

LEGISLATIVE CONSENT MEMORANDUM

AGRICULTURE BILL

Introduction

1. The Agriculture Bill was introduced into the House of Commons on 12 September 2018. 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. The Scottish Government considers that it is a relevant Bill under Rule 9B.1 of the Parliament's Standing Orders.¹ This memorandum has been lodged by Fergus Ewing, Cabinet Secretary for the Rural Economy, in accordance with Rule 9B.3.1(a). The Bill and supporting documents can be found at <https://services.parliament.uk/Bills/2017-19/agriculture/documents.html>. This memorandum relates to the Bill as introduced.

2. The Scottish Government believes that the best option for the UK as a whole, and for Scotland, is to remain in the EU. Short of continued EU membership, the Scottish Government believes that membership of the European Single Market and Customs Union would be the least damaging option for the UK and Scotland. However, the Scottish Government accepts the need to make preparations for withdrawing from the EU under other circumstances, and maintaining continuity for Scotland's agriculture sector.

3. The Scottish Government does not currently intend to lodge a legislative consent motion in relation to the Bill. In line with Rule 9B.3.3(d) of the Standing Orders, the Scottish Government's reasons for not including a draft motion are set out in paragraphs 17 – 26 below. The Scottish Government is considering amendments which, if made, and in conjunction with wider discussions with UK Government on legislative consent, could allow it to consider recommending that the Parliament gives consent to the Bill. The Scottish Government may lodge a supplementary legislative consent memorandum, potentially with a draft legislative consent motion, on this Bill in due course, depending on progress with the Bill and on restoring the confidence of the Scottish Government and Scottish Parliament in the operation of the legislative consent convention.

Background

4. The UK Department for Environment, Food and Rural Affairs (Defra) consultation paper "*Health and Harmony: the future of food, farming and the environment in a Green Brexit*",² published on 27 February 2018, set out the UK Government's emerging approach to future agriculture policy, after the UK has left the EU and the CAP.

¹ <http://www.parliament.scot/parliamentarybusiness/26512.aspx>

² UK Government (2018) *Health and Harmony: the future of food, farming and the environment in a Green Brexit* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684003/future-farming-environment-consult-document.pdf

5. The paper said that the UK Government would introduce an Agriculture Bill that breaks from the CAP, providing the ability to set out a long term domestic policy that includes:

- Replacing the CAP with a new system that pays public money for public goods such as environmental enhancement and protection, improved plant and animal health and animal welfare.
- Removing income support (direct payments) to farmers over an “agricultural transition” period.
- Introducing a new system of environmental land management schemes.

6. The paper also included a section on devolution that said:

- i. Common frameworks will be established where they are necessary in order to:
 - Enable the functioning of the UK internal market, while acknowledging policy divergence.
 - Ensure compliance with international obligations.
 - Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties.
 - Enable the management of common resources.
 - Administer and provide access to justice in cases with a cross-border element.
 - Safeguard the security of the UK.
- ii. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:
 - Be based on established conventions and practices, including the competence of the devolved institutions and will not normally be adjusted without their consent.
 - Maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules.
 - Lead to a significant increase in decision making powers for the devolved administrations.

7. The paper states that Defra will continue to work closely with the devolved administrations to agree where a common approach is required across the UK. It also states that Defra will continue to work closely on areas where commonality is desirable and where it may be possible to consider co-operative arrangements such as memorandums of understanding or more informal arrangements. Informal arrangements could include information sharing on new design and outcomes of environmental and productivity schemes.

Content of the Bill

8. The Explanatory Notes³ accompanying the Bill set out the UK Government’s view of its purpose and main functions, which operate alongside the powers conferred by the European Union (Withdrawal) Act 2018. The UK Government describes the principal purpose of the Bill as providing the legal framework for the UK to leave the

³ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0266/en/18266en.pdf>

Common Agricultural Policy (CAP) and establish a new system, based on public money for public goods for the next generation of farmers and land managers, (paragraph 1 of the Explanatory Notes). The main provisions of the Bill are as follows:

Part 1

This Part creates new powers for the Secretary of State to give financial assistance, in England, for or in connection with a range of purposes including land management, environmental protection, plant and animal health and welfare. This includes rules on the forms and conditions for granting support, and on monitoring and enforcing compliance with these rules, allowing the creation of a new policy to replace the CAP in England after exiting the EU.

Part 2

This Part deals with financial support in England after exiting the EU, and an agricultural transition period in England, and includes powers to allow for the rolling over and continuation of the current basic payment scheme following the UK's withdrawal from the EU, termination of the scheme at the end of its last full scheme year, and a transition period during which direct payments would be phased out and replaced.

Part 3

This Part provides new powers for the Secretary of State to collect and share data from those within or closely connected to the agri-food supply chain in relation to their activities in England.

Part 4

This Part provides the Secretary of State with powers to declare a period of exceptional market conditions in relation to England, and to give financial assistance to support farmers who have been affected. They also enable the Secretary of State to use the additional public intervention and private storage powers in retained EU legislation concerning the CAP. Public intervention and private storage are market support measures that can be used to help stabilise the price of certain products; the Bill, mirroring provisions in the CAP, provides that when the price of these products drops below a certain reference threshold due to a supply surplus, product can be removed from the market thus increasing prices.

Part 5

This Part provides the Secretary of State with powers to set and amend marketing standards for agricultural products, and to make provision about the classification of carcasses by slaughterhouses in relation to England.

Part 6

This Part sets out rules on giving special status to groups of farmers (i.e. producer organisations) to exempt them from some parts of competition law. It also contains powers to create statutory codes of fair conduct in agri-food supply chains.

These clauses give the Secretary of State power to amend or revoke retained EU law in relation to producer and inter-branch organisations, and to introduce new legislation regarding the recognition of and rules governing such organisations, including the extension of the rules to non-members and their exemption from competition law.

The Secretary of State's powers in this Part extend to the UK as a whole.

Part 7

This Part (clause 26) provides the Secretary of State with regulation-making powers in relation to the United Kingdom's compliance with the World Trade Organisation (WTO) Agreement on Agriculture (AoA).

This includes powers to set financial ceilings in relation to the amount of agricultural support that each administration of the UK can provide, and the establishment of a decision-making process in relation to the classification of support for the purposes of the WTO AoA, including a dispute resolution process. It also includes powers requiring devolved authorities to provide information to the Secretary of State to allow for the classification and reporting of agricultural support to the WTO. In practice, this would allow the Secretary of State to decide how schemes, such as the Beef and Sheep coupled support schemes and the Less Favoured Area Support Scheme, would be classified under WTO rules, and how much money could be paid from them. The powers also enable the Secretary of State to act as the final arbiter if any devolved administration disputed this classification.

The Secretary of State's powers in this Part extend to the UK as a whole.

Part 8 and Schedules 3 and 4

This Part, and these schedules, create similar powers, at their request, for the Welsh Government and for Northern Ireland Departments to those in parts 1 to 5 of Bill. The Scottish Government is currently considering its options for obtaining these powers, and will set out its plans in due course.

9. Further detail on the structure and provisions of the Bill is set out at **Annex A**.

Requirement for legislative consent

10. The Explanatory Notes to the Bill⁴ set out the UK Government's view that the legislative consent of the Scottish Parliament is not required for any of its provisions⁵. The Scottish Government does not share this view.

11. The Scottish Government believes the Bill is "a relevant Bill" within Rule 9B.1.1 of Standing Orders, as it makes provision applying to Scotland for purposes within the legislative competence of the Parliament, and alters the executive competence of the Scottish Ministers.

12. In particular, the Scottish Government considers that legislative consent is required for Parts 6 and 7 of the Bill (and Part 9 of the Bill so far as relating to those Parts – in particular, clauses 29 (apart from paragraphs (2), (6)(b) and (c), and (7)(b) and (c)); 30; 32; 34; 35 and 36)).

13. Part 6 (clauses 22 to 24) of the Bill concerns producer organisations. It requires the Scottish Parliament's consent as it is for a devolved purpose, namely the promotion of an effective agricultural market. It effectively replaces the EU producer organisation regime, which was clearly for that purpose. That, in pursuance of that purpose, it is necessary to exempt producer organisations from the Competition Act regime does not mean that the provisions relate to competition law: their purpose is not to regulate anti-competitive agreements. Whilst clause 23(1) and schedule 2 (amendments to the Competition Act 1998) would not be within the legislative competence as those modify the law on reserved matters, these provisions pursue the same devolved purpose as the remainder of the provisions in clauses 22-24.

14. Part 6 (clause 25) also concerns fair dealing with agricultural producers. It requires the Scottish Parliament's consent as it is for devolved purposes, namely the regulation of unfair contractual terms in commercial contracts by agricultural producers in Scotland. It does not relate to the competition law reservation which is specifically directed at the regulation of anti-competitive agreements – i.e. agreements which adversely affect the competitive structure of the market - and the abuse of a dominant position. The regulation of contract terms which are considered to be unfair on other grounds is not within the scope of that reservation.

15. Part 7 (clause 26) of the Bill requires the Scottish Parliament's consent as it concerns the implementation of international obligations (namely those arising from the WTO AoA) as regards matters (agriculture support) which are not reserved. The establishment of UK-wide arrangements for allocating financial ceilings under the WTO AoA to the various jurisdictions of the UK, in so far as it is concerned with the implementation of an international obligation in non-reserved matters, requires the Scottish Parliament's consent. Although the allocation of a quota requires to be dealt with on a UK-wide basis, respect for the allocation of competences implicit on the Scotland Act 1998 requires that this should be on the basis of consent. In any event, clause 26 contains provisions which would affect the executive competence of the

⁴ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0266/en/18266en.pdf>

⁵ See paragraphs 46 – 48 and Annex A of the Explanatory Notes

Scottish Ministers as regards the exercise of functions concerning agricultural support in Scotland.

16. The clauses which the Scottish Government considers that legislative consent is required for are shown in the table at **Annex B**.

Scottish Government view

17. The legislative consent memorandum on the European Union (Withdrawal) Bill, submitted to the Scottish Parliament on 12 September 2017⁶, set out the Scottish Government's position that policy responsibility and expertise for matters within devolved competence lie with the Scottish Government, accountable to the Scottish Parliament⁷. As noted above, Parts 6 and 7 of the Agriculture Bill deal with matters within the legislative competence of the Scottish Parliament in relation to the regulation of agricultural producers and agriculture support in Scotland.

18. Whilst the United Kingdom is responsible in international law for compliance with its international obligations, it does not follow that it is the UK Government alone which is responsible for the measures required to implement those obligations in domestic law. Paragraph 7(2) of Schedule 5 to the Scotland Act 1998⁸ explicitly provides that observing and implementing international obligations are not reserved matters.

19. Moreover, Part 7 of the Agriculture Bill places constraints on the Scottish Ministers' ability to exercise functions within devolved competence in relation to agriculture support in Scotland. In particular, the Scottish Ministers' powers to adopt policies to support farming in Scotland would be affected by decisions made by the UK Government in exercise of powers under Part 7 of the Bill.

20. The Scottish Government does not therefore accept that the scheme set out in the Bill is an accurate reflection of devolved responsibilities in this area, and would not support or recommend to the Scottish Parliament powers for the Secretary of State in the areas covered by Parts 6 and 7 of the Bill. The Scottish Government is considering amendments to the Bill which will address its concerns to inform debate on the Bill both in the Scottish Parliament, at the UK Parliament and more widely.

Draft Legislative Consent Motion

21. Under Rule 9B.3.3(d) of the Parliament's Standing Orders, if a member of the Scottish Government does not propose to include a draft motion in the Memorandum, the Memorandum must explain why not. As the Scottish Government is not in a position to recommend consent to the Bill, no draft motion is included.

22. For the purposes of complying with Rule 9B.3.3(d), the Scottish Government cannot recommend to the Parliament that it gives consent to the Bill as currently drafted for the reasons set out in paragraphs 17 - 20 above.

⁶ <http://www.parliament.scot/S5ChamberOffice/SPLCM-S05-10-2017.pdf>

⁷ See paragraph 17 of that Memorandum.

⁸ <http://www.legislation.gov.uk/ukpga/1998/46/schedule/5/part/I/crossheading/foreign-affairs-etc>

23. In addition, following events on the European Union (Withdrawal) Bill the Scottish Government does not believe it should currently seek consent from the Scottish Parliament to UK legislation related to withdrawal from the EU. During the passage of that Bill, the UK Government sought consent from the Scottish Parliament, in line with the Sewel Convention. The Scottish Parliament voted overwhelmingly (by 93 votes to 30) to refuse consent. The UK Government then decided, for the first time since devolution, to continue with the Bill and legislate for matters within or affecting the responsibilities of the Scottish Parliament without its agreement.

24. The Scottish Government believes that decisions on legislative consent by the Parliament are as significant as its other legislative decisions, because, as envisaged in the constitutional rules embodied in the Sewel Convention, those decisions involve consenting to legislation for purposes within the legislative competence of the Parliament, or affecting devolved competence, being enacted by the UK Parliament.

25. The UK Government has, however, made clear that it is prepared to proceed with any future legislation relating to the UK's withdrawal from the EU without the consent of the Scottish Parliament when that consent is required and sought. The UK Government has effectively suspended the established legislative consent process in relation to legislation relating to EU withdrawal. In these circumstances, the Scottish Government will continue to work to develop and to improve UK legislation related to EU withdrawal. The Scottish Government does not, however, believe there is a practical purpose in bringing forward legislative consent motions when the UK Government has made clear any decision of the Scottish Parliament is liable to be set aside. The Scottish Government believes it is unacceptable for the deliberations and decisions of the Parliament to be treated in this way.

26. The Scottish Government is seeking urgent discussions with the UK Government on how to strengthen and protect the Sewel Convention, and has set out proposals for how the Scottish Parliament's confidence in the operation of the legislative consent convention could be restored. The Scottish Government will consider progress in those discussions in deciding its position on seeking legislative consent for this Bill as its Parliamentary consideration proceeds.

Conclusion

27. It remains a matter of regret to the Scottish Government that the UK plans to withdraw from the EU. The Scottish Government considers this will have widespread detrimental effects on the UK and Scotland. However, the Scottish Government accepts that proper, responsible preparations should be made for withdrawal, including provisions to deliver support to agriculture and the wider rural economy to provide much needed continuity for rural businesses, employees and consumers.

28. The approach taken to this Bill is not consistent with devolved responsibilities and accordingly the Scottish Government cannot recommend that the Parliament gives its consent to the Bill at this time. In addition, the UK Government has made clear that it will not accord the views of the Parliament on consent their proper status in relation to EU withdrawal related legislation. The Scottish Government does not therefore believe it should seek legislative consent until there has been progress in discussions to strengthen the convention.

29. Whilst the Scottish Government can accept the main purpose of the Agriculture Bill, given this fundamental difference of view the Scottish Government cannot recommend that the Parliament consents to the Bill in its current form or in current circumstances.

Scottish Government
October 2018

AGRICULTURE BILL – STRUCTURE AND PROVISIONS**PART 1 - NEW FINANCIAL ASSISTANCE POWERS****Clauses 1 to 3:**

These clauses give the Secretary of State powers to make payments to farmers and other rural businesses for a variety of purposes in several areas, including:

- improving and supporting access to the environment;
- restoring and enhancing cultural and natural heritage;
- increasing productivity in agriculture, horticulture and forestry;
- improving or protecting animal health and welfare;
- improving or protecting plant health;
- mitigating and adapting to climate change;

These powers, which relate to England only, are intended to cover both the short-term transition period and long-term future policy, and include rules on the forms and conditions for granting support (including publication of specific information about the support), and on monitoring and enforcing compliance with these rules.

PART 2 - FINANCIAL SUPPORT AFTER EXITING THE EU⁹**CHAPTER 1****DIRECT PAYMENTS****Clauses 4-8:**

This chapter relates to CAP direct payments (including greening and the young farmers payment) for England, and includes powers for the Secretary of State to allow for the rolling over and continuation of the current basic payment scheme after exiting the EU, termination of the scheme at the end of its last full scheme year, and a transition period (lasting seven years, from 2021 – 2028) during which direct payments would be phased out and replaced. Specific provision has been made for greening payments in England to be terminated before the end of the transition period.

This fits with Defra's policy intention of rolling over the direct payment scheme on exit from the EU and phasing out and replacing direct payments during a transition period. These clauses allow the Secretary of State to amend or revoke any legislation relating to direct payments at the end of the transition period in order to facilitate a new policy or during the transition period to make changes to simplify or improve the scheme. Future support payments beyond the end of the transition period would be covered under the financial assistance powers in Part 1.

⁹ An overview of the CAP is set out at pages 7 to 11 of the Explanatory Notes to the Bill.

CHAPTER 2

OTHER FINANCIAL SUPPORT: MODIFICATION OF LEGISLATION IN RELATION TO ENGLAND

Clauses 9-11: General provisions, abolition of aid for fruit and vegetable producer organisations in England, and Rural Development Programme.

The general provisions in clause 9 allow the Secretary of State to amend retained EU law relating to the financing, management and monitoring of the CAP.

Clause 10 grants the Secretary of State the power to modify retained EU Law in relation to aid for fruit and vegetable producer organisations (POs) with the aim of ending of such financial aid in England. The Scottish Government understands that Defra plans to continue to provide support to fruit and vegetable POs, but once the already-approved programmes have finished this will be done under the financial assistance powers in Part 1 of the Bill.

This clause only relates to financial support for POs, which under the CAP is limited to the fruit and vegetable sector. It does not cover other issues relating to POs, including their status under competition law – this is dealt with elsewhere in the Bill.

Clause 11 allows the Secretary of State to modify retained EU law relating to support for Rural Development, to ensure it no longer has effect or to simplify or improve its operation pending this. Defra plans to provide support for Rural Development in future, and this will be done through the financial assistance powers in Part 1.

PART 3 - COLLECTION AND SHARING OF DATA

Clauses 12-16:

These clauses give the Secretary of State power to require information from persons in, or closely connected to, an agri-food supply chain, for such purposes as helping increase productivity, encouraging fairness and transparency, promoting plant and animal health, etc., and to impose penalties on those failing to provide such information. These powers relate to agri-food supply chain activities in relation to England only, and cover both the initial transition period and long term policy.

PART 4 – INTERVENTION IN AGRICULTURAL MARKETS

EXCEPTIONAL MARKET CONDITIONS, PUBLIC MARKET INTERVENTION AND PRIVATE STORAGE AID: MODIFICATION OF EU LEGISLATION

Clauses 17-19:

These clauses allow the Secretary of State to make a declaration that there are exceptional market conditions (if there is a severe disturbance in agricultural markets, or a serious threat of disturbance), and to give financial assistance to agricultural

producers in England should their incomes be affected. They also allow the Secretary of State to modify retained EU law for England in relation to public market intervention and private storage aid.

PART 5 – MARKETING STANDARDS AND CARCASS CLASSIFICATION

Clauses 20 – 21:

These clauses relate to England only, and grant the Secretary of State the power to amend, or revoke, the retained EU law on marketing standards, and to introduce new marketing standards and tailor these to suit the domestic agricultural market in England. These powers are wider and more flexible than those currently in EU law, so that the Secretary of State can make changes either to keep pace with changes in EU standards made after exiting the EU, or for internal policy reasons.

PART 6 – PRODUCER ORGANISATIONS AND FAIRNESS IN THE SUPPLY CHAIN

Clauses 22 - 24: official recognition of producer organisations etc. and associated exemptions from competition law

The CAP currently makes provision for the official recognition of producer organisations and interbranch organisations, which gives them certain benefits, and the rules governing the operation of these organisations. An interbranch organisation is similar to a producer organisation but, in addition to farmers, it includes other parts of the supply chain (e.g. farmers plus abattoirs). The benefits of official recognition are: exemption from some elements of competition law; and the ability in certain circumstances to make rules which apply not just to their members but to other producers in the same sector.

These clauses give the Secretary of State power to amend or revoke retained EU law in relation to producer and interbranch organisations, and to introduce new legislation regarding the recognition of and rules governing such organisations, including exemption from competition law.

The UK Government takes the view that this is a reserved provision. The Scottish Government disagrees with this view.

Clause 25: Fair dealing obligations with agricultural producers ('statutory industry codes')

This clause gives the Secretary of State regulation-making powers to promote fair contractual dealing by the first purchasers of agricultural products. It is intended for the whole of the UK, and covers both the transition period and longer term policy. It allows obligations to be imposed on first purchasers of agricultural products, including in relation to the need for written contracts, and the terms of such contracts which may relate to matters such as the quantity and quality of the product, pricing mechanisms and payment, and variation of the contract, as well as the enforcement of compliance with such obligations through a complaints procedure and/or imposition of penalties.

The UK Government takes the view that this is a reserved provision. The Scottish Government disagrees with this view.

PART 7 - WTO AGREEMENT ON AGRICULTURE

Clause 26: WTO Agreement on Agriculture: regulations

This clause grants the Secretary of State powers to gather information to allow for the classification and reporting of agricultural support to the WTO. The powers also allow the Secretary of State to set out the total amount of domestic support for agriculture for the whole of the UK, and for England, Scotland, Wales and Northern Ireland separately. The powers allow the Secretary of State to define a process for how farm support should be classified for WTO purposes, including dispute resolution with the Secretary of State as final arbiter.

The UK Government takes the view that this is a reserved provision. The Scottish Government disagrees with this view. In addition, there are already mechanisms in the in the Scotland Act 1998 to ensure compliance with international obligations¹⁰. The Scottish Government is also concerned that the clause is very broad, and would allow the Secretary of State unilaterally to set limits on all agricultural support, not just the classes which are limited by the WTO.

PART 8 and SCHEDULES 3 & 4 – WALES AND NORTHERN IRELAND

Clauses 27 – 28

These clauses specify that Schedule 3 makes provision in relation to Wales and Schedule 4 makes provision in relation to Northern Ireland.

Welsh ministers have chosen to take similar powers to England in terms of new financial assistance powers (but in addition make specific provision to support businesses and communities in rural areas), the agricultural transition period, and phasing out and termination of direct payments. They have also taken similar powers in terms of the collection and sharing of data, intervention in agricultural markets, and marketing standards and carcass classification. The Welsh Government is planning to introduce its own Bill at a future date to cover longer-term agricultural support, after which it will presumably stop relying on the powers in this UK Parliament Bill.

In relation to Northern Ireland, the Bill includes powers to modify the basic payment scheme in order to simplify or improve it, and powers covering the collection and sharing of data, intervention in agricultural markets, and marketing standards and carcass classification.

¹⁰ See, for example, the powers in sections 35 and 58 of the Scotland Act 1998.

PART 9 – FINAL PROVISIONS

Clauses 29 – 36

These are general clauses relating to the interpretation of, and legislative procedures for the exercise of regulation-making powers under the Bill. Clause 29 specifies the procedure to be followed for the exercise of different regulation-making powers where they are subject to the negative procedure or the affirmative procedure for parliamentary scrutiny.

SCHEDULE 1 – AGRICULTURAL PRODUCTS: SECTORS

Part 1 – Agricultural sectors relevant to marketing standards provisions

This Part relates to the agricultural sectors that are subject to the power to make regulations in respect of marketing standards and carcass classification as provided for in Part 5, clause 20 of the Bill.

Part 2 – Agricultural sectors relevant to producer organisation and fair dealing provisions

This part relates to the agricultural sectors that are subject to the provisions relating to the application for recognition of producer organisations in Part 6, clause 22, regulations under Part 6, clauses 22 and 23, and the fair dealings obligations of first purchasers of agricultural products in Part 6, clause 25 of the Bill.

Part 3 - Regulations

This part contains the provision to make regulations amending Part 1 or 2 of the Schedule to add or remove a sector or for setting out products that fall within each sector.

SCHEDULE 2 – RECOGNISED ORGANISATIONS: COMPETITION EXCLUSIONS

This relates to Part 6, clause 23 of the Bill in relation to competition exemptions for recognised organisations and amends Schedule 3 to the Competition Act 1998 (general exclusions) in that regard.

SCHEDULES 3 & 4 – POWERS RELATING TO WALES AND NORTHERN IRELAND

See comments under Part 8 above.

SCHEDULE 5 – THE CMO REGULATION: CONSEQUENTIAL AMENDMENTS

This schedule provides for consequential amendments to the CMO Regulation (Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products) contained in Part 9, clause 31 of the Bill as follows:

- Part 4 (intervention in agricultural markets: England);
- Part 4 of Schedule 3 (intervention in agricultural markets: Wales);
- Part 3 of Schedule 4 (intervention in agricultural markets: Northern Ireland);
- Part 5 (marketing standards and carcass classification: England);
- Part 5 of Schedule 3 (marketing standards and carcass classification: Wales);
- Part 4 of Schedule 4 (marketing standards and carcass classification: Northern Ireland).

CLAUSES FOR WHICH THE SCOTTISH GOVERNMENT CONSIDERS THAT LEGISLATIVE CONSENT IS REQUIRED

Provision	Effect
<p>Part 6 (clauses 22 to 24)</p> <p>Powers relating to the official recognition of producer and interbranch organisations, and associated exemptions from competition law.</p>	<p>Requires the Scottish Parliament's consent as it is for devolved purposes, namely the promotion of an effective agricultural market.</p>
<p>Part 6 (clause 25)</p> <p>Powers relating to Fair dealing obligations of first purchasers of agricultural products ('Statutory Industry Codes').</p>	<p>Requires the Scottish Parliament's consent as it is for devolved purposes, namely, the regulation of unfair contractual terms in commercial contracts by agricultural producers in Scotland.</p>
<p>Part 7 (clause 26)</p> <p>Powers to introduce regulations in relation to the WTO Agreement on Agriculture.</p>	<p>Requires the Scottish Parliament's consent as it relates to the implementation of international obligations (namely those arising from the WTO Agreement on Agriculture) as regards matters (agriculture support) which are not reserved, and contains provisions which would affect the executive competence of the Scottish Ministers as regards the exercise of functions concerning agriculture support in Scotland.</p>
<p>Part 9 (clauses 29 (apart from paragraphs (2), (6)(b) and (c), and (7)(b) and (c)); 30; 32; 34; 35 and 36)</p>	<p>Those require the Scottish Parliament's consent so far as those relate to provisions in Parts 6 and 7 within the legislative competence of the Scottish Parliament or so far as affecting the executive competence of the Scottish Ministers.</p>

*This Legislative Consent Memorandum relates to the Agriculture Bill (UK legislation)
and was lodged with the Scottish Parliament on 29 October 2018*

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