1), a scheme established administratively, or otherwise.
- (2) Except as otherwise provided in regulations made under section 13(1), the Scottish Ministers may impose such conditions on the provision of support as they consider appropriate.
- (3) The conditions that may be imposed may, in particular, include conditions requiring the repayment or otherwise making good of any financial support (with or without interest).

7 Guidance

- (1) The Scottish Ministers may by regulations make provision in relation to guidance about support (including the guidance contained in the Code of Sustainable and Regenerative Agriculture (see section 26)).
- (2) Provision under subsection (1) may, in particular, include provision—
- (a) requiring that guidance on a particular scheme or purpose be laid before the Scottish Parliament and published,
 - (b) requiring regard to be had by particular persons to the guidance,
 - (c) specifying the extent to which compliance with guidance on a particular topic is relevant in determining whether a person has complied with a statutory duty or condition of support,
 - (d) specifying the admissibility or evidential value of the guidance in legal proceedings.
- (3) Regulations under this section are subject to the negative procedure.

8 Delegation

- (1) The Scottish Ministers may delegate functions relating to the providing of support to any other person.

- (2) Functions delegated under subsection (1) may—
- (a) include the giving of guidance, or
 - (b) permit the exercise of discretion in relation to a function.
- (3) The delegation of functions under subsection (1) does not—
- (a) affect the Scottish Ministers' responsibility for the performance of the function, or
 - (b) prevent the Scottish Ministers from performing the function themselves.

9 Power to cap support and assistance

- (1) The Scottish Ministers may by regulations—
- (a) limit the overall amount of support or relevant assistance (or both) that a person may receive within a payment period (or periods),
 - (b) provide for the amount of support or relevant assistance (or both) that a person may receive in a payment period (or periods) to progressively reduce where the support exceeds a specified amount of support.
- (2) Before making regulations under this section, the Scottish Ministers must consult such persons as they consider appropriate.
- (3) Regulations under this section are subject to the affirmative procedure.
- (4) In this section—
- “payment period” means any specified period relating to the payment of support,
 - “relevant assistance” means financial assistance provided by the Scottish Ministers under or by virtue of another enactment (including, in particular, assimilated law governing the CAP direct payment schemes and assimilated direct CAP legislation) for a purpose similar to a purpose described in schedule 1,
 - “specified” means specified in regulations under subsection (1).

10 Refusal or recovery of support where in the public interest

- (1) The Scottish Ministers may (in accordance with any regulations made under subsection (2))—
- (a) refuse to provide support if they consider that it is not in the public interest for a person to receive it, and
 - (b) in a case where the Scottish Ministers consider that it was not in the public interest to have provided support to a person, take such steps as they consider appropriate to recover it.
- (2) The Scottish Ministers may by regulations make provision in connection with the exercise of their powers under subsection (1) including provision specifying—
- (a) persons in respect of whom the powers may be exercised,
 - (b) circumstances in respect of which the powers may be exercised,
 - (c) matters that the Scottish Ministers must take into account when considering whether to exercise the powers.

- (3) Before making regulations under this section, the Scottish Ministers must consult such persons as they consider likely to be affected by provisions in this section.
- (4) Regulations under this section are subject to the negative procedure.

Intervention in agricultural markets

5 **11 Exceptional market conditions: powers available to Scottish Ministers**

- (1) Subsection (2) applies during the period for which an exceptional market conditions declaration under section 12 has effect.
- (2) The Scottish Ministers may provide, or agree to provide, financial support to agricultural producers in Scotland who have been, are being, or are likely to be, adversely affected by the exceptional market conditions described in the declaration.
- (3) Nothing in this section affects any other powers that are available to the Scottish Ministers (including under assimilated direct legislation and assimilated direct CAP legislation) to provide financial support to agricultural producers.
- (4) Financial support under subsection (2) may be provided by way of grant, loan or guarantee or in any other form.
- (5) The financial support may be provided subject to such conditions as the Scottish Ministers consider appropriate.
- (6) The conditions may, in particular, include conditions requiring the repayment or otherwise making good of any financial support (with or without interest).
- (7) Nothing in subsection (1) or (2) prevents the Scottish Ministers from providing, or agreeing to provide, financial support under subsection (2)—
 - (a) after the end of the period for which an exceptional market conditions declaration has effect, but
 - (b) in response to an application made during that period.

25 **12 Declaration relating to exceptional market conditions**

- (1) If the Scottish Ministers consider that there are exceptional market conditions, they may make and publish a declaration (“an exceptional market conditions declaration”) in accordance with this section.
- (2) There are “exceptional market conditions” if—
 - (a) there is a severe disturbance in agricultural markets or a serious threat of a severe disturbance in agricultural markets, and
 - (b) the disturbance or threatened disturbance has, or is likely to have, a significant adverse effect on agricultural producers in Scotland.
- (3) An exceptional market conditions declaration must—
 - (a) state that the Scottish Ministers consider that there are exceptional market conditions,
 - (b) describe the exceptional market conditions in question by specifying—
 - (i) the disturbance or threatened disturbance in agricultural markets,
 - (ii) any agricultural product which is or is likely to be affected by the disturbance or threatened disturbance,

- (iii) the grounds for considering that the disturbance or threatened disturbance has, or is likely to have, a significant adverse effect on agricultural producers,
- (c) describe the grounds for considering that the exceptional market conditions justify making the powers conferred by or referred to in section 11 available for use, and
- 5 (d) specify the date until which the powers conferred by or referred to in section 11(2) are available for use in relation to the exceptional market conditions.
- (4) The date specified under subsection (3)(d) may not be later than the last day of the period of 3 months beginning with the day on which the exceptional market conditions declaration is published.
- 10 (5) An exceptional market conditions declaration has effect from the beginning of the day on which it is published until the end of the day specified under subsection (3)(d).
- (6) The Scottish Ministers may revoke an exceptional market conditions declaration by making and publishing a declaration under this subsection stating that the exceptional market conditions declaration is revoked from the date specified in the declaration.
- 15 (7) Subsection (8) applies if, at any time during the period of 7 days ending with the day specified under subsection (3)(d) in an exceptional market conditions declaration that has effect under this section, the Scottish Ministers consider that there continue to be exceptional market conditions.
- (8) The Scottish Ministers may extend the exceptional market conditions declaration by making and publishing a declaration under this subsection specifying—
- 20 (a) that the exceptional market conditions declaration is extended for a period (not exceeding 3 months) specified in the declaration, and
- (b) that the powers conferred by or referred to in section 11(2) are available for use during that period.
- 25 (9) The fact that an exceptional market conditions declaration has expired or has been revoked does not prevent the Scottish Ministers from making and publishing another exceptional market conditions declaration relating in whole or part to the same exceptional market conditions.
- (10) The Scottish Ministers must lay a copy of any declaration made and published under this section before the Scottish Parliament as soon as practicable after it is published.
- 30 (11) In this section and section 11, a reference to agricultural markets, agricultural producers or agricultural products includes a reference to horticultural markets, horticultural producers or horticultural products (as the case may be).

Administrative matters, eligibility and enforcement

35 **13 Regulations about support**

- (1) The Scottish Ministers may by regulations make provision for or in connection with the provision of support or support for a particular purpose.
- (2) Regulations under this section may, in particular, make provision about—
- (a) eligibility criteria for receiving support, (see section 14)
- 40 (b) payment entitlements, (see section 15)
- (c) the amount of support, including—
- (i) how the amount of support is to be determined,

- (ii) setting a minimum amount for a payment of support,
 - (iii) reducing the amount of payments of support in particular circumstances (other than those described in section 9),
 - (d) how support is to be paid or otherwise provided,
 - (e) conditions that may or must be imposed when providing support,
 - (f) checking, enforcing and monitoring support, (see section 16)
 - (g) such administrative and procedural matters in connection with the provision of support as the Scottish Ministers consider appropriate, and
 - (h) the publication of information about support that is being or has been provided, (see section 17).
- (3) Before making regulations under this section, the Scottish Ministers must consult such persons as they consider likely to be interested in or affected by provisions in this section.
- (4) Regulations under this section—
- (a) are subject to the affirmative procedure if the regulations in question, in the opinion of the Scottish Ministers, would make significant provision, or
 - (b) otherwise, are subject to the negative procedure.
- (5) For the purpose of subsection (4)(a), significant provision includes—
- (a) establishing a scheme in respect of support for a particular purpose which will—
 - (i) have a significant number of potential recipients or have a significant impact on recipients,
 - (ii) affect a significant amount of land or have a significant impact on a particular type of land,
 - (iii) have a significant monetary value (as assessed by reference to the value of support generally),
 - (iv) create a criminal offence (see section 16), and
 - (b) making significant changes to an existing scheme of support that is, by reference to the matters in paragraph (a), a significant scheme.

14 Eligibility criteria for support

- (1) Regulations under section 13(2)(a) may, in particular, make provision for or in connection with criteria for support by reference to—
- (a) the activity which a person carries out,
 - (b) how a person carries out an activity, including whether the person carries out the activity personally or through other arrangements,
 - (c) a person's characteristics or personal, financial or business circumstances (for example, a person commencing an agricultural activity for the first time),
 - (d) the type or location of land on which a person carries out an activity,
 - (e) the amount of land on which a person carries out an activity,

(f) the manner in which title to, or occupancy of, land on which an activity is carried out is registered or recorded (for example, if the land is registered in the Land Register of Scotland),

(g) the ability of grazing committees and co-operatives to claim support as a collective for joint projects separate to individual support.

(2) In this section “grazing committee” has the meaning given by section 47 of the Crofters (Scotland) Act 1993.

15 Payment entitlements

(1) Regulations under section 13(2)(b) may, in particular, make provision for or in connection with—

(a) the determination of the number of payment entitlements available,

(b) the allocation of payment entitlements,

(c) the value of payment entitlements,

(d) the transfer of payment entitlements (whether or not for a consideration),

(e) the Scottish Ministers holding payment entitlements for allocation to specified categories of persons,

(f) the surrender of payment entitlements to, or the reclamation or cancelling of payment entitlements by, the Scottish Ministers,

(g) creating and maintaining a register of persons allocated payment entitlements,

(h) the charging of fees of such amount as may be specified for making changes to the register necessitated by the transfer of entitlements.

(2) In this Part, a “payment entitlement” is the entitlement of a person to be provided an amount of support for a particular purpose (subject to meeting any eligibility criteria and conditions or limits on payments).

16 Checking, enforcing and monitoring support

(1) Regulations under section 13(2)(f) may, in particular, make provision for or in connection with—

(a) checking whether eligibility criteria for support are met,

(b) the consequences, where support has been provided without eligibility criteria having been met,

(c) enforcing compliance with any conditions to which support is or has been provided,

(d) monitoring the extent to which the purpose of providing support has been achieved,

(e) the creation of offences and investigation of suspected offences in connection with applications for, or the provision of support.

(2) Without limit to the generality of subsection (1), such provision may include provision—

(a) about the provision of information,

(b) conferring powers of entry,

(c) conferring powers of inspection, search and seizure,

- (d) about the process for determining whether eligibility criteria for, or conditions applying to, the provision of support are met,
- (e) about record keeping,
- (f) about the recovery or making good of all or any part of support (with or without interest),
- (g) about withholding support, in whole or in part,
- (h) about steps to be taken, by a person to whom support is or has been provided, to rectify any breach of a condition applicable to that support,
- (i) about imposing monetary penalties (including penalties calculated by reference to the value of any support),
- (j) for recovery of amounts due in respect of monetary penalties,
- (k) prohibiting a person from receiving support, or support for a particular purpose, for a specified period or until specified conditions are satisfied,
- (l) about how decisions are to be reviewed and appeals,
- (m) conferring functions (including functions involving the exercise of a discretion) on a person.

(3) Regulations made by virtue of this section may not authorise entry to a private dwelling without a warrant issued by a summary sheriff or sheriff.

(4) The provision which may be made by virtue of subsection (2)(f) includes provision for interest on any recoverable amount to be payable from such day (whether the day on which the financial assistance in question was given or a later day) as may be specified in the regulations.

(5) Regulations made by virtue of subsection (1)(e) creating an offence must provide for the maximum penalty for the offence to be—

- (a) on conviction on indictment, a fine, or
- (b) on summary conviction, a fine not exceeding the statutory maximum.

(6) In this section, “specified” means specified in, or determined under, regulations made by virtue of subsection (1).

17 Publication of information about support

Regulations under section 13(2)(h) may, in particular, make provision—

- (a) imposing a requirement on any person (including the Scottish Ministers),
- (b) requiring that the information to be published includes information about—
 - (i) the recipient of any support provided,
 - (ii) the amount of any support provided,
 - (iii) the purposes of any support provided.

18 Processing of information

(1) The Scottish Ministers may by regulations make provision about the processing of information for and in connection with—

(a) the provision of—

(i) support under this Act, or

(ii) other relevant assistance,

(b) the carrying out of functions in relation to continuing professional development activities under this Act.

(2) Regulations under this section may, in particular—

(a) require a person to produce information in such form and within such reasonable times as may be specified,

(b) authorise the Scottish Ministers (and any persons acting on their behalf) to share information with—

(i) a public authority for the purpose of enabling or assisting the authority (and any persons acting on their behalf) to exercise any functions,

(ii) such other persons or descriptions of persons, in such circumstances as may be specified.

(3A) A duty or power to disclose or use information which is imposed or conferred by regulations under subsection (1) may not operate to require or authorise the disclosure or use of information which would contravene the data protection legislation (but the duty or power is to be taken into account in determining whether the disclosure or use would contravene that legislation).

(4) In this section—

“the data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018,

“processing” is to be construed in accordance with section 3(4) of the Data Protection Act 2018,

“public authority” means a public authority in any part of the United Kingdom,

“relevant assistance” means financial assistance provided by the Scottish Ministers under or by virtue of another enactment (including, in particular, assimilated law governing the CAP direct payment schemes and assimilated direct CAP legislation) for a purpose similar to a purpose described in schedule 1,

“specified” means specified in, or determined under, regulations under subsection (1).

(5) Regulations under this section are subject to the negative procedure.

PART 3

POWERS TO MODIFY EXISTING LEGISLATION RELATING TO SUPPORT

Powers in relation to relevant CAP legislation

19 **Power to simplify, improve or update relevant CAP legislation**

- 5 (1) The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 is modified as follows.
- (2) In section 1 (defined terms), in subsection (2)—
- (a) in the opening words, for “main” substitute “relevant”,
- (b) after paragraph (b) insert—
- “(ba) the CMO Regulation.”.
- 10 (3) In section 2 (power to simplify or improve CAP legislation)—
- (a) in subsection (1), for “the main” substitute “or restate, to any extent, the relevant”,
- (b) in subsection (2)—
- (i) the words from “that” to “legislation” become paragraph (a),
- (ii) after that paragraph insert—
- 15 style="padding-left: 120px;">“(b) that they consider appropriate to take account of—
- (i) changes in technology, or
- (ii) developments in scientific understanding.”,
- (c) after subsection (2) insert—
- “(2A) A restatement under subsection (1) may make any change to the legislation
- 20 style="padding-left: 120px;">that the Scottish Ministers consider appropriate—
- (a) for the purposes of—
- (i) resolving ambiguity,
- (ii) removing doubt or an anomaly,
- (iii) facilitating improvements in the clarity or accessibility of the law
- 25 style="padding-left: 240px;">(including by omitting anything which is legally unnecessary),
- (b) to take account of—
- (i) changes in technology, or
- (ii) developments in scientific understanding.
- (2B) A restatement under subsection (1) may use words or concepts that are different
- 30 style="padding-left: 120px;">from those used in the provision being restated.”.
- (4) The section title of section 2 becomes “**Power to simplify, improve or update relevant CAP legislation**”.

20 **Power to continue or end the operation of relevant CAP legislation**

- (1) The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 is modified as follows.

- (2) In section 3 (power to provide for the operation of CAP legislation beyond 2020)—
- (a) in subsection (1)—
 - (i) for “main” substitute “relevant”,
 - (ii) the words “for one or more years beyond 2020” are repealed,
 - (b) after subsection (1) insert—

“(1A) The Scottish Ministers may by regulations modify any provision of the relevant CAP legislation for the purpose of securing that it—

 - (a) ceases to apply for a period, or
 - (b) ceases to have effect in Scotland.”,
 - (c) subsections (2) and (3) are repealed,
 - (d) in subsection (4), for “subject to the affirmative procedure” substitute “(if they have not been subject to the affirmative procedure) subject to the negative procedure.”.
- (3) The section title of section 3 becomes “**Power to continue or end the operation of relevant CAP legislation**”.

21 Power to modify financial provision in relevant CAP legislation

- (1) The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 is modified as follows.
- (2) In section 4 (power to modify financial provision in CAP legislation)—
- (a) in subsection (1), for “main” substitute “relevant”,
 - (b) subsection (2) is repealed,
 - (c) in subsection (3), for “subject to the affirmative procedure” substitute “(if they have not been subject to the affirmative procedure) subject to the negative procedure.”.
- (3) The section title of section 4 becomes “**Power to modify financial provision in relevant CAP legislation**”.

22 Repeal of section 5

Section 5 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 is repealed.

23 Public intervention and private storage aid

- (1) The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 is modified as follows.
- (2) In section 6 (power to modify CAP legislation on public intervention and private storage aid)—
- (a) for subsection (2) substitute—

“(2) The power conferred by subsection (1) includes the power to make provision for the purposes of—

 - (a) altering the operation of the legislation so far as it has effect in connection with exceptional market conditions which are the subject of

a declaration under section 12 of the Agriculture and Rural Communities (Scotland) Act 2024,

- (b) securing that provisions of the legislation cease to have effect otherwise than in connection with exceptional market conditions which are the subject of such a declaration,
- (c) altering the operation of provisions of the legislation otherwise than in connection with exceptional market conditions.”,

(b) after subsection (3) insert—

“(3A) For the purposes of this section, a reference to exceptional market conditions which are the subject of a declaration under section 12 of the Agriculture and Rural Communities (Scotland) Act 2024 includes a reference to circumstances which are the subject of measures under Articles 219, 220 and 221 of the CMO Regulation.”.

24 **Power to modify CAP legislation on aid for fruit and vegetable producer organisations**

- (1) In section 7 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (power to simplify or improve CAP legislation on aid for fruit and vegetable producer organisations), subsection (2) is repealed.
- (2) The section title of section 7 becomes “**Power to modify CAP legislation on aid for fruit and vegetable producer organisations**”.

25 **Apiculture**

After section 7 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 insert—

“Apiculture

7A Apiculture

- (1) The Scottish Ministers may by regulations modify the legislation governing apiculture.
- (2) In this section, the “legislation governing apiculture” includes, in particular—
 - (a) Articles 55 to 57 and 215 of the CMO Regulation,
 - (b) any delegated or implementing Regulations made (whether by the Commission or the Council) under the CMO Regulation relating to those Articles,
 - (c) any subordinate legislation implementing or otherwise relating to those Articles.
- (3) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.”.

PART 4

MISCELLANEOUS

26 Code of Practice on Sustainable and Regenerative Agriculture

- 5 (1) The Scottish Ministers must prepare and publish a document providing guidance on sustainable and regenerative agriculture.
- (2) The document is to be called the “Code of Practice on Sustainable and Regenerative Agriculture” (and is referred to in this section as “the code”).
- (3) The code is to include—
- 10 (a) an explanation of what the Scottish Ministers consider to be sustainable and regenerative agriculture,
- (b) the agricultural activities and methods which they consider to constitute best practice for sustainable and regenerative agriculture,
- (c) such other information and guidance relating to sustainable and regenerative agriculture as the Scottish Ministers consider appropriate.
- 15 (4) The Scottish Ministers must review and, if they consider it appropriate, revise and publish the code (as so revised) by the end of each review period.
- (5) Before publishing the code or any revised code, the Scottish Ministers must lay it before the Scottish Parliament.
- (6) The Scottish Ministers must, in preparing or reviewing the code, consult such persons as they consider likely to be interested in or affected by it.
- 20 (7) The Scottish Ministers must take such steps as they consider appropriate to promote awareness of the code to persons likely to be affected by it—
- (a) after publication of the code (or the code as revised),
- (b) at such other times as they consider appropriate.
- 25 (8) In this section, “review period” means—
- (a) the period of 5 years beginning with the day on which the first code is published, and
- (b) each subsequent period of 5 years.

27 Continuing professional development

- 30 (1) The Scottish Ministers may by regulations make provision for or in connection with the continuing professional development of—
- (a) farmers,
- (b) crofters,
- (c) land-managers,
- 35 (ca) persons who work in agriculture (whether as employees or otherwise),
- (d) persons who provide relevant advice or services to the persons listed in paragraphs (a) to (c) (other than persons who are already subject to such requirements),
- (e) such other categories of persons providing advice or services in or for rural communities as may be specified in the regulations.

-
- (2) In subsection (1)(d), relevant advice or services means advice or services relating to farming, crofting or land-management.
- (3) Regulations under subsection (1) may include provision about continuing professional development activities which the persons mentioned in subsection (1) may or must undertake (“CPD activities”), such as—
- (a) requiring the persons mentioned in subsection (1) to undertake particular, or a particular amount of, CPD activities,
 - (b) the form and content of CPD activities,
 - (c) the accreditation of CPD activities and the persons providing CPD activities,
 - (d) requiring that any person providing CPD activities or any particular description of CPD activities in accordance with the regulations holds such qualifications, skills or experience as may be specified in the regulations,
 - (e) the minimum criteria for successful completion of CPD activities,
 - (f) how successful completion of CPD activities is recorded,
 - (g) monitoring and enforcement of any requirement to undertake particular, or a particular amount of, CPD activities,
 - (h) the charging of fees in connection with the provision of, or any requirement to undertake, CPD activities,
 - (i) the processing of information in connection with the provision of, or any requirement to undertake, CPD activities, and
 - (j) appeals against decisions of the Scottish Ministers (or a person acting on their behalf) relating to any requirement to undertake CPD activities.
- (4) Regulations under subsection (1)—
- (a) may make provision for persons other than the Scottish Ministers carrying out functions in relation to CPD activities,
 - (b) are subject to the negative procedure.

28 Prescribing and regulating means of identifying animals

- (1) The Animal Health Act 1981 is modified as follows.
- (2) In section 8 (movement generally)—
- (a) in subsection (1), for paragraph (a) substitute—
 - “(a) for prescribing and regulating the means of identifying animals,”
 - (b) in subsection (1A) (as inserted by the Agriculture Act 2020), the words “made by the Secretary of State or the Welsh Ministers” are repealed.

29 Repeals and minor modifications

- (1) The enactments mentioned in the first column of the table in Part 1 of schedule 2 are repealed or revoked to the extent specified in the second column of the table.
- (2) Part 2 of schedule 2 contains minor modifications of enactments.

PART 5

FINAL PROVISIONS

30 Regulations

- (1) A power to make regulations conferred by this Act includes the power to make—
- (a) different provision for different purposes or areas, and
 - (b) incidental, supplemental, consequential, transitional, transitory or saving provision.
- (2) This section does not apply to section 33.

31 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may modify any enactment (including this Act).
- (3) Regulations under this section—
- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act (including this Act), but
 - (b) otherwise are subject to the negative procedure.

32 Index of defined terms

In this Act—

“exceptional market conditions” is to be construed in accordance with section 12(2),

“exceptional market conditions declaration” has the meaning given in section 12(1),

“financial support” is to be construed in accordance with section 4(4),

“payment entitlement” is to be construed in accordance with section 15(2),

“rural support plan” is to be construed in accordance with section 2(9),

“support” is to be construed in accordance with section 4(4),

“third party scheme” is to be construed in accordance with section 5(2).

33 Commencement

- (1) This section and sections 30, 31, 32 and 34 come into force the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
- (a) make different provision for different purposes or areas,
 - (b) include transitional, transitory or saving provision.

34 Short title

The short title of this Act is the Agriculture and Rural Communities (Scotland) Act 2024.

SCHEDULE 1
(introduced by section 4)

PURPOSES OF SUPPORT

PART 1

GENERAL

Application

- 5
- 1 (1) The purposes described in this schedule are the purposes for which support may be provided under section 4.
- 10 (2) Support may be provided for any combination of purposes that the Scottish Ministers consider appropriate.
- (3) Without limit to the generality of section 30(1), support may be provided for the purposes of assisting—
- (a) different descriptions of person,
- (b) different types of activity,
- 15 (c) activity on different types of land or land with different properties or characteristics, and
- (d) activity on land in different areas.

PART 2

AGRICULTURE, FOOD AND DRINK

20 *Farming etc.*

- 2 (1) Assisting persons to carry out agricultural activities.
- (2) For the purposes of this schedule, references to agriculture include—
- (a) horticulture,
- 25 (ab) growing crops, including fruit, seeds and plants grown for the production of energy or other non-food purposes,
- (d) dairy farming,
- (e) livestock breeding and keeping (including apiculture),
- (ea) deer and game farming,
- (f) the use of land as grazing land, meadow land, osier land,
- 30 (g) market gardens and nursery grounds, and
- (h) the use of land for woodlands where that use is ancillary to the farming of the land for other agricultural purposes, including—
- (i) providing shelter to livestock,
- (ii) reducing flood risk,
- 35 (iii) reducing soil loss,

(iv) reducing risks to wader birds, including curlew.

- (3) In this paragraph, “horticulture” means the growing and harvesting of edible horticultural crops, including fruit, vegetables, tubers, mushrooms, herbs, bush and tree nuts and seeds.

5 *Particular products or sectors*

- 3 (1) Assisting persons to produce (or produce in a particular way) a product listed in sub-paragraph (3) with a view to—

- 10 (a) ensuring that agricultural activity (or activity of a particular type) continues or evolves to support a transition to a sustainable land management regime in a particular area or on a particular type of land,
(b) ensuring that agricultural activity of a particular type continues,
(c) contributing to the economic or social wellbeing of an area,
(d) delivering an environmental benefit (such as the preservation of wildlife or a natural habitat).

- 15 (2) This purpose includes assisting persons to undertake an ancillary activity in respect of a product listed in sub-paragraph (3).

- (3) The products are—

- 20 (a) cereals,
(b) oilseeds,
(c) protein crops,
(d) grain legumes,
(e) flax,
(f) hemp,
(fa) wool,
25 (g) nuts,
(h) starch potato,
(i) milk and milk products,
(j) seeds,
(k) sheep meat, pig meat and goat meat,
30 (l) beef and veal,
(la) poultry meat and eggs,
(lb) venison,
(m) dried fodder,
(n) hops,
35 (o) sugar beet,
(p) cane and chicory,
(q) fruit and vegetables, and

(r) short rotation coppice.

- (4) In this paragraph, an “ancillary activity” is an activity of selling, marketing, preparing, packaging, processing or distributing a product.

Food and drink

- 5 4 (1) Assisting persons to—
- (a) produce or process food,
 - (b) use organic practices, methods or systems for food production or processing,
 - (c) meet certification requirements for organic food production or processing.
- 10 (2) This purpose includes assisting persons to undertake an ancillary activity in respect of the production or processing of food.
- (3) In this paragraph, an “ancillary activity” is an activity of selling, marketing, preparing, packaging or distributing food.
- (4) In this schedule, a reference to—
- (a) food includes drinks, and
 - 15 (b) producing food includes hunting or catching wild animals, or picking wild plants, for food.
- (5) For the purposes of this paragraph, “animal” means a vertebrate (other than a human) or invertebrate.

PART 3

FORESTRY

Forestry

- 5 (1) Assisting persons to—
- (a) create areas of woodland,
 - 25 (b) manage woodland (and the creation of new areas of woodland) in a sustainable way, including by—
 - (i) preparing plans for the creation and management of woodland,
 - (ii) undertaking conservation, and
 - (iii) improving woodlands, access to areas of woodland and woodland infrastructure,
 - 30 (c) develop and use systems in which trees are grown in combination with agricultural activity,
 - (d) prevent damage to trees and woodland from fires, natural disasters and other adverse events (including the outbreak of a disease or pests) and restore trees and woodland after such events,
 - 35 (e) undertake an ancillary activity.

- (2) In this paragraph, an “ancillary activity” is an activity of selling, marketing, preparing, packaging, processing or distributing a product derived from a forestry activity.

PART 4

RURAL COMMUNITIES AND ECONOMY

5 *Rural communities*

6 (1) Assisting persons—

- (a) to live, work or operate in rural areas (or assist or encourage others to do so),
- (b) to invest in infrastructure and services in and for rural areas.

(2) Assisting persons living, working or operating in a rural area to—

- 10 (a) produce and implement strategies for the development of the area, including identification of rural anchor institutions,
- (b) co-operate or act jointly with other persons for or in connection with another purpose described in this schedule.

- 15 (3) Assisting persons to establish or maintain a network of persons involved in rural development.

Community benefits

6A Assisting persons to create community benefits, including—

- 20 (a) clean air,
- (b) clean water,
- (c) carbon sequestration,
- (d) biodiversity gains,
- (e) access to nature,
- (f) wider economic and social benefits.

Investing in rural businesses and enterprises

25 7 (1) Assisting persons to—

- (a) start a business or enterprise (whether or not for profit)—
- (i) relating to agriculture, food production or processing, forestry, nature restoration or other rural land-use activity, or
 - (ii) otherwise, in or for a rural area or community,
- 30 (b) develop, sustain or change such a business or enterprise (including improving productivity or diversifying into other activities),
- (c) improve the resilience of such a business or enterprise,
- (d) recover from or adapt to events which have (or may have) a negative impact (including exceptional adverse events such as a natural disaster or the outbreak

of a disease or pests) on such a business or enterprise or the activities of such a business or enterprise.

- (2) For the purposes of this paragraph, “enterprise” includes co-operative societies and similar organisations.

5 *Knowledge, innovation, education and training*

8 (1) Assisting persons—

(a) to establish, develop, deliver or undertake—

- 10 (i) courses of training or professional development relating to agriculture, forestry, food production or processing, animal health and welfare or genetic resources, land use or related sectors (such as sectors providing services to agriculture),
- (ii) other forms of learning and sharing information relating to those sectors,

(b) to provide or obtain advice—

- 15 (i) relating to agriculture, food production or processing, forestry, animal health and welfare or genetic resources or other land use, or
- (ii) otherwise, relevant to persons living, working or operating in rural communities,

(c) to research, develop, introduce or test new or improved (whether in terms of efficiency, productivity, sustainability or otherwise)—

- 20 (i) crops and other agricultural products,
- (ii) forestry products,
- (iii) animal health and welfare or genetic resources methods or systems,
- (iv) agricultural or forestry activities, methods or systems,
- (v) methods or systems of food production and processing,

25 (d) to undertake other research or development activities which may—

- (i) support those living, working or operating in rural areas,
- (ii) improve or support rural land (or land use), or
- (iii) improve or support the environment,

(e) to undertake ancillary activities.

- 30 (2) In this paragraph, “ancillary activities” include developing and maintaining resources, digital tools or databases for or in connection with the purposes described in sub-paragraph (1)(a) to (d).

- (3) For the purposes of this paragraph, “animal” means a vertebrate (other than a human) or invertebrate.

35 *Integrated land management*

9 (1) Assisting persons to develop and implement integrated land management plans.

- (2) An integrated land management plan is a plan—
- (a) agreed between a person and a relevant authority,
 - (b) which provides for the management and use of land and natural resources in such manner and with a view to achieving such an outcome as the plan may specify.
- 5 (3) In this paragraph, “relevant authority” means the Scottish Ministers, a local authority, a national park authority or such other authority with functions relating to land management as the Scottish Ministers consider appropriate.

Quality schemes and producer groups

- 10 Assisting persons to establish or participate in—
- 10 (a) schemes or programmes which certify that a particular agricultural product, forestry product (or a by-product)—
 - (i) meets, or is produced according to, standards set by the organisers of the scheme or programme,
 - (ii) is produced in a particular place or in a particular way,
 - 15 (b) groups of producers of particular agricultural or forestry products.

Preservation of historic and cultural sites

- 11 Assisting persons to protect or enhance the conditions of sites of historic or cultural interest.

Recreational access to land

- 20 12 Assisting persons to provide, maintain, facilitate and improve access for recreation to land (including land covered with water) in rural areas.

Nature-based economy

- 12A Assisting persons to invest in nature-based enterprises in rural areas.

PART 5

RURAL LAND MANAGEMENT AND THE ENVIRONMENT

Plants and soil

- 13 Assisting persons to promote, protect or improve—
- (a) plant health,
 - (b) plant genetic resources,
 - 30 (c) soil health and quality, including, in particular—
 - (ia) the physical, chemical and biological condition of the soil, determining its capacity to function as a vital living system and to provide ecosystem services,
 - (ii) the carbon capacity of the soil.

Greenhouse gases and climate change

14 (1) Assisting persons to—

- (a) implement measures to monitor and reduce greenhouse gas emissions from agriculture,
- (b) take action in respect of those parts of the climate change plan as apply to the sectors of agriculture, forestry, land use and land use change,
- (c) adapt to or mitigate against changes to the natural environment (whether attributable to climate change or otherwise),
- (d) take action in respect to any relevant plan, policies or objectives relating to agriculture, forestry, land use and land use change.

(2) In this paragraph, “greenhouse gas” has the same meaning as in section 10 of the Climate Change (Scotland) Act 2009.

(3) In this paragraph, “climate change plan” means the climate change plan prepared and laid before Parliament under section 35 of the Climate Change (Scotland) Act 2009 and the reference to particular sectors are to be construed in accordance with that section.

Natural environment

15 (1) Assisting persons to carry out activities that monitor, preserve, protect, improve or restore biodiversity and the natural environment (in any respect).

(1A) Assisting persons to set aside land for the natural environment and to prevent further biodiversity loss.

(2) Compensating persons in respect of additional costs incurred and income lost by the person in consequence of the implementation of environmental improvement measures including, in particular, measures taken in consequence of an enactment or international agreement.

(3) Assisting persons to carry out activities that preserve or protect land, water, the water holding capacity of land or other resources from the natural environment or human activity (for example, implementing flood prevention schemes or controlling invasive non-native species).

Animals

16 (1) Assisting persons to promote, protect or improve—

- (a) animal health and welfare,
- (b) animal genetic resources.

(2) For the purposes of this paragraph, “animal” means a vertebrate (other than a human) or invertebrate.

PART 6

ADMINISTRATIVE AND TECHNICAL SUPPORT AND MONITORING

Administrative and technical support

17 Assisting persons to—

- 5 (a) understand and access the support to which a person is entitled under this Act,
 (b) comply with the requirements of a scheme or any condition imposed in connection
 with support provided to the person or to which the person may be entitled.

Monitoring and reporting on effectiveness of support

10 18 Assisting persons to monitor, gather data, prepare reports on, or otherwise provide
 information in relation to assessing the effectiveness of support provided under this Act.

SCHEDULE 2

(introduced by section 29)

REPEALS AND MINOR MODIFICATIONS

PART 1

REPEALS AND REVOCATIONS

Enactment	Extent of repeal or revocation
Small Landholders (Scotland) Act 1911	Section 4.
	Section 6.
Small Holding Colonies (Amendment) Act 1918	Section 1.
Land Settlement (Scotland) Act 1919	Section 1(1) and (2).
	Section 3.
	Section 5.
	Section 6(5).
	In section 7, the words “, or the Small Holding Colonies Acts, 1916 and 1918,”.
	Section 8.
	Section 26.
Schedule 1.	
Small Holdings and Allotments Act 1926	The whole Act.
Agricultural Land (Utilisation) Act 1931	The whole Act.
Agriculture (Miscellaneous Provisions) Act 1943	The whole Act.

Enactment	Extent of repeal or revocation
5 Hill Farming Act 1946	In section 1(3), the definitions of “livestock rearing land” and “livestock rearing purposes”. Section 24(4). Section 34. In section 38, the definitions of “livestock rearing land” and “livestock rearing purposes”.
10 Agriculture (Artificial Insemination) Act 1946	The whole Act.
15 Agriculture (Scotland) Act 1948	Section 35. In section 55, paragraph (d). Section 56. Section 57. Sections 63 to 65. Section 70. Section 73. Section 75. Section 76. Schedule 3.
20 Schedule 8.	
Agriculture (Miscellaneous Provisions) Act 1949	The whole Act.
25 Livestock Rearing Act 1951	Section 1(3). Section 8.
Agriculture (Miscellaneous Provisions) Act 1954	The whole Act.
Agriculture Act 1957	The whole Act.
30 Agriculture Act 1958	In section 9(1), the definitions of “agricultural holding”, “lease”, “landlord” and “tenant”, “Land Court”, “Scottish Act of 1948” and “Scottish Act of 1949”. Section 10(4) and (5).
Agricultural Marketing Act 1958	Section 22. Sections 24 to 27.

Enactment	Extent of repeal or revocation
5 10	Section 28(1) and (6).
	Section 32(1) to (3).
	Section 33.
	In section 47(1), the words “or in any recommendations of an Agricultural Marketing Reorganisation Commission published in pursuance of this Act”.
	In section 47(2), the words “or Agricultural Marketing Reorganisation Commission”.
	Section 51.
	In Part 6 of schedule 3, paragraph 6.
Agriculture (Miscellaneous Provisions) Act 1963	The whole Act.
15 20 25 30	Agriculture Act 1967
	Sections 26 to 29.
	Section 35.
	Section 37.
	Section 39.
	Section 40.
	Sections 45 to 57.
	Section 63.
	Section 64.
	Sections 68 to 72.
	Section 74.
	In section 75(2), the definitions of “appropriate minister”, “assignment”, “heritable security”, “land”, “local authority” and “pension”.
	Section 75(3) to (7)
Schedules 3 to 7.	
Agriculture (Miscellaneous Provisions) Act 1968	In section 8(1), the definition of “agricultural land”.
	Section 8(3).
	Section 46.

Enactment	Extent of repeal or revocation
5 Agriculture Act 1970	Section 29.
	Section 30.
	Section 32.
	Section 33.
	Section 106.
10 Agriculture (Miscellaneous Provisions) Act 1972	Section 9(2) to (5).
	Section 10.
	Section 12.
	Section 16.
	Section 17.
	Section 18.
	Section 24.
15 Agriculture (Miscellaneous Provisions) Act 1976	Section 6.
Pig Industry Levy Act 1983	The whole Act.
Agriculture (Amendment) Act 1984	The whole Act.
Food Act 1984	The whole Act.
20 Agriculture Act 1986	Sections 17 to 20.
	Section 23A.
Farm Land and Rural Development Act 1988	Section 1.
	Section 3.
	Section 4.
Food Safety Act 1990	In schedule 2, paragraphs 12 to 15.
25 Agriculture and Forestry (Financial Provisions) Act 1991	Section 3.
30 Agriculture Act 1993	Sections 1 to 19.
	Sections 22 to 24.
	Section 54(3).
	Section 56.
	Section 58.
	Section 60.

Enactment	Extent of repeal or revocation
	In section 62(4), “17, 23,”.
The Scotland Act 1998 (Consequential Modifications) Order 2000	In the schedule, paragraphs 1, 2 and 6.
Abolition of Feudal Tenure etc. (Scotland) Act 2000	In schedule 12, paragraph 31.
Agriculture (Retained EU Law & Data) (Scotland) Act 2020	Section 8.

PART 2

CONSEQUENTIAL AND MINOR MODIFICATIONS

- 1 (1) The Agricultural Wages (Scotland) Act 1949 is modified by sub-paragraph (2).
(2) For section 13, substitute—

5

“13 Annual Reports

- (1) The Board must, before such date as the Scottish Ministers may direct, prepare and send to the Scottish Ministers a report of the Board’s proceedings under this Act during the preceding year.
- (2) The Scottish Ministers must prepare a report on the Scottish Ministers’ proceedings under this Act during that year.
- (3) As soon as reasonably practicable after the Scottish Ministers have prepared the report, under subsection (2), the Scottish Ministers must lay a copy of that report, and the report sent to them under subsection (1), before the Scottish Parliament.”.

10

15

- 2 (1) The Agricultural Marketing Act 1958 is modified by sub-paragraph (2).
(2) In section 5(4), for “eighty of the Agriculture Act, 1947” substitute “18 of the Agriculture (Retained EU Law and Data) Scotland Act 2020”.

Agriculture and Rural Communities (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision enabling the support of agriculture, rural communities and the rural economy through the creation of a framework for that support; to make provision for continuing professional development for those involved in agriculture and related industries, to make provision in relation to the welfare and identification of animals, to repeal spent and superseded agricultural enactments; and for connected purposes.

Introduced by: Mairi Gougeon
On: 28 September 2023
Bill type: Government Bill

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