

# Agriculture (Retained EU Law and Data) (Scotland) Bill

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## Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 11  
Sections 12 to 24

Schedule  
Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### After section 1

**Colin Smyth**

**36** After section 1, insert—

**<Objectives of secondary legislation**

- (1) A power under this Part to make regulations may only be exercised by the Scottish Ministers for the purpose of contributing to one or more of the objectives in subsection (2).
- (2) The objectives are to ensure that agricultural activity contributes to—
  - (a) improving sustainability,
  - (b) supporting the transitions required to meet the net-zero emissions target (within the meaning of section A1 of the Climate Change (Scotland) Act 2009),
  - (c) encouraging innovation,
  - (d) encouraging inclusion within agriculture,
  - (e) improving productivity,
  - (f) improving profitability,
  - (g) increasing the resilience of the agricultural sector to climate change,
  - (h) improving and safeguarding Scotland’s natural capital and environment,
  - (i) enabling and encouraging good business practice,
  - (j) delivering flourishing rural communities,
  - (k) improving working conditions within the sector,
  - (l) maintaining and enhancing animal welfare,
  - (m) improving food security.
- (3) Provisions designed to contribute to achieving one objective in subsection (2) must not undermine the ability of regulations under this Part to contribute to the achievement of any other objective in that subsection.>

**Rachael Hamilton**

37 After section 1, insert—

**<Principles of secondary legislation**

Regulations made under this Part must contribute to one or more of the following principles—

- (a) improving sustainability,
- (b) encouraging innovation,
- (c) improving productivity,
- (d) improving profitability,
- (e) increasing the resilience of the agricultural sector to climate change,
- (f) improving and safeguarding Scotland’s natural capital and environment,
- (g) enabling and encouraging good business practice.>

**Section 2**

**John Finnie**

**Supported by: Colin Smyth**

1 In section 2, page 2, line 22, leave out <negative> and insert <affirmative>

**John Finnie**

2 In section 2, page 2, line 22, at end insert—

<( ) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

**John Finnie**

3 In section 2, page 2, line 22, at end insert—

<( ) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.>

**Section 3**

**John Finnie**

**Supported by: Colin Smyth**

4 In section 3, page 2, line 33, after <any> insert <appropriate>

**John Finnie**

5 In section 3, page 2, line 35, at end insert—

<( ) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

## Section 4

### Peter Chapman

38 In section 4, page 3, line 7, at end insert—

- <( ) Regulations under this section must be accompanied by a statement by the Scottish Ministers outlining how any surplus or reallocation of funds resulting from modifications or improvements to any payment or expenditure for any purpose under the legislation is to be used.>

### John Finnie

6 In section 4, page 3, line 8, at end insert—

- <( ) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

## After section 4

### Mike Rumbles

7 After section 4, insert—

#### <Duration of the powers under sections 2, 3 and 4

- (1) No regulations may be made under section 2(1), 3(1) or 4(1) after 7 May 2026.
- (2) Subsection (1) does not affect the continuation in force of any regulations made under section 2(1), 3(1) or 4(1) before that date.>

### Colin Smyth

7A As an amendment to amendment 7, line 5, at end insert—

- <( ) Sections 2, 3 and 4 expire on 7 May 2029.>

### Peter Chapman

23 After section 4, insert—

#### <Consultation

- (1) Before making regulations under section 3 or 4 in relation to modifying or improving payment legislation, the Scottish Ministers must carry out a consultation and prepare a report in accordance with this section.
- (2) In preparing regulations as mentioned in subsection (1), the Scottish Ministers are to—
- (a) publish details of the proposed regulations in such a manner as they consider appropriate,
- (b) consult—
- (i) such organisations appearing to them to represent those who may be affected by the regulations,
- (ii) any other persons the Scottish Ministers consider appropriate.

- (3) The report under subsection (1) must include—
- (a) the ways in which views expressed by any persons consulted under subsection (2) were taken into account in preparing regulations under section 3 or 4,
  - (b) how the regulations contribute towards—
    - (i) meeting the net-zero emissions target (within the meaning of section A1 of the Climate Change (Scotland) Act 2009),
    - (ii) implementing the objectives, proposals and policies set out in the most recent programme laid by the Scottish Minister under section 53 of the Climate Change (Scotland) Act 2009.>

## **Section 5**

**John Finnie**

**Supported by: Colin Smyth**

- 8 In section 5, page 3, line 36, leave out <negative> and insert <affirmative>

**John Finnie**

- 9 In section 5, page 3, line 36, at end insert—

<( ) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

**John Finnie**

- 10 In section 5, page 3, line 36, at end insert—

<( ) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.>

## **Section 6**

**John Finnie**

**Supported by: Colin Smyth**

- 11 In section 6, page 4, line 21, leave out <negative> and insert <affirmative>

**John Finnie**

- 12 In section 6, page 4, line 21, at end insert—

<( ) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

**John Finnie**

- 13 In section 6, page 4, line 21, at end insert—

<( ) Before making regulations under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.>

## Section 8

### Fergus Ewing

- 27 In section 8, page 5, leave out line 6 and insert—  
<(a) are listed in section (*Marketing standards: agricultural products*)(1), and>

### John Finnie

#### Supported by: Colin Smyth

- 14 In section 8, page 6, line 6, leave out subsection (4) and insert—  
<(4A) Regulations under this section—  
(a) are subject to the affirmative procedure if they include provision about enforcement, including in particular provision—  
(i) about the provision of information,  
(ii) conferring powers of entry,  
(iii) conferring powers of inspection, search and seizure,  
(iv) conferring powers to restrict the movement of anything,  
(v) about keeping records,  
(vi) imposing monetary penalties,  
(vii) creating offences,  
(viii) about appeals,  
(ix) conferring functions, including functions involving the exercise of a discretion, on a person,  
(b) otherwise are subject to the negative procedure.>

### Fergus Ewing

- 28 In section 8, page 6, line 6, leave out <negative> and insert <affirmative>

### John Finnie

#### Supported by: Colin Smyth

- 15 In section 8, page 6, line 7, leave out subsection (5) and insert—  
<(4B) Before—  
(a) laying a draft of a Scottish statutory instrument containing regulations under subsection (1) to which subsection (4A) applies before the Scottish Parliament, or  
(b) making regulations under subsection (1) to which subsection (4A) applies,  
the Scottish Ministers must consult such persons as they consider are representative of the interests of persons likely to be affected by the regulations.>

## Fergus Ewing

- 29 In section 8, page 6, line 7, leave out <making regulations under this section> and insert <laying a draft of a Scottish statutory instrument containing regulations under this section before the Scottish Parliament>

## Section 9

## Fergus Ewing

- 30 Leave out section 9, and insert—

### <Marketing standards: agricultural products

- (1) The products referred to in section 8(1)(a) are products falling within any of the following—
  - (a) entries (a) to (f) in the table in Part XVI of Annex I of the CMO Regulation (milk and milk products),
  - (b) paragraphs (a) to (c) in point I of Part VII of Annex VII of the CMO Regulation, where the product has a fat content of at least 10% but not more than 90% by weight (spreadable fats),
  - (c) the table in Part XV of Annex I of the CMO Regulation, but excluding any entry in the table for live animals (beef and veal),
  - (d) the table in Part XX of Annex I of the CMO Regulation, including any entry in the table for live poultry (poultry and poultry meat),
  - (e) the table in Part XIX of Annex I of the CMO Regulation (eggs and egg products),
  - (f) the table in any of Parts IX to XI of Annex I of the CMO Regulation (fruit and vegetables, other than olives),
  - (g) the table in Part VII of Annex I of the CMO Regulation (olive oil and table olives),
  - (h) the table in Part VI of Annex I of the CMO Regulation (hops),
  - (i) the table in Part XII of Annex I of the CMO Regulation (wine),
  - (j) the definition of “aromatised wine products” in Article 3 of the Aromatised Wine Regulation (aromatised wine).
- (2) In subsection (1)(j), the “Aromatised Wine Regulation” means Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products.
- (3) The Scottish Ministers may by regulations amend this section so as to—
  - (a) add or remove an agricultural product,
  - (b) alter the description of an agricultural product listed in subsection (1).
- (4) Regulations under this section are subject to the affirmative procedure.>

## Section 10

**John Finnie**

**Supported by: Colin Smyth**

16 In section 10, page 7, line 9, leave out subsection (3) and insert—

<(4A) Regulations under this section—

- (a) are subject to the affirmative procedure if they include provision about enforcement, including in particular provision—
  - (i) about the provision of information,
  - (ii) conferring powers of entry,
  - (iii) conferring powers of inspection, search and seizure,
  - (iv) conferring powers to restrict the movement of anything,
  - (v) about keeping records,
  - (vi) imposing monetary penalties,
  - (vii) creating offences,
  - (viii) about appeals,
  - (ix) conferring functions, including functions involving the exercise of a discretion, on a person,
- (b) otherwise are subject to the negative procedure.>

**John Finnie**

**Supported by: Colin Smyth**

17 In section 10, page 7, line 10, leave out subsection (4) and insert—

<(4B) Before—

- (a) laying a draft of a Scottish statutory instrument containing regulations under subsection (1) to which subsection (4A) applies before the Scottish Parliament, or
  - (b) making regulations under subsection (1) to which subsection (4A) applies,
- the Scottish Ministers must consult such persons as they consider are representative of the interests of persons likely to be affected by the regulations.>

## After section 11

**Colin Smyth**

18 After section 11, insert—

*<Consultation*

### **Consultation**

Before making regulations under any of sections 2 to 6, 8 or 10 the Scottish Ministers must consult—

- (a) such persons as they consider are likely to have an interest in the regulations,

- (b) such organisations appearing to them to represent those who may be affected by the regulations,
- (c) any other persons the Ministers consider appropriate.>

**Rachael Hamilton**

**18A** As an amendment to amendment 18, leave out line 6

**John Finnie**

**24** After section 11, insert—

*<Limitation on exercise of regulation-making powers*

**Limitation on exercise of regulation-making powers**

- (1) A power under this Part to make regulations may only be exercised by the Scottish Ministers for the purpose of contributing to one or more of the objectives in subsection (2).
- (2) The objectives are to ensure that agricultural activities contribute to—
  - (a) achieving targets for net greenhouse gas emissions reduction as set out in the Climate Change (Scotland) Act 2009,
  - (b) maintaining, restoring and enhancing biodiversity and landscapes,
  - (c) improving water and air quality,
  - (d) reducing diffuse and point pollution,
  - (e) maintaining and enhancing animal welfare,
  - (f) encouraging agro-ecological land management and food production,
  - (g) improving plant and soil health,
  - (h) conserving Scotland’s livestock and plant genetic resources and encouraging agrobiodiversity,
  - (i) encouraging public access to, and public understanding of, agriculture,
  - (j) maintaining and increasing population in rural areas,
  - (k) ensuring sustainable livelihoods and improved working conditions among crofters and farmers, particularly those working on crofts and smaller agricultural holdings and on marginal land,
  - (l) increasing productivity and resilience in agriculture and facilitating local supply chains.
- (3) Provision designed to contribute to achieving one objective in subsection (2) must not undermine the ability of regulations under this Part to contribute to the achievement of any other objective in that subsection.
- (4) The objectives in subsection (2) are, so far as possible, to be interpreted in such a way as to ensure that the objectives secured by means of agricultural activities in Scotland are aligned with the objectives for the time being set out in—
  - (a) the European Union’s agricultural support programmes,
  - (b) the Scottish Ministers’ good food nation policies.>



**Rachael Hamilton**

25 After section 11, insert—

*<Alignment with UK standards*

**Alignment with UK standards**

- (1) The Scottish Ministers power to make regulations under sections 7, 8, 9 and 10 may only be exercised in a manner where modifications of retained EU law made by the regulations must result in the retained EU law containing regulatory standards that are at least the equivalent standard as corresponding provisions in any equivalent UK legislation.
- (2) In this section “UK legislation” means any Act or statutory instruments of the—
  - (a) UK Parliament,
  - (b) National Assembly for Wales, or
  - (c) Northern Ireland Assembly.
- (3) This section does not apply to a provision which has no practical application in relation to Scotland.>

**Colin Smyth**

39 After section 11, insert—

*<Powers under this Part: requirement for dynamic alignment with EU regulatory standards*

**Powers under this Part: requirement for dynamic alignment with EU regulatory standards**

- (1) A power under this Part to make regulations may only be exercised by the Scottish Ministers in a manner compatible with the principle in subsection (2).
- (2) The principle is that the modifications of retained EU law made by the regulations must result in the retained EU law containing regulatory standards in relation to the matters listed in subsection (3) that are at least the equivalent standard as corresponding provision in—
  - (a) an EU regulation,
  - (b) an EU directive,
  - (c) EU tertiary legislation,
  - (d) an EU decision,for the time being in force in relation to agriculture.
- (3) The matters are—
  - (a) environmental standards,
  - (b) animal health and welfare,
  - (c) food safety,
  - (d) the sustainable management of natural resources.
- (4) Subsection (2) does not apply to a provision which has no practical application in relation to Scotland or is otherwise redundant.
- (5) In subsection (3)(a), “environmental standards” include in particular, but are not limited to, standards relating to—

- (a) the prevention and control of pollution,
- (b) the prevention of, and minimising the effects of, climate change,
- (c) the conservation of flora and fauna.>

## Section 12

### John Finnie

19 In section 12, page 8, line 35, at end insert—

<( ) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (10) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

### Colin Smyth

20 In section 12, page 8, line 35, at end insert—

<( ) Before making regulations subsection (10), the Scottish Ministers must consult—

- (a) such persons as they consider are likely to have an interest in the regulations,
- (b) such organisations appearing to them to represent those who may be affected by the regulations,
- (c) any other persons the Ministers consider appropriate.>

### Rachael Hamilton

20A As an amendment to amendment 20, leave out line 3

## Section 16

### John Finnie

**Supported by: Colin Smyth**

21 In section 16, page 10, line 11, after second <risks> insert <, risks to animal or human health>

### Colin Smyth

40 In section 16, page 10, line 23, at end insert—

<( ) monitoring food security in Scotland,>

### Colin Smyth

41 In section 16, page 10, line 34, at end insert—

<( ) contributing to any national food plan prepared by the Scottish Ministers.>

## Before section 20

### Colin Smyth

42 Before section 20, insert—

**<Expiry**

- (1) Sections 2 to 6 expire on 1 May 2026.
- (2) The Scottish Ministers may by regulations—
  - (a) extend the period mentioned in subsection (1) by a period of up to one year,
  - (b) extend any period of extension provided by regulations under this subsection by a further period of up to one year,
  - (c) provide that any provision in sections 2 to 6 does not expire at the time when it would otherwise expire (by virtue of this section or previous regulations under this section) and expires instead at such earlier time as is specified in the regulations.
- (3) Regulations under subsection (2) are subject to the affirmative procedure.
- (4) The period during which regulations under the provisions specified in subsection (1) may be made may not be extended by regulations under subsection (2) so as to last for more than 5 years in total.>

**After section 20**

**Rachael Hamilton**

**31** After section 20, insert—

**<Requirement to report on progress**

- (1) The Scottish Ministers must lay a report before the Parliament on progress towards establishing a legal framework for a new Scottish agricultural policy.
- (2) A report under subsection (1) must be laid before the Parliament by 31 December 2024.
- (3) A report under subsection (1) must include—
  - (a) the Scottish Ministers’ policy intentions in relation to Scottish agriculture, and
  - (b) an outline of any legislation that will be required to implement those policy intentions.>

**Rachael Hamilton**

**32** After section 20, insert—

**<Requirement to bring forward proposals for legislation**

- (1) The Scottish Ministers must, no later than 31 March 2026, bring forward proposals for legislation to implement their policy for agricultural support.
- (2) In subsection (1), “bring forward proposals for legislation” means—
  - (a) introduce a Bill for an Act of the Scottish Parliament, or
  - (b) make, or lay before the Parliament a draft of, regulations in exercise of powers in an Act of Parliament or an Act of the Scottish Parliament.>

**Section 22**

**Fergus Ewing**

**33** In section 22, page 13, line 20, after second <of> insert <—

(a)>

**Fergus Ewing**

34 In section 22, page 13, line 21, at end insert—

- <(b) section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, or
- (c) such other enactment as the Scottish Ministers may by regulations specify.>

**Fergus Ewing**

35 In section 22, page 13, line 34, at end insert—

<( ) Regulations under subsection (1)(c) are subject to the negative procedure.>

**Section 23**

**Mike Rumbles**

22 In section 23, page 13, line 36, leave out <comes> and insert <and section (*Duration of the powers under sections 2, 3 and 4*) come>

**After section 23**

**John Finnie**

26 After section 23, insert—

**<Expiry of powers relating to CAP**

- (1) Sections 2 to 6 expire on 1 May 2026.
- (2) Following the expiry of sections 2 to 6 by virtue of subsection (1), the Scottish Ministers may by regulations repeal—
  - (a) sections 2 to 6, and
  - (b) this section.
- (3) The Scottish Ministers may by regulations make transitional, transitory or saving provision in connection with the expiry under subsection (1) of any provision of this Act.
- (4) The Scottish Ministers must, as soon as practicable after the end of each reporting period, prepare and lay before the Scottish Parliament a report outlining progress on achieving their policy objectives in respect of support for agricultural activities.
- (5) For the purposes of subsection (4), “reporting period” means—
  - (a) the period beginning with the day after Royal Assent and ending on 30 April 2021,
  - (b) each subsequent period of a year until 30 April 2026.>

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