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Edward Mountain MSP  
Convener  
Rural Economy and Connectivity Committee

[rec.committee@parliament.scot](mailto:rec.committee@parliament.scot)

06 December 2019

Dear Mr Mountain,

## **AGRICULTURE (RETAINED EU LAW AND DATA) (SCOTLAND) BILL**

Further to the 20 November Scottish Government Bill team evidence session on the Agriculture (Retained EU Law and Data) (Scotland) Bill, this letter provides information as agreed on a number of questions.

### **What procedure would be followed if the Scottish Government wanted to make funding transfers between Pillar 1 and Pillar 2, and what would the precise limits be on these “pillar-to-pillar” transfers?**

As discussed on 20 November, currently the Scottish Government has to inform the European Commission if it plans to make pillar-to-pillar transfers, and the EU CAP Regulations define the limits and procedures of such transfers.

Article 14 of the Direct Payments Regulation (EU Regulation 1307/2013) allows for up to 15% of the national ceiling to be transferred from either Pillar 1 (direct payments) to Pillar 2 (rural development), or from Pillar 2 to Pillar 1, and required the EC to be notified of this by 31 December 2013. The Direct Payments Regulation allows for review points, on 1 August 2017 (for the 2019 scheme year) and 31 December 2019 (for the 2020 scheme year), when any exiting transfer can be retained or increased.

In 2013 the Scottish Government notified the EC of a 9.5% transfer from Pillar 1 to Pillar 2, to date the Scottish Ministers have chosen to retain this 9.5% Pillar 1 to Pillar 2 transfer.

There is no effective provision in what would be retained EU law for a pillar-to-pillar transfers after 2020. The Direct Payments Regulation would therefore need to be modified for any such transfers to take place.

The proposed powers in sections 3 and 4 of the Bill could be used by the Scottish Ministers to make regulations that would enable pillar-to-pillar transfers after 2020, and if so to change the amount that could be transferred between pillars.

Any such change would be subject to consultation, and to various impact assessments (including of course consideration of the impact on businesses). The regulations giving effect to any change would be subject to affirmative procedure, and so the Scottish Parliament would need to agree with what was proposed.

**What is the timeframe for details on simplifications and improvements proposed under this Bill being made available? In particular, is this likely to be during the period when the Scottish Parliament is scrutinising the Bill?**

Work to inform simplifications and improvements is on-going and actively being undertaken by the 2021-2024 policy delivery group, and will take into consideration the outcomes of the Simplification Taskforce. Stakeholder engagement on the proposals is anticipated in the new year, and will enable details to be available to the REC committee and Parliament for scrutiny during the parliamentary passage of the Bill.

**If the definition of agricultural activity were to be changed under this Bill, would this affect agricultural tenancies or planning legislation?**

The definition of 'agricultural activity' (Section 12(2) of the Bill) is borrowed from EU Regulation 1307/2013, and is only relevant to the scope of the information collection powers in Part 2 of the Bill. It has a one-way effect in that Part and does not, and cannot, affect the meaning of the term in other contexts such as agricultural tenancies or planning legislation.

The principal definition of 'agricultural activity' in EU Regulation 1307/2013 could change from time to time for other reasons, and that would if so have a knock-on effect on other areas which use the term, such as agricultural tenancies and planning law. There are however no current plans to change the principal definition.

A change to the principal definition would also have a knock-on effect on scope of the powers in Part 2 of the Bill, and that may not be consistent with policy objectives. It is for that reason that the Bill includes a power in that Part that will allow the definition of 'agricultural activities' to be amended so far as it relates to data collection.

**Where do beekeepers fit into the definition of 'agriculture activity'?**

Bee health in Scotland is currently monitored through voluntary registration on 'BeeBase', a UK resource maintained by DEFRA. BeeBase records apiary locations and number of hives, and provides updates and alerts on bee pests and diseases.

The Scottish Government undertakes bee health inspections, and records data on BeeBase as needed, so that there is effective monitoring of outbreaks of notifiable pests and diseases of honeybees.

The Scottish Government also, in partnership with the Scottish Beekeepers Association, supports an annual national hive count after which colony numbers are updated on 'BeeBase'.

The Bill ensures the legislative cover for the collection of information from beekeepers by ensuring that key definitions in section 12(3) and (9) cover bees, as follows:

- "Animal" means a vertebrate (other than human) or invertebrate but does not include fish, and
- "agriculture" includes any growing of plants or keeping of animals for the production of food and drink

We hope that this information is helpful as you continue to take evidence on the Bill.

Yours sincerely

A handwritten signature in black ink that reads "Vicky Dunlop". The signature is written in a cursive style with a large, looped 'V' at the start and a long, sweeping tail.

**Vicky Dunlop**  
**Bill Team Leader**