



## RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

### AGENDA

#### 5th Meeting, 2015 (Session 4)

Wednesday 4 February 2015

The Committee will meet at 9.30 am in the Robert Burns Room (CR1).

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private.
2. **Dairy industry:** The Committee will take evidence from—  
  
Chris Brown, Sustainable Business Director, Asda;  
  
Ewan MacDonald-Russell, Scottish Affairs Adviser, and Andrew Loftus, Agriculture Manager, Morrisons;  
  
and then from—  
  
Richard Lochhead, Cabinet Secretary for Rural Affairs, Food and the Environment, and Frank Strang, Deputy Director, Food, Drink and Rural Communities Division, Scottish Government.
3. **Public Bodies Consent:** The Committee will consider a Scottish Government memorandum relating to the Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015 [draft].
4. **Disposal of local authority assets:** The Committee will consider the responses it has received from local authorities.
5. **EU engagement 2014 and EU priorities for engagement 2015 (in private):** The Committee will consider its letter to the European and External Relations Committee.

**RACCE/S4/15/5/A**

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The papers for this meeting are as follows—

**Agenda item 2**

Dairy cover note

RACCE/S4/15/5/1

PRIVATE PAPER

RACCE/S4/15/5/2  
(P)

**Agenda item 3**

Public Bodies Act Consent Memorandum

RACCE/S4/15/5/3

**Agenda item 4**

PRIVATE PAPER

RACCE/S4/15/5/4  
(P)

**Agenda item 5**

PRIVATE PAPER

RACCE/S4/15/5/5  
(P)

## Dairy industry

### Background

1. Following the recent news that the dairy cooperative First Milk was to delay paying milk producers by two weeks due to financial difficulties, which highlighted on-going issues in the dairy industry globally, as well as within the UK and Scotland, the Rural Affairs, Climate Change and Environment Committee has decided to hold an urgent inquiry into problems facing the dairy industry in Scotland.
2. The Committee is keen to explore issues of supply, demand and pricing in the milk sector in particular, to develop a clear understanding of why the number of dairy farmers in Scotland is declining, and what can be done to address the current problems in order to find a way to supply milk at a reasonable cost that can sustain the dairy industry in Scotland.
3. On 15 January 2015 the Scottish Government issued a news release<sup>1</sup> regarding the dairy industry in Scotland. In that news release, the Cabinet Secretary for Rural Affairs, Food and the Environment urged retailers to do more to stock and promote Scotland's dairy products and confirmed that talks had taken place with First Milk and others in the industry regarding the current situation.
4. On 20 January 2015, the House of Commons Environment, Food and Rural Affairs Committee in the UK Parliament published its report on dairy prices<sup>2</sup>. The summary to that report stated—

“Worldwide pressure on milk prices has resulted from a combination of rising supply and falling demand, partly because of reduced demand from China and a Russian trade ban with the EU. Rapid and wide fluctuations in milk price bring pressure to bear on the UK dairy industry, and farmers have been leaving it in significant numbers in recent years.

While there is no single solution to the problems created by these rapid changes in milk prices, it is incumbent on the Government, and Defra in particular, to promote UK dairy produce domestically and in growing export markets. Action to encourage the spread of Producer Organisations, a review of the EU intervention price for milk and clearer regulation on the labelling of dairy products could all assist a struggling industry.

The voluntary code of best practice in the dairy industry, introduced after similar price difficulties in 2012, has been adopted by about 85 per cent of dairy producers and welcomed in improving matters as far as it goes. Closer attention is required, however, to the sharpness and frequency of price changes in the dairy market, which affect investment and financial planning.

The Groceries Code Adjudicator's role, concerning the relationship between direct suppliers and major retailers, is too restricted to be of assistance to the vast majority of dairy producers, as they are indirect suppliers. The

<sup>1</sup> Scottish Government. News release: Support for Scottish dairy. Available at: <http://news.scotland.gov.uk/News/Support-for-Scottish-dairy-1491.aspx>.

<sup>2</sup> UK Parliament Environment, Food and Rural Affairs Committee. Report on Dairy Prices. Available at: <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmenvfru/817/81702.htm>.

Government should urgently consider extending this role to provide more reassurance to farmers. The Adjudicator should also have the power to launch investigations instead of only responding to complaints, and the Government has been slow to provide the Adjudicator with the practical powers required to fine companies which break that code.”

### **RACCE Committee scrutiny**

5. On 16 January 2015 the RACCE Committee issued a news release<sup>3</sup> about its inquiry into the dairy industry.

6. On 28 January 2015 Wednesday 28 January 2015 the Committee took oral evidence<sup>4</sup> from farmers, processors, and industry representatives. Supermarket retailers were invited to this meeting but none were able to attend. Some retailers have agreed to give evidence to the Committee at its meetings on 4 and 5 February and the Committee wrote<sup>5</sup> to the Chief Executives of Tesco, Sainsbury, Marks and Spencer, and Lidl, the four retailers which have, to date, declined to appear before the Committee, to request attendance at one of the Committee meetings on 4 or 5 February 2015.

7. The Committee agreed at its meeting on 28 January 2015 that it would write to the Scottish Government with its views following the conclusion of its evidence-taking.

8. The remaining timetable for the Committee’s scrutiny is as follows—

- **Wednesday 4 February 2015** – evidence from retailers and then from the Cabinet Secretary for Rural Affairs, Food and the Environment; and
- **Thursday 5 February 2015** – evidence from retailers and then from the Groceries Code Adjudicator (via videoconference).

9. The Committee will then consider a draft letter to the Scottish Government at subsequent meetings.

10. Written evidence submitted to the Committee on this issue since Friday 23 January can be found in the **Annexe** to this paper, and all written submissions received to date can be accessed online<sup>6</sup>.

### **Clerks**

### **Rural Affairs, Climate Change and Environment Committee**

<sup>3</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee. News release regarding its inquiry into the dairy industry. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/85738.aspx>.

<sup>4</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Official Report, 28 January 2015. Available at (by 6pm on Friday 30 January):

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29876.aspx>.

<sup>5</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Letters to Tesco, Sainsbury and Marks and Spencer requesting attendance at Committee. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/85896.aspx>.

<sup>6</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Written submission received regarding its inquiry into the dairy industry. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/85896.aspx>

**Annexe**

**Written submission from Graham's The Family Dairy**

**Background briefing by Robert B Graham, managing director, Graham's The Family Dairy**

1.0 I am grateful for the opportunity to appear at the Rural Affairs, Climate Change and Environment Committee and to assist in its examination of the Scottish dairy industry at this crucial time.

2.0 My family has been involved in dairy farming and dairy production for 75 years, and it is my firm view that the challenges the industry currently faces are unprecedented. I therefore welcome the interest being shown by the Scottish Government and your Committee in the dairy industry and hope my contribution assists your examination.

3.0 By way of brief background, I am managing director of Graham's The Family Dairy. The business is Scotland's largest independent dairy company, employs 500 full time staff and produces liquid milk, butter, cream, ice cream, cheese and a range of Jersey products, to more than 6,000 customers.

4.0 My grandfather (Robert) started the business hand-milking 12 cows and making his own local deliveries by horse and cart. My father (also Robert) was born into the business as his mother gave birth in the front lounge at the farmhouse, which is now my office! I strongly believe that our farming values remain as rooted to the business today, as the day it was founded at Airthrey Kerse Farm in Bridge of Allan 75 years ago.

5.0 Based in the heart of Stirlingshire, our home is Airthrey Kerse Farm. From here we run the dairy and also milk cows along with managing two further farms in the area - Boquhan and Birkenwood – to total 700 acres. We also have a production facility in Nairn and depots in Glasgow, Inverkeithing, Brechin, Inverurie and Wick.

6.0 Our customers range from independent retailers through to hotels and restaurants and the major multiples including Waitrose, Tesco, Asda, Morrisons and Sainsbury's. We have long standing relationships with these customers, who remain loyal to our brand. Working together we are developing new Scottish dairy products founded on the principles of provenance and innovative branding, with our customers committing to listing these new products.

7.0 In addition to our own production of liquid milk, we have long-standing supply agreements with 90 farmers in Scotland, who produced 150m litres of milk in 2013. This is 11% of total liquid milk production in Scotland. Each farm produces on average 2m litres per annum. We have a long track record in paying a significantly higher farmgate price for liquid milk than the two farmer owned co-operatives, Arla and First Milk, who also charge farmers a further capital levy. This is not something we, as a private company, do. We currently pay 26.5p pence per litre (farmgate price), which is above the UK average and higher than our main competitors, including Müller Wiseman Dairies (25.9p), Arla (24.81p) and First Milk (21.2p).

8.0 For the financial year 2014 our turnover was £85m, with pre tax profits (before tax) of £1.3m (1.5%). In recent years we have invested more than £10m into the business and our brand was ranked 7<sup>th</sup> place in the Top 40 '*Scottish take home food and non-alcoholic drink brand's*', by Kantar research in 2014 .

9.0 It is this investment in product development along with supplier and customer relationships that underpins our business model and values, and where I see both the challenges and indeed opportunities for the Scottish dairy sector.

10.0 1,280 million litres of milk was produced in Scotland in 2014. The dairy sector is one of the highest multipliers of any economic sector at 2.0, making it one of the key sectors for the government's economic strategy. The '*Made in Scotland*' brand is internationally recognized, desirable and coveted, with the food and drink sector worth more than £5 billion a year. This accounts for 20% of Scottish manufacturing and has huge growth potential. This potential informed the Scottish Government's review of the dairy sector in 2013 and its ambition for Scotland to be a '*nation producing over 1.6 billion litres of milk a year (through) a new, ambitious, market driven growth agenda being grasped and driven by farmers and dairy companies, supported by their industry bodies, government and its agencies in Scotland.*'

11.0 Yet Scotland's production of liquid milk exceeds consumption. While historic global commodity prices and recent import bans are factors, it is the case that 80% of milk consumed in Scotland is produced domestically. Utilising this oversupply in liquid milk to drive forward diversification, and thereby supporting farmers investment in the dairy sector, is essential. Products such as butter, cheese, yoghurt and icecream have longer shelf life, higher margins, broader market reach and export opportunities. Market opportunities exists, underpinned by provenance and progressive brands, both of which the dairy sector is well placed to capture.

12.0 However, there are significant external barriers to delivering this essential product development in Scotland, in the shape of international competition and the planning system. At the forefront is the internationalisation of the industry, with its vast access to capital that drives product development and marketing.

13.0 A good demonstration of this is the spreadable butter market in Scotland. This is a key dairy sector, with spreadables accounting for £3 of every £4 spent on butter. This is 70% of total butter sales in Scotland, which is £63 million. A staggering 98% of spreadable butter sold in Scotland is not produced in Scotland, albeit draws reference to the country through brand names. Recent Kantor research shows Lurpak (Danish) has 77% of spreadable butter volume sales in Scotland at a value of £44 million. While Graham's spreadable butter is the fastest growing butter at +30% year-on-year, and the only Scottish spreadable butter on the market, it has just 2% of the market share.

14.0 International brands can be seen across the dairy aisle, with Müller Wiseman (German) being the number one yoghurt brand and Cathedral City the number one cheese brand in Scotland, which is produced in Dairy Crest's creamery in Cornwall.

15.0 The resources, energy and skills required to challenge these international companies are significant and require exceptional products, innovative marketing and trusted relationships with consumers. As we have experienced with our block butter which recently overtook Lurpak as the bestselling block butter brand in

Scotland, these brands can be successfully challenged by Scottish products. Liquid milk supplies exist and consumer demand is strong, and loyal, for Scottish produce. What the dairy sector requires is strategic investment in product research, marketing and, critically, the physical infrastructure to facilitate this diversification. In so doing, the sector can create a stable business climate to support production, investment in animal welfare and address pricing volatility.

16.0 This investment is closely aligned to the Scottish Government's economic strategy and yet as we are witnessing with our current plans to build a bespoke, new dairy and product development facility in Stirling at a cap ex of £20m, the planning system appears disconnected with the principles of sustainable economic growth. This new dairy would not only be a significant step change to our business, but it would be great for the Stirling economy and incredibly important for the long-term future of the dairy industry in Scotland. Graham's The Family Dairy is the only dairy company in Scotland showing intent to invest.

17.0 Barriers in the form of the timeframes in the production of Local Development Plans and the management of planning applications, with the resultant uncertainty over outcomes, prevents strategic investment. Our current project could double our milk capacity to 350 million litres a year, create a platform for new dairy product ranges building on our brand and customer base and support 450 new, full time jobs including 50 apprenticeships and yet the planning system prevents such a project from materializing. The publication of the new Scottish Planning Policy in 2014 lends significant weight to the role the planning system has in delivering sustainable economic investment. Whilst early days, there is little evidence to date of this role being translated into planning decisions.

18.0 The dairy industry is facing severe difficulties and I welcome this Committee's consideration of the sector, market and challenges. Much has been written by commentators on pricing contracts between producers and processors and processors and retailers. As a Company that not only produces liquid milk but also currently pays the highest farmgate price for liquid milk, I am clear that focusing solely on pricing will not address the structural problems facing the sector of liquid milk over supply, and the necessity to create a business climate that supports strategic investment in Scottish dairy products. My family, employees and I look forward to contributing towards efforts to support the dairy industry by positively addressing these challenges.

## **Written submission from the Scottish Retail Consortium**

### **Dairy Industry Inquiry**

The Scottish Retail Consortium (SRC) is the lead trade association for the entire retail industry in Scotland. Diverse and exciting, our membership spans large multiples, independents, high streets and out of town from online to traditional retail premises, selling goods across all sectors to increasingly discerning consumers. Our membership also includes all of the major food retailers who between them account for over 90 per cent of Scotland's grocery sales.

We have taken this opportunity to write to your Committee ahead of the inquiry because our members value their Scottish supply chains and invest significantly in ensuring that they are efficient and sustainable. Our members have a positive story



to tell on sourcing Scottish dairy and we wanted to highlight some key points about our members' relationships with their suppliers and to provide greater clarity about how retailers pay for their dairy products, including milk.

### **a) Retailers and the dairy market**

Sales of dairy products are integral to every grocery retailer and all retailers know the importance of investing in their Scottish and UK supply chains to secure quality and affordable products to meet consumer demand in a very challenging market.

Whilst retailers are major buyers of Scottish dairy products they are not the only buyers in the market. Whilst we do not have specific figures for Scotland, we do know that around half of the milk produced in the UK is used as liquid milk, most of that will be sold in supermarkets and convenience stores but a significant proportion is also used in hospitality, catering and the respective Government's own procurement programmes. The remaining half of the milk produced is used for manufacturing for butter, cheese, yoghurt and skimmed milk powder. Retailers will sell a large proportion of butter, cheese and yoghurt through their own brands but a significant part will be used for manufactures' brands in further processing and in catering and hospitality.

We acknowledge retailers' position is very important but it needs to be seen within the context of a changing Scottish and UK market, recognising the important and growing influence of the global market. A large proportion of Scottish and UK dairy output are globally tradable products. Their prices are subject to fluctuations in global supply and demand beyond the influence of domestic consumers. Indeed, the House of Commons Environment, Food and Rural Affairs Committee (EFRA) Report on Dairy Prices (published 19<sup>th</sup> January) confirms that global economic trends as the root cause of the reduced price currently paid to farmers for their milk. Declining worldwide demand for milk, coupled with an increase in supply, has led to a reduction in the prices farmers are receiving.

The rapidly changing global market is also a long-term challenge for retailers and a further stimulus for them to invest more in dairy production in Scotland and across the UK. Whilst there is currently a slump in global demand we agree with informed commentators that all the underlying factors are positive for the future prospects of our dairy sector, a point also delineated by the EFRA Committee. It means retailers need to secure their dairy supply chains for the future as processors here will have alternative markets in which to sell if they choose.

### **b) Retailers' support for the dairy market**

Our members have an excellent record of both sourcing dairy products in Scotland and helping consumers to make a clear choice when they want to buy Scottish or British. Our members are also the only food companies who have agreed to clear country of origin labelling principles that were prepared for Defra in 2010. These guidelines set out how companies can be clear about the source for the milk used in a product such as cheese or butter. In other words, they will only promote cheese as Scottish if it is made with milk obtained from cows in Scotland.

Furthermore, retailers continue to invest in the growth of the dairy sector in a number of ways. Some retailers have established long-term relationships with co-operatives

and smaller producers in order to invest in them and help grow their businesses together. Other major retailers have created dedicated supply chains for their liquid milk. These ensure that the contract with the processor requires the dairy to include standard clauses in its contract with the farmers. This has meant these retailers have been able to ensure the price their farmers receive for supplying their milk is at a price that is based on UK production costs rather than the prevailing milk price that is influenced by the global market. As a result farmgate prices in these dedicated chains have been consistently the highest. This has given those farmers certainty and finance to invest in the long-term success of their businesses.

Retailers are working towards giving more certainty to farmers supplying other dairy products by bringing, where appropriate, the lessons learned in their dedicated milk chains. However, cheese and other added value dairy products are much more complex supply chains than milk. Cheese manufacturers produce a range of cheeses for a number of buyers and segregating a pool of milk from a group of farmers that is used to manufacture the cheese is difficult and can be less cost effective. Retailers are working closer with producers to get more value back to farmers, whether it is through generic dairy supply arrangements or through dedicated arrangements for specific types of cheese, such as mature cheddar where it is easier to construct agreements. More generally, retailers continue to pay processors a sustainable price for their dairy products, although their support is diluted where other food companies do not follow their approach.

As well as investing through prices in dedicated supply chains, retailers are also working with researchers and consultants to help farmers improve efficiency. Efficiency and productivity is absolutely key for the long-term success of the Scottish dairy industry. As the Scottish Government's Dairy Review "Ambition 2025" identified in 2013:

*"...the focus on farmgate milk prices – whilst understandable and not without merit - has clouded debate on the real drivers of profitability on farm.*

*Profitability does not rest on the milk price alone, indeed, over the last 10-15 years it has arguably been one of the least relevant factors. There are profitable dairy farms in Scotland and unprofitable dairy farms. The difference between the two is not simply a product of milk price paid by the buyer, nor location of farm, herd size or even milk yield. It is in the overall technical efficiency in operations."*

That is why retailers are sponsoring research in areas such as animal welfare, energy efficiency and animal feed and translating potential improvements into practical steps farmers can take to cut their costs and improve production. Retailers are working with groups of farmers, often extending beyond those in their dedicated milk chains to embed those lessons that will make a practical difference to their long-term efficiency. The evidence suggests that much of this effort is paying dividends. Despite a recent fall in the number of dairy farmers production as a whole has gone up suggesting that the industry is becoming more productive.

### **c) Paying for their milk**

As well as investing in Scottish and UK farmers, retailers are also ensuring affordable prices for consumers. It is important to be clear that retailers actually buy their milk from dairy processors rather than farmers.

All major retailers have made it clear they are prepared to pay a sustainable price to the processors for the milk they sell and many have chosen to use dedicated liquid milk supply chains. The price retailers pay for their milk is completely de-coupled from the sale price and not determined by it. Therefore, whilst some individual retailers have reduced the price of milk charged to consumers in store it is the retailer alone who is paying for the price reduction and not the farmers. In fact, retailers continue to pay the highest prices in the market regardless of the price they charge their customers.

We must be clear on this crucial point: it is retailers that are investing in the promotions using their own investment rather than denuding value from the supply chain. We don't believe this changes consumer perceptions of the value of milk or dairy farmers. We know from numerous surveys the value and support consumers place in Scottish and UK dairy farmers and we do not believe a more affordable price for hard-pressed households changes that. In fact, the most recent figures from Dairyco shows that the volume of liquid milk sales increased through 2014. Promotions, therefore, may have longer-term benefits of growing the market for milk sales.

#### **d) Regulation of the supply chain**

As detailed above, individual dairy farmers do not have contracts with retailers as they are not direct suppliers to them. Where retailers have dedicated supply chains, the direct relationship remains between the processor and the farmer but the retailer agrees standard terms with the dairy that must be included in its contract with the farmer.

We support the use of written contracts through the supply chain. They reinforce certainty in supply arrangements and build stronger relationships.

The Groceries Supply Code of Practice (GSCOP) applies to the contractual relationship between the ten largest food retailers and their direct suppliers, including dairies and processors. We believe GSCOP is working well and has clarified and strengthened our relationship with processors across the UK. GSCOP includes specific provisions on how promotions are agreed between a retailer and supplier.

Despite the strengths of GSCOP it is wrong to suggest that an extension of it to cover the whole dairy chain would either be feasible or make any difference to farmers' milk prices. Firstly, GSCOP was implemented to tackle a specific purpose to regulate the contracts between major food retailers and their direct suppliers; a recommendation from the Competition Commission. It was not designed to account for the complexities of the dairy chain including the multitude of food companies who are not retailers. Secondly, GSCOP does not regulate prices or seek to interfere in the market, a point clearly made by the GCA (Groceries Code Adjudicator) in evidence to the EFRA Committee. Instead, it ensures that contracts are appropriately regulated and the correct balance in the relationship between retailers and their suppliers.

The SRC would be delighted to expand further on any of the points raised in this letter.

## **Written submission from Arla Foods UK**

### **1) Executive summary**

1.1 As a farmer-owned European dairy cooperative with circa 3,000 British farmer owners, Arla is concerned about the current decline in milk prices and the impact it is having on its owners.

1.2 The long-term outlook for dairy production in Scotland and across the UK is positive. The global demand for dairy products will continue to grow over the next 15-20 years linked to the significant rise of the middle classes in the developing world, e.g. China, Russia and Africa, seeking improved nutrition via protein based diets.

1.3 In the short and medium term farm gate prices will follow a cycle linked to global supply and demand factors. We are currently in a downward cycle of milk prices and this puts significant pressure on farmers. Global milk production is growing by circa 5 per cent whereas global milk demand is only growing by circa 2 per cent leading to a sharp rise in global stocks of dairy products and downward pressure in milk prices. Dairy farmers all over the world, including Scotland and the UK, are feeling the effects of these reductions.

1.4 There are factors outside the control of the Scottish Government, such as demand in China and the Russian EU embargo, and the ability of any one Government to have significant impact in securing the long term future of the industry is likely to be limited.

1.5 However, there are a few key areas that the Scottish Government can continue to focus on to promote a more viable and thriving Scottish dairy industry:

- Initiatives to help dairy farmers adjust their business models to cope with milk price volatility;
- The Government's commitment and measures to control TB; and
- Investigate opportunities for more competitive regulatory conditions which place the Scottish dairy industry in a stronger position in the global marketplace.

### **2) Overview**

2.1 Arla Foods UK (Arla) is grateful for the opportunity to submit evidence to the Committee's review of dairy prices.

2.2 Arla takes very seriously the impact that fluctuating dairy prices – and milk prices specifically – can have on its farmer owners. Arla is committed to working with government to ensure that the best deal can be reached for our farmers. As such, over the course of the past year Arla has also fed into dairy inquiries carried out by the Environment, Food and Rural Affairs Committee and the Dairy All Party Parliamentary Group in Westminster and the independent review of the Welsh dairy industry, commissioned by the Welsh Government's Department of Environment and Countryside.

### 3) About Arla

3.1 Arla is a farmer-owned global dairy company with some 13,500 European dairy farmers, circa 3,000 of who are British. One in four British dairy farmers is an owner of Arla. Over the past year Arla has recruited over 300 new farmers in the UK, around 10 per cent of who are completely new entrants to dairy farming. We currently have 125 farmer owners based in Scotland.

3.2 As a farmer-owned business, there is no middle man or external investors and, as such, all profits are returned to Arla's farmer owners.

3.3 In the UK, which is Arla's biggest market, it is the largest dairy company and home to leading brands including Anchor, Cravendale, Lurpak and Castello. Arla manages over 3.7 billion litres of milk a year and, in addition to its farmer owners, employs over 3,800 people at its head office, distribution centres and dairies around the country, including the world's largest milk processing facility, recently opened in Aylesbury.

3.4 In Scotland, Arla's dairy processing plant in Lockerbie, Dumfriesshire, produces approximately 180ml of fresh milk, 30kt of cheese and 10kt butter per annum. Arla's Scottish label and generic label products produced in Lockerbie are distributed all over the UK, including Scotland, and stocked in leading retail outlets.

3.5 As well as being number one in fresh liquid milk, butter, spreads and cream, Arla is also the UK's largest cheese manufacturer and a major supplier to McDonald's, Starbucks and a wide range of ingredients customers.

### 4) Key issue areas

#### *a) Impact of price volatility*

4.1 The long-term outlook for dairy production in Scotland is positive. The global demand for dairy products will continue to grow over the next 15-20 years linked to the significant rise of the middle classes in the developing world, e.g. China, Russia and Africa, seeking improved nutrition via protein based diets, e.g. milk powder, infant formula, cheese. Milk production is forecast to grow in northern Europe linked to the removal of quotas in April 2015. The growth in global demand is an opportunity for Scottish and European dairy farmers who have invested in gaining access to processing and marketing capabilities to secure their milk production.

4.2 In the short and medium term, Scottish and European farm gate prices will follow a cycle linked to global supply and demand factors. There is currently a downward cycle of milk prices and this puts significant pressure on farmers. Global milk production is growing by circa 5 per cent whereas global milk demand is only growing by circa 2 per cent leading to a sharp rise in global stocks of dairy products and downward pressure on milk prices. Dairy farmers all over the world, including Scotland and in the UK generally, are feeling the effects of this.

4.3 Historically farm gate prices in the UK have, on average, been circa 10-15 per cent behind European farmers and closing this gap was a major motivation for the one in four British farmers who actively chose to join Arla, which has for many years been a successful European cooperative.

***b) Impact of Government measures***

4.4 Declining farm gate prices, as are currently being experienced by individual dairy farmers, are caused by a number of factors far outside the control of Governments in the UK.

4.5 Global demand has recently been hit by two external factors. The first of these is a dramatic collapse in demand growth from China which, in the last twelve months, has fallen from ten per cent to two per cent.

4.6 In a separate development Russia, traditionally one of the world's biggest dairy importers, embargoed imports from the EU in August 2014.

4.7 Russia and China together account for 30 per cent of the globally traded dairy products and therefore a sharp decline in demand has led to a negative domino effect on global milk prices.

4.8 In such circumstances, the ability of any one Government to have significant impact in securing the long-term future of the industry is likely to be limited. One of the major concerns for UK dairy farmers is the impact of Bovine TB on the British dairy herd. It is vital that we control TB to ensure that dairy farming has a sustainable future. Arla is supportive of the Government's commitment and measures to resolve the issue.

***c) Impact of EU measures on market surpluses***

4.9 Arla believes that the collection of initiatives known as the 'milk package' is generally welcome.

4.10 In particular, the end of EU milk quotas will, in the long-term, be good for farmers as it will mean they have greater flexibility and control if they wish to increase their production.

4.11 It is also, however, likely to increase the market's volatility, such as that seen in the current cycle of price reductions, as it will mean greater exposure to the global market.

4.12 Given this reality, the most welcome intervention of Government will be in assisting the industry in exploiting new markets, such as China; unblocking barriers to trade when they arise; and in ensuring that regulatory pressure on the sector is both effective and balanced and encourages a competitive ability which places the UK dairy industry in a stronger position in the global marketplace.

***d) Success of voluntary approaches***

4.13 The Voluntary Code of Practice (VCoP) has been a positive development as it has encouraged more transparency in the commercial relationships between farmers and milk purchasers.

4.14 It has encouraged participants to scrutinise many aspects of their contractual relationships and also played an important role in ensuring that different parties in

the supply chain have a degree of certainty and transparent understanding in determination of the price of milk.

4.15 In addition to the VCoP, for Arla farmer owners, this is largely delivered as a result of a cooperative structure and the fully democratic process through which the price paid to Arla farmers is determined. Arla has a clear and transparent democratic governance structure and policy in place to ensure that its farmer owners are represented and engaged in the future of their business.

4.16 The Arla milk price is determined through a clear and transparent formulaic pricing model that is decided upon by democratically elected farmer representatives. In terms of what this means for individual farmers, there is a clear communication policy for the monthly milk price. Arla has settlement periods with dates communicated on a 12 month rolling basis. There is, therefore, a standard process for determining and communicating milk prices on a monthly basis.

4.17 Depending on the settlement dates, Arla farmers know the next month's milk price a few days before the start of the settlement period date. The milk price mechanism works because the monthly milk price directly reflects the performance of the business and Arla's farmers do not want any smoothing mechanisms (e.g. delaying a milk price increase or decrease) in the formula that would any way impact the transparency of the performance of the business.

4.18 Although voluntary approaches help provide certainty, they can only really help mitigate the worst impacts of a volatile price for milk and will, in themselves, be limited in the impact they can have on securing the long-term future of dairy farming, the necessary measures for which tend to be evolving and complex.

4.19 Arla believes it is critically important that its farmer owners understand the pricing policy and as a result has a team of dedicated communication managers who support this process. There are also a number of regular member publications and member meetings as well as communication surveys to ensure that this process is working.

#### ***e) The Groceries Code Adjudicator Act 2013***

4.20 As the vast majority of dairy farmers do not supply directly to retailers, the impact of the Groceries Code Adjudicator Act 2013 will have been limited to the very small proportion (circa 3 per cent) that do so.

4.21 It has been suggested by the Westminster EFRA Committee that the scope of the Grocery Code Adjudicator be extended. Based on our experience we do not believe that extending these powers would help to address the challenge of volatility. Arla also believes that contractual relationships between farmers and processors is already adequately covered by the Voluntary Code.

#### ***f) Improving prospects for dairy farmers***

4.22 There are many actions that can be taken by those operating within the dairy sector to improve prospects for our farmers, despite the volatility of the market.

4.23 Dairy companies, such as Arla, seek to add value to the milk that its farmers supply, through the production of other products such as cheese, powdered milk and cream. Arla also continues to invest in its branded portfolio of products, such as Anchor, Cravendale and Lurpak, which command more stable, premium prices, insulated from global price movements.

4.24 In order to compete on the global market, efficiency is delivered through long-term investment. The most obvious example of this within Arla is the investment in the world's largest fresh milk processing facility at Aylesbury.

4.25 This is a £150 million fresh milk processing facility, with the capacity to produce 1.5 million bottles of milk every day. It was opened in May 2014 and represents just a proportion of the £630 million that Arla's farmer owners have invested in Scotland and across the UK since 2004.

4.26 Under the democratic structure which the Arla cooperative model operates, such investment can only be made with the agreement of Arla's farmer owners and, as such, the new facility is recognised as an important investment in the long term future of all of Arla's farmers.

4.27 The dairy, which is the most technologically advanced and efficient of its kind, has the potential to process up to 240,000 litres of milk per hour and one billion litres a year.

4.28 When it is operating at capacity, it will employ up to 700 people, delivering £20 million in wages, much of which will support the local and regional economy.

4.29 In such a volatile market, it is also essential that Arla helps its farmers operate as efficiently as possible.

4.30 As part of its European wide sustainable dairy farming strategy initiated by Arla's farmer owners, Arla has launched a programme to assist dairy farmers with their on-going effort to be more efficient and sustainable through improving animal welfare, protecting natural resources, and improving biodiversity and waste management. The initiative offers practical, farmer sourced solutions to help Arla's farmers operate efficient and commercially competitive farms.

4.31 As part of the initiative all Arla farmers are being offered a free on-farm carbon assessment.

4.32 Modern innovative techniques and practices are also featured to help improve standards and outcomes for farmers, including a forage app to help farmers improve the quality and increase the quantity of forage, saving them money and helping them reduce their carbon footprint.

4.33 Taken together, all of these initiatives assist Arla farmers in their efforts to operate more efficiently which, in turn, will assist them in withstanding the volatility in the market.

4.34 Arla believes that taking such measures has demonstrably delivered better outcomes for its farmers. Despite the backdrop of volatility, Arla is proud that it has consistently delivered a market leading price for its farmer owners.



## **Written submission from The Co-operative Food**

### **Inquiry into Dairy Pricing**

The Co-operative can trace its roots back to the Fenwick Weavers in Scotland and the Rochdale Pioneers in England; we are the UK's largest consumer co-operative. Our food business employs 73,000 people across England, Scotland, Wales and Northern Ireland. We are owned by 8 million UK shoppers who make up our membership, and our 2,800 stores covers postal areas across the UK; of these stores around 400 are in Scotland. We are Scotland's leading convenience store operator.

We have taken this opportunity to write to the Rural Affairs, Climate Change and Environment Committee to provide you with detailed information about how The Co-operative Food sources the dairy products which are sold in our stores to inform your inquiry into dairy prices. We have also provided some more general information about our sourcing arrangements for other product areas such as meat, poultry and fresh produce to illustrate how we work in partnership with British farmers.

### **Commitment to British Sourcing and The Co-operative Farming Groups**

The Co-operative Food works in partnership with and, therefore, supports almost 2,500 farmers and suppliers throughout the UK to source our meat, poultry, dairy and fresh produce. Of these farmers and suppliers, 873 are currently based in Scotland (822 farmers and 51 suppliers).

British sourcing matters not just because it contributes to the UK economy and employment but also because consumers expect it. It offers reassurance and helps them trust food security and sustainability. Research undertaken by The Co-operative demonstrates that consumers want to support British producers – of the foods that consumers want to be British milk comes out 2nd after fresh meat (67% of consumers want milk to be British sourced). According to our research, the top reasons for shoppers 'buying British' are that it shows support for the UK's farmers and growers and, for two in every three consumers, it helps support UK employment.

British products are the 'staples of our stores' and we go over and above many other retailers to make it easy for customers to choose British – from fresh beef, chicken and pork to ready meals and milk. We aim to invest in the British economy by building on our current commitments to source even more British goods – this investment amounts to £500m annually, and we aim to match or exceed this target for each of the next 3 years.

In order for customers to be able to make an informed choice of products we believe it is essential that the country of origin is as clearly highlighted as possible on pack. Where we have own-brand Scottish produce on offer we believe it is important to ensure that Scottish origin is as clearly highlighted as possible on pack. Work in this area is ongoing – for instance we have recently moved to a separate design for cream to make it is easy as possible for consumers to make an informed choice.

At The Co-operative Food, we have dedicated long-term relationships with more than 400 farmers, who are all part of The Co-operative Farming Groups. These 400 carefully selected 'foundation' farms focus on growing and rearing animals to The

Co-operative's high standards and work in partnership with us to provide customers with high quality, responsibly sourced British products.

We are keen for our customers to fully understand exactly where the products we sell in store come from and have recently launched a new area of our website called 'Food Matters'. This includes a full explanation of our sourcing arrangements - <http://www.co-operativefood.co.uk/food-matters/>. We have also recently published a report entitled 'Born and Bred' which outlines our commitment to British sourcing and to British farmers, a copy of this report is enclosed for your information and further hard copies are available on request.

The Co-operative Dairy Group was established in 2011 and since then we have gone on to launch five additional Farming Groups to cover our own-brand fresh British meat and poultry. Together, the six groups help to maintain The Co-operative's strict animal welfare policies and encourage long-term investment and improvements to sustainability, efficiency and training.

At the heart of our values is a commitment to be open and honest about where our food comes from, and to ensure that it is promoted in a fair and transparent way. Our agricultural team works with farmers and suppliers to ensure our products are sourced responsibly. Our farming groups aim to encourage best practice amongst our farmers, while also giving them profitable returns.

The structure of our Farming Groups is based on five agricultural pillars, and farms are rated as Bronze, Silver or Gold, based on their performance against our pillar model. Regardless of their rating, all farms meet our health and quality standards, and work with us to promote our values.

There are three further pillars which focus on sustainability, the environment, and ethical and training initiatives. As farms progress through the pillars to become Silver or Gold farms, they receive an additional premium according to the level they achieve. In 2014 The Co-operative's highest achieving farmers received a £5m premium for meeting or surpassing welfare standards and other key criteria.

### **The Co-operative Dairy Group**

At The Co-operative we have a close, dedicated relationship with 204 dairy farmers, who form The Co-operative Dairy Group [CDG]. As part of the CDG, our farmers are guaranteed a premium price for every litre of milk they produce. To make sure our farmers are paid fairly for their milk, we work closely with our dairy supply chain to review pricing on a regular basis. We use what is known as a 'basket price' method, which takes into account factors such as cost of production to offer a fair and representative view of the market. Our pricing model was developed after consultation with our farmers and informed by discussions with the NFU. It is, we believe, not only fair to all parties but fully transparent. The price is reviewed four times a year to ensure changes in the market are taken into account.

The CDG farmers have contracts with the processor, Muller. Muller, in turn have a contract to supply The Co-operative Food with milk. CDG farmers, wherever they are located in the UK, are currently receiving 30.5ppl for their milk. This price will be reviewed in February 2015.

As there is no direct contractual relationship between the CDG members and The Co-operative Food, the Groceries Supply Code of Practice does not apply. The contractual relationship between The Co-operative Food and Muller is, however, covered by GSCOP.

The proportion of milk sold by The Co-operative Food compared to the volume produced by CDG farmers fluctuates but typically represents around 90% of the total volume sold in our stores.

Within the CDG, there are 15 smaller producer groups across England, Scotland and Wales. With this structure in place, we can ensure that all the farmers have a voice. Each producer group meets three times a year, taking it in turns to host. During the meetings the farmers listen to expert speakers, and have the chance to share ideas and best practice in efficiency, sustainability and animal welfare.

At present 34 of the 204 CDG farmers are based in Scotland. Scottish sales of milk account for about 10% of the total sales of milk made by The Co-operative Food but approximately 19% of the volume of milk produced by CDG farmers currently comes from Scottish CDG members.

All of Co-operative own-brand liquid milk, yogurts, block butter and Cheddar cheese are 100% sourced from British milk.

All our dairy farmers are accredited to a national farm assurance scheme, such as Red Tractor, which ensures high standards of animal welfare. These schemes cover aspects such as the housing of animals and stocking densities, feed and water, health and veterinary controls, breeding, traceability and transportation.

While The Co-operative Dairy Group aims to encourage best practice among farmers and to help give them profitable returns, it also ensures that we can provide customers, with high-quality milk. Creating long-term relationships with farmers means we can provide customers with complete transparency in our milk supply chain too, which is built on honesty, fairness and trust.

The partnership between The Co-operative and the CDG farmers is intended to deliver benefits to farmers beyond the price that is paid for milk. The CDG farmers are completely supportive of our approach and have helped us refine and develop our arrangements since the group was established. We believe that looking at price in isolation as a means of gauging our support for farmers is misleading. We have a series of measures in place, unique to The Co-operative, which can help farmers increase the efficiency of their farms and reduce the cost of production. These include a series of professionally facilitated workshops on farm management, and access to low-cost energy and we support the cost of two vet visits to each farm per year.

### **Co-operative Dairy Group - Case Study**

Dumfries-based dairy farmer, Colin Mair, was the first to win The Co-operative's own award for Outstanding Farmer of the Year, which was presented to him at the 2014 Co-operative Retail Trading Group Awards.

Colin, who has just under 200 milking cows and 130 heifers on his 330-acre farm, has been a member of The Co-operative Dairy Group since its launch in 2011. Colin impressed judges with his work ethos of 'Keep it simple and practical', while also paying great attention to detail and planning for the future.

Farming with his wife, Lorraine, and children, Erin and Robbie, Colin has worked hard to improve the overall health of his herd and their welfare, as well as investing in the conservation of energy and water. By setting clear targets, his herd has increased by 90% since 2011, and he has invested in new technology, which, along with improving herd health, has allowed him to start milking the cows three times a day.

The farm is now highly efficient, using a natural spring for water, solar panels to generate electricity and a heat recovery system. The family hosts six primary school farm visits each year as part of their involvement with the Royal Highland Education Trust.

## **Conclusion**

Against a backdrop of a competitive retail market, The Co-operative has put in place a series of measures to alleviate the pressures facing dairy farmers throughout the UK during these tough economic conditions. We recognise the importance of ensuring a long-term, sustainable future for dairy farmers throughout the UK and understand the responsibility we have in helping to achieve this.

It is our intention to continue dialogue with our partners throughout the supply chain to promote a more sustainable dairy industry. The Co-operative believes that whilst there are no simple solutions to the current problems the industry finds itself in, it is essential that all parties work together to identify practical steps that can be taken to move the industry forward. We hope that we can work in partnership with the Scottish Government and others to achieve this

We will continue to work with the dairy farmers who comprise the CDG. We commit to provide them with a fair price for their milk and will support them in driving efficiency in their operations. It is our belief that our partnership with these farmers, based on more than just price, will benefit both parties in the long-term.

## **Written submission from Dairy UK**

Dairy UK understands that the Committee has instituted this Inquiry to gain a better understanding of the dairy industry, and how global and domestic events impact on pricing.

## **Market Context**

- The long term prospects for the dairy industry remain strongly positive but in the short to medium term there will be difficulties.
- Price volatility is now an inherent feature of the dairy market and it is posing a severe challenge for both dairy farmers and processors.

- The Scottish industry is fully integrated into the UK market. The UK is exposed to world market price trends. The current downturn is due to increased global milk supply, the Russian import ban and a temporary slowdown in Chinese buying. It will take time for the market to adjust and prices will probably deteriorate further in the coming months.
- Competitive market forces mean that no product market, including the fresh liquid milk market, can be exempted from price volatility.

### Long Term Prospects for the Dairy Sector

Although the current situation is difficult and set to get worse before it gets better, long term growth prospects for the dairy industry are positive. Drivers of global growth remain in place: population growth, rising income and changes in dietary preferences. Global dairy consumption growth is estimated to equate about 660,000 tonnes of dairy products per annum.

The Scottish Industry is currently at the early stages in the delivery of a growth agenda – Ambition 2025. This aims that by 2025, Scotland will be a nation producing over 1.6 billion litres of milk a year – an increase of 50% over 2014 levels. This growth will be as a result of a partnership approach between industry and Government and a focus on the development of value added markets, particularly in export markets.

### Market Situation

Global markets are volatile and cyclical. The world market has now entered into another cyclical downturn. These are occurring at the frequency of around 2 to 2.5 years.

The latest downturn is due to a global imbalance between supply with demand, exacerbated by the Russian import ban and a temporary slow down in Chinese buying. Russian imports normally equate to 2.1bn litres of milk, or 1.5% of EU milk production. Import figures for China for September 2014 (YTD Sep '14 vs. '13) shows SMP down 35%; WMP down 14%; Butter down 13%.

In response to high prices, milk production in all the major exporting regions of the world has increased significantly over the past year.

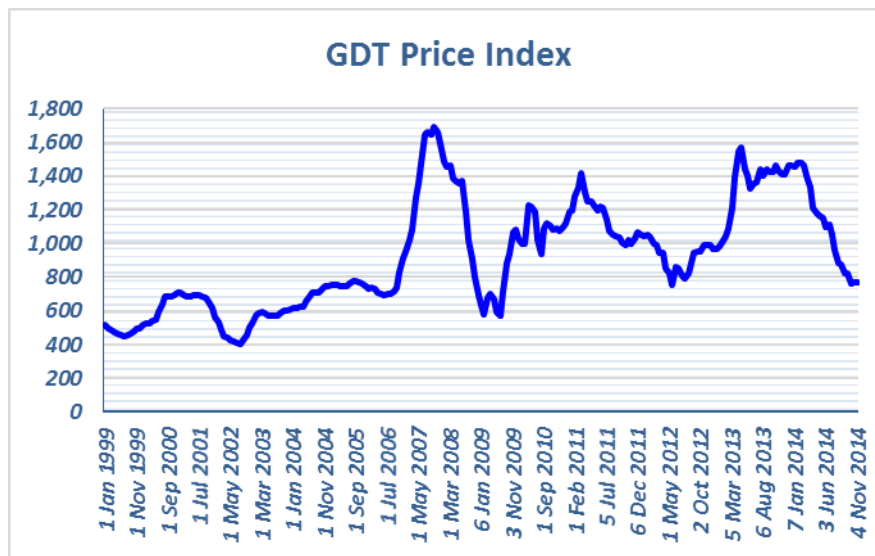
**Table 1: Milk            % change in Milk Production**

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014
Australia		-3.90%	+0.9%	+4.2%	-2.90%	+0.4%	+4.5% (July)
New Zealand	+8.9%	+2.6%	+5.2%	+10.3%	-1.30%	+9.4%	+14.4% (Aug)

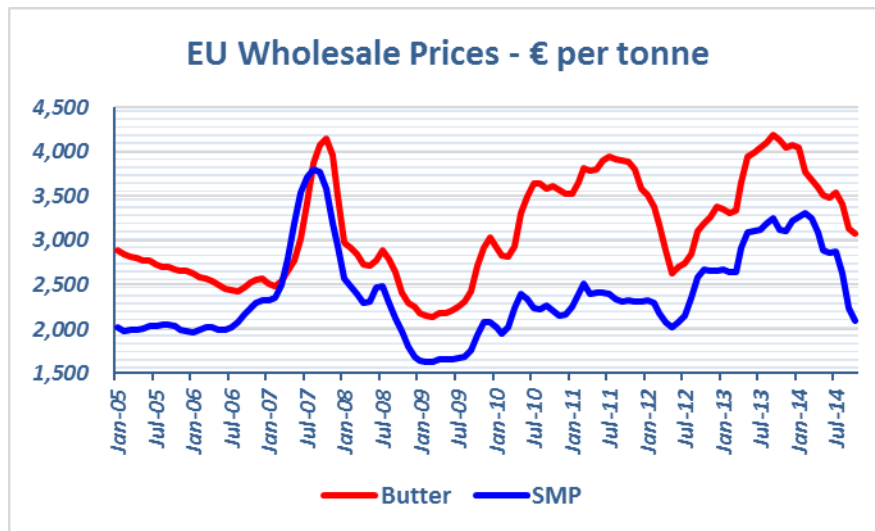
2008	2009	2010	2011	2012	2013	2014
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							(August)
US	+2.4%	-0.40%	+1.9%	+1.8%	+2.1%	+0.4%	+1.8%
EU			+1.45%	+2.31%	+0.82%	+0.80%	+5.1%

This has resulted in supply growth temporarily outstripping the growth in demand. As a result world market prices have collapsed. The best indicator of trends in the global market is the auction for dairy products run on behalf of Fonterra through the Global Dairy Trade platform.



This has fed into the EU market.



### Effect of World Markets

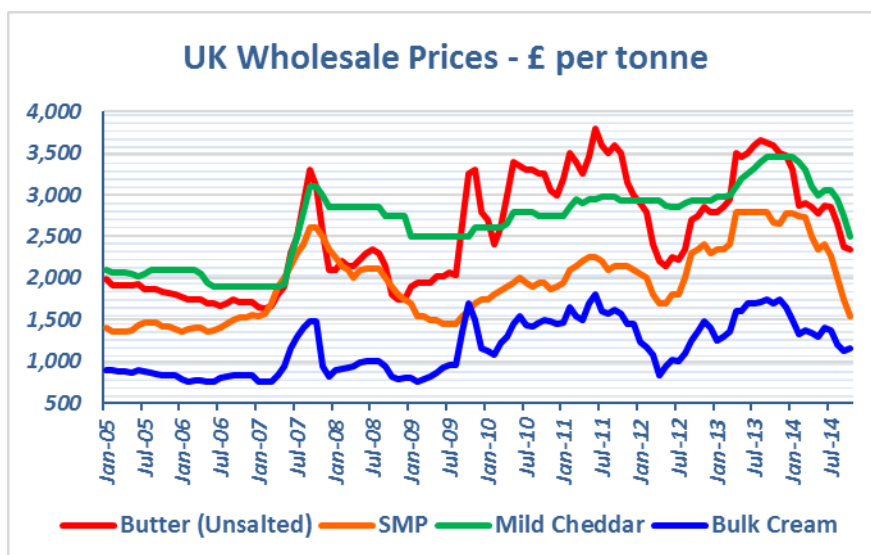
No part of the UK dairy market, including Scotland, can remain isolated from world market trends.

One half of Scottish milk production is used for the manufacture of dairy products such as cheese and butter, which are internationally traded.

The other half is used for liquid milk, which is not internationally traded. However, there are two routes that ensure world market trends are communicated to this market:

- The manufacture of low fat milk which means that 60% of the butterfat supplied in the raw milk used for liquid milk is sold as cream, the price of which is determined by the butter market.
- The ability to switch raw milk from lower returning product markets into the liquid market.

The overall result is that UK markets have followed the global downturn.



The current downturn in prices is the result of market forces. Scottish and UK dairy markets are operating efficiently. There is no evidence that they are dysfunctional, distorted or operating outside European norms.

The analysis by Rabobank is that any recovering will probably not occur until mid-2015.

### Price Volatility for Milk and Dairy Products

Price volatility has resulted in dairy farm profitability fluctuating considerably from year to year. This creates great uncertainty for dairy farmers which makes short and long term business management extremely challenging.

In the short term for some dairy farmers downward price volatility results in their forced exit from the sector. There is a concern that dairy farmers that have invested heavily in farm expansion with a considerable exposure to debt are more vulnerable to closure in price downturns.

In the long term the Scottish dairy industry has the aspiration to grow substantially by 2025. This requires a considerable expansion of milk production capacity and investment in new facilities. To give farmers confidence to invest the dairy sector needs to develop private sector instruments to allow farmers to manage price risk principally through the use of futures contracts. This will require further development of European dairy futures markets and mechanisms to enable dairy farmers to access these markets cost effectively.

Processors are also affected by market volatility. This is particularly true of companies making mature cheeses. Price fluctuations can create a severe mismatch between raw material costs and final market realisations. This places some dairy businesses under severe stress

### Contracts

In terms of the current examination of the low milk price environment being faced by milk producers, attention has focussed on contractual routes to ameliorate the



problems, specifically, the industry's voluntary Code of Practice and extending the role of the Grocery Code Adjudicator.

Over 50% of Scottish milk producers belong to milk co-operatives. These are farmer owned and farmer controlled businesses. These businesses must be allowed to operate and compete in accordance with the strategies agreed by their membership. The remaining producers sell their milk either to private dairy companies or directly to major retailers. In respect of milk pricing these companies are performing no differently to their co-op counterparts and also need to be able to freely compete.

The dairy industry has developed a voluntary code of practice to address concerns over contractual relationships in the industry. The code has been important in improving supply chain relationships and addressing issues of concern to dairy farmers. However, the voluntary code was not developed to address prices and cannot mitigate price volatility.

Contractual relationships between dairy farmers and milk buyers are outside the scope of the Grocery Code Adjudicator. The Grocery Supply Code of Practice does not have relevance to raw milk contracts and we believe that the Grocery Code Adjudicator involvement in raw milk contracts is not justified. Regulation of contracts would not have any impact on underlying market prices.

There is no evidence of excess profits being made by dairy processors. Market pressure ensures that margins for processors are thin.

### **Government' Role**

To continue to work with the industry in the innovative and, we believe, fruitful partnership represented by the work of the Dairy Growth Board and its partners Scotland Development International/SE and Scotland Food and Drink. This is a partnership that in the medium to long term will deliver real benefits.

Dairy UK believes that until such times as the industry develops private sector instruments to mitigate the impact of price volatility, the European Commission should continue to play a residual role in market management to reduce the impact of extreme downward price volatility. This is most effectively achieved through public buying in of butter and SMP. The level of the buying in prices should be reviewed periodically to ensure that this instrument remains effective. To ensure that the reference price encouraged EU producers in aggregate to curtail production then it should be set at a level which enables the Commission to operate intervention purchasing profitably over the price cycle. Operated properly this would be budget neutral over the price cycle. The Scottish Government should lobby Defra to encourage adoption of this policy.

Support the promotion of dairy products by aligning Rural Affairs, Food Standards Scotland and Health Department policies;

Scotland has a number of small milk fields with associated processing capacity in the Highlands and Islands. In a volatile market these operations can be extremely exposed. Government should continue to work constructively with the appropriate co-ops/businesses in these areas in order to achieve the long term viability of these operations.

## **Industry Actions**

The industry needs to continue to plan on the basis of its long term aspirations. The industry needs to recognise that market downturns are temporary and prices will recover.

Dairy processors will continue to pursue business strategies based around:

- a. Improving efficiency
- b. Consolidation
- c. Supply chain co-operation
- d. Product differentiation

These strategies will help to improve the market position of the Scottish dairy industry and improve the value entering the supply chain.

The business culture of farming needs to evolve to embrace the need to plan on the assumption of price volatility. Resilience needs to be built into dairy farming businesses to cope with periodic market downturns.

The industry needs to explore how dairy farmers can be given cost effective access to futures markets in order to fix their margins and mitigate the impact of price volatility.

The industry needs to create greater loyalty by domestic consumers for its products. This requires the industry to communicate a strong and coherent message about the positive characteristics of the local dairy industry. The Government should support initiatives in this area.

## **Written submission from First Milk**

### **First Milk written evidence to Scottish Parliament's Rural Affairs, Climate Change and Environment Committee Inquiry into Milk Pricing**

#### **About First Milk**

First Milk is the UK's only major dairy company, 100% owned by British farmers. It supplies a wide range of dairy products and dairy ingredients to customers in both UK and international markets including block cheeses, soft cheeses, raw milk, butter, skimmed milk powder, whey proteins and sports nutrition brands.

It generates annual revenues of £610 million (2013/14 figures) and is headquartered in Glasgow with seven manufacturing sites across England, Scotland and Wales.

First Milk's aspiration is to provide consumers with great-tasting nutritious food, while delivering value for every part of its farmers' milk. As a business with a passion for innovation and sustainability, it is constantly seeking fresh ways of working with partners across the supply chain to drive pioneering solutions to industry challenges.

#### **Key people:**

Chairman – Sir Jim Paice MP

Vice chairman – Nigel Evans

CEO – Kate Allum

### **First Milk in Scotland:**

- First Milk is headquartered in Glasgow
- It has 400 farmers in Scotland (c. 40% of Scotland's dairy producer base) who produce 350m litres per annum
- It has 3 manufacturing sites in Scotland: a hard cheese creamery at Campbeltown on Kintyre; a hard cheese creamery at Kilmory on Arran; and a soft cheese dairy (Glenfield) at Cowdenbeath in Fife.
- It has 197 employees in Scotland across the 3 manufacturing sites and head office
- First Milk supplies milk through a dedicated farmer group to Nestlé's site at Girvan in Ayrshire

### **Global dairy market**

For First Milk, and the rest of the dairy industry around the globe, 2014 was a year of volatility that has never been seen before. While returns from globally traded products were at record levels 12 months ago, they have fallen over 50% since then, leading to a steep fall in milk prices around the world.

The reasons for falling market returns are well documented. While milk production here in the UK and in key milk producing regions like New Zealand and the US are well up year-on-year, demand from main importing markets has dropped back, and on top of that Russia has banned dairy imports from the EU. This perfect storm of increased volumes and falling prices resulted in First Milk incurring losses during 2014.

### **Setting milk price for farmer members**

The milk price paid to its farmer members is set by the First Milk Board each month and reflects the company's market mix and market returns. The First Milk Board consists of 8 people: 5 farmer directors; the CEO; the finance director; and the non-executive chairman. First Milk is currently recruiting for an additional non-executive director following the recent retiral of a previous director.

The dramatic falls in prices for globally traded products, in conjunction with First Milk's policy of adhering to the voluntary dairy code by giving farmers at least 30 days' notice of milk price cuts, meant that there was a disconnect between the price that First Milk was paying out to its farmers, and the price it was receiving in. This created a short term cash flow issue which has been solved through the painful, yet necessary, payment deferral measures announced on 8th January (see below).

## **First Milk announcement on 8th January 2015**

First Milk announced on 8<sup>th</sup> January that they would pay the farmers who own the business and supply them with milk, a fortnight later than planned. This move significantly improves the company's cashflow which was negatively impacted by falling dairy market prices throughout 2014. On top of this, First Milk has increased members' capital investments into the business for a period of time to ensure that the company's financial position will improve further over the coming months.

The company understands that the milk payment deferral has caused concern for members and they are continuing to work with all major banks at national, regional and local levels to ensure that bank managers are well equipped for any conversations they have with First Milk members. The Board's priority is to make the business and its processing assets as secure as possible in order to ensure First Milk continues to process and market every litre of its members' milk. The company will continue to take the necessary steps to ensure a positive future for its farmer members.

First Milk's Board, executive team, farmer representatives and farmer-facing employees have spent the last couple of weeks speaking directly to its farmer members. They have also used a range of channels including producing a video for our YouTube channel and have held a series of farmer meetings around the country. They have also been working closely with a range of stakeholders including farming unions and Governments in all parts of the UK.

First Milk has received the full support of major customers such as Nestlé, Adams Foods, and Fonterra. They understand First Milk's situation; they understand that the actions the company has taken are positive steps; and they are standing shoulder-to-shoulder with First Milk as the company works through things.

## **Sustainable dairy supply chains in Scotland**

First Milk is working closely with a number of bodies including the Scottish Government, SAOS, the Scottish Dairy Growth Board, SDI, HIE , DairyCo and Scottish Enterprise to develop sustainable supply chains around its manufacturing sites. This includes support for its farmers on margin management, external consultancy on identifying efficiencies at its creameries, and routes to grow export sales.

The company has also had discussions with the Scottish Government about securing grant money relating to Campbeltown Creamery (grant awarded in June 2014).

On a broader view, First Milk believes that Scotland is 'light' on dairy processing. While there are no easy solutions, they believe that there needs to be a broader debate on this issue to determine a route forward.

## **Looking forward**

Some dairy market signals over the last month have been more positive, and prices will inevitably rise again as part of the demand/supply cycle. In the meantime, First

Milk will continue to add value to its farmers' milk and produce nutritious added value dairy foods.

## **Written submission from Sainsbury's**

### **Introduction**

Sainsbury's was founded in 1869 and today operates over 1,250 stores - 594 of which are supermarkets and 660 are smaller convenience stores. We employ over 160,000 colleagues, have over 24 million customer transactions a week and have a UK market share of about 16 per cent. Sainsbury's is the 4<sup>th</sup> largest retailer in Scotland with a market share of around 8.6 per cent, operating 87 stores and employing over 8,400 colleagues across our Scottish business.

### **Sainsbury's sourcing strategy**

Sainsbury's sourcing strategy is built on our strong heritage of developing long-term relationships with our suppliers, farmers and growers, based on trust and a shared desire to serve our customers well. We remove complexity from our supply chains by keeping them simple and our sourcing as close to home as possible. For example, 100% of milk, virtually 100% of our cream and butter, and over 70% of our yoghurt and cheese sold under the Sainsbury's brand, are British. We sell around £650 million worth of Scottish sourced food and drink products from over 130 Scottish suppliers, and are committed to doubling the amount of British food we sell by 2020.

As a major grocery retailer, sales of milk are integral to our business. We understand the importance of ensuring that we have a robust, secure and sustainable supply of affordable milk to meet current and future customer demand. We achieve this through our dedicated Sainsbury's Dairy Development Group.

### **Sainsbury's Dairy Development Group**

Sainsbury's has supported British farming for over 145 years. In 2007 we established Sainsbury's Dairy Development Group (SDDG) – a dedicated producer group of over 300 UK dairy farmers supplying Sainsbury's own brand milk (including 32 in Scotland supplying own brand milk to our Scottish stores). Over the past seven years, we have worked in partnership with these farmers, investing £70m to improve sustainability within our dairy supply chain. Between 2007 and 2012 we paid this group a premium over the market price for environmental and animal welfare improvements.

In April 2012 this group voted to move to a transparent, industry-leading cost-of-production model which, uniquely, incorporates a quarterly review of input costs including feed, fuel and fertiliser. The model also incorporates a bonus for high animal welfare standards and for reducing the environmental impact of their farms, as well as a business margin to encourage investment and profitability for the long term. The current payment under this model is 31.6ppl.

Many UK dairy products are globally traded commodities for which the price is largely determined outside of the UK market. The current slump in UK milk prices reflects global fluctuations in supply and demand which have caused milk prices to

fall across the world. Sainsbury's cost-of-production model protects our dairy farmers from these pressures by ensuring that the most volatile farm input prices are reviewed regularly and reflected in the price paid to our farmers. This in turn ensures a fair deal for the over 300 farmers involved. Since we introduced our cost tracker, the price we pay our dairy farmers has varied by much less than half the average variation in the UK liquid market price, thus providing our farmers with the stability and confidence needed to invest in the long term success of their businesses.

We are applying the lessons learned from our Dairy Development Group model to other supply chains. We now have eleven dedicated Farmer Development Groups bringing together over 2,500 farmers and growers across all the main agricultural commodities. Each farmer receives a fully funded annual carbon foot print assessment which helps them target their management on areas of greatest potential efficiency gain, such as improved calving intervals, fertiliser efficiency, feed conversion and yield.

### **Supporting customers**

At Sainsbury's we aim to provide our customers with great products at fair prices, but in a way that is also fair for animals, farmers, growers and our suppliers. The cost-of-production price we pay our dairy farmers is completely decoupled from market price fluctuations and, importantly, from the retail price, allowing us to invest in prices and promotions to help our customers live well for less, while ensuring our farmers continue to receive a fair return.

### **Contractual relations in the dairy sector**

We support the use of written contracts in our supply chain. Although we do not contract directly with our dairy farmers, the contracts we have with our processors require them to have written contracts with our SDDG farmers and include clauses which require them to pay our farmers based on our cost-of-production model. Our SDDG farmers voted overwhelmingly for this model.

### **Summary**

The global nature of agricultural commodities provides challenges for UK farmers as well as retailers, but we believe the long-term prospects for the UK dairy sector are positive.

We care passionately about British agriculture and our £70m investment in our SDDG is part of our commitment to support British farmers by doubling the amount of British food we sell by 2020. By working together in partnership with our farmers, growers and processors through our Development Group models, we are helping to deliver more efficient, productive and profitable supply chains which benefit the farmers who supply us, and will help ensure we can source sustainably from Scotland and the wider UK for the long term.

**Written submission from Lidl UK**

It is our business model to offer our customers quality products for the best value, which means operating on lower margins than the larger food retailers. However, while we always strive to operate competitively, we do not believe in a market that is not fair to all businesses involved.

As a result of this, we ensure that our buying prices do not impact on our retail prices, and we absorb the costs of any market-led price reductions.

We wholeheartedly support our British dairy farmers, who play an integral part in providing consumers with the top quality milk they require.

**Public Bodies Act Consent Memorandum cover note**

**Title of Instrument:** The Public Bodies (Abolition Of The Advisory Committees On Pesticides) Order 2015

**Type of Instrument:** UK Statutory Instrument

**Laid Date:** 7 January 2015

**Circulated to Members:** 30 January 2015

**Meeting Date:** 4 February 2015

**Minister to attend the meeting:** No

**Drawn to the Parliament's attention by Delegated Powers and Law Reform Committee:** No<sup>1</sup>

**Procedure**

1. The procedure for consideration of this instrument varies slightly from that used when considering a Legislative Consent Memorandum (LCM). Usually a LCM is lodged when minor changes are being made to a Bill in the UK Parliament which have relatively minor provision on devolved matters. However in this case, the change is being introduced via a statutory instrument in the UK Parliament which requires the consent of the Scottish Parliament.

2. The issue is that the Scotland's consent requirement in section (9)(1)(a) applies because this order makes provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of the Parliament.

**Recommendation**

**3. The Committee is invited to agree whether to recommend to the Parliament that the draft motion (set out below in paragraph 1 of the Annex) be approved.**

**Purpose**

4. This Order abolishes the Advisory Committee on Pesticides and the Advisory Committee on Pesticides for Northern Ireland established under section 16(7) of the Food and Environment Protection Act 1985. It makes repeals and revocations associated with the abolition (including the repeal of the power to appoint a committee).

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<sup>1</sup> Delegated Powers and Law Reform Committee 6th Report, 2015 (Session 4). Available at: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/85999.aspx>.



4. A copy of the Scottish Government's Public Bodies Consent Memorandum, with full background details of the UK Government's proposal is set out in the Annexe to this paper.

### **Delegated Powers and Law Reform Committee**

5. At its meeting on 20 January 2015, the Delegated Powers and Law Reform Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

**Annexe**

## **PUBLIC BODIES ACT CONSENT MEMORANDUM**

### **THE PUBLIC BODIES (ABOLITION OF THE ADVISORY COMMITTEES ON PESTICIDES) ORDER 2015**

#### **Draft Public Bodies Act Consent Motion**

1. The draft motion, which will be lodged by the Cabinet Secretary for Rural Affairs, Food and the Environment, is:

"That the Parliament consents to the making of The Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015, a draft of which was laid before the United Kingdom Parliament on 15 December 2014 and which makes provision which would be within the legislative competence of the Parliament if it were contained within an Act of that Parliament."

2. This Memorandum has been lodged by Richard Lochhead, Cabinet Secretary for Rural Affairs, Food and the Environment, in accordance with Standing Orders under Chapter 9BA.

#### **Background**

##### *Public Bodies Act 2011*

3. The Public Bodies Act 2011 ("the 2011 Act") gives UK Ministers the authority (via order making powers) to abolish, merge, modify or transfer the functions of public bodies listed in its Schedules. Some of those bodies operate in both the reserved and devolved areas, including the Advisory Committee on Pesticides which is a cross border public authority. Section 9 of the 2011 Act acknowledges the scope for effects on devolved interests by requiring Orders that include provision falling within devolved competence to be consented to by the Scottish Parliament.

4. Standing Orders include the process for scrutinising Public Bodies Act Consent Memorandums (PBACMs) at Chapter 9BA.

##### *Advisory Committee on Pesticides*

5. The Advisory Committee on Pesticides (ACP) is a statutory Non-Departmental Public Body which operates as an independent scientific advisory

committee. It provides advice to UK Ministers and Ministers in the Devolved Administrations on any matters relating to the control of pests; with a view to:

- protecting the health of human beings, wildlife and plants,
- safeguarding the environment; and
- securing safe, efficient and humane methods of controlling pests; and
- with a view to making information about pesticides available to the public.

6. Under Section 16(9) of Part 3 of the Food and Environment Protection Act 1985 (FEPA), Ministers are required to consult the ACP:

- as to regulations which they contemplate making;
- as to approvals of pesticides which they contemplate giving, revoking or suspending; and
- as to conditions to which they contemplate making approvals subject.

7. The Scottish Government is represented on the ACP by a Scottish Assessor.

8. Scottish Ministers signed up to an Agency Agreement to allow Defra Ministers to act on the Scottish Government's behalf for the authorisation of new pesticides and plant protection products.

#### *UK Government reform proposal*

9. Shortly after the 2010 election, the UK Government announced that it would review arms-length bodies in order to reduce the numbers, costs and improve accountability. An announcement about the future of Defra's arms-length bodies (including ACP) was made in October 2010.

10. Defra consulted from March to May 2012 to seek views on the proposed abolition of the Advisory Committee on Pesticides and the UKG's preferred option to reconstitute the ACP as an expert scientific committee. The consultation explained that as the ACP's current status is set in statute, it has to be abolished in its present form before it can be reconstituted as a non-statutory expert committee.

11. The regulatory landscape for pesticides has changed since the ACP was given its statutory status under FEPA over 25 years ago. At that time, all decisions on the approval of pesticides were taken by UK Ministers. However, the European Union now plays an increasingly important role in the evaluation and approval of pesticides.

12. Since the 1990s, decisions on the approval of active substances falling within the remit of the ACP have been taken at EU level under pesticide legislation. This decision making process involves all Member States, the European Food Safety Authority (EFSA) and the European Commission.

13. Decisions on the authorisation of pesticide products containing those active substances are taken at Member State level in accordance with increasingly tightly defined rules and guidance. This is carried out by the Chemicals Regulation Directorate, part of the Health and Safety Executive, the UK's regulatory body for the authorisation of pesticide products.

14. This does not mean there is no remaining role for the UK regulator or for independent expert advice to support and challenge this work. The newly constituted expert Advisory Committee on Pesticides (the Committee) will also provide independent scientific advice to UK Ministers and Ministers in the devolved administrations on matters relating to the control of pests, and provide advice on the approval and authorisation of pesticides.

15. The Committee's advice will take account of legal requirements to protect the health of people, creatures and plants; safeguard the environment; and secure safe, efficient and humane methods of controlling pests. The Committee will also be consulted on regulations which Ministers think about making.

16. While the new Committee will be able to provide any advice under its remit, it will not routinely be asked for advice to support decisions which do not raise new or contentious issues. This means the Committee will run more efficiently as it will be able to devote more time to the most important questions.

17. Additionally, non-statutory advisory bodies are more flexible and nimble and can be adapted, for example to acquire new Terms of Reference which means the new Committee can take on more flexible and strategic terms of reference to meet currently unforeseen changes in demand. This is in contrast to a statutory body, such as the current ACP, where changes in the body's arrangements would have to be brought about by way of legislation.

18. Exercising the power of the Public Bodies Act in abolishing the ACP will have the effect of dissolution of the ACP in law.

#### *Implications for Scotland*

19. The current membership of the ACP will be invited to transfer to the new Committee. Future members to the new Committee will be chosen in a similar way as at present, although appointments will be made by a senior official rather than by Ministers. Devolved Administrations will continue to be invited to agree to any proposed future appointments. However, as Defra Ministers will not be involved in the appointment process, approach will be between Defra and Scottish Government (SG) officials.

20. The new Committee will not be regulated by the Code of Practice of the Commissioner for Public Appointments but recruitment will be carried out in line with the guidance and principles on public appointments set by the Office of the Commissioner for Public Appointments (OCPA). However, OCPA assessors will not be involved in the recruitment process as they are not required for appointments to an expert committee. Members will be expected to act impartially and to follow the seven, "Nolan" principles of public life.

21. Scotland will continue to be represented on the Committee by the current Scottish Assessor. The Scottish Assessor will continue to provide scientific advice to the SG and, in consultation with SG pesticide policy officials, endorse or reject the Committee's recommendations to UK Ministers on the Scottish Government's behalf.

22. The Scottish Government will continue to have the same access to independent scientific advice.

23. Scottish Government officials intend to work with Defra officials to formalise the above arrangements in a memorandum of understanding underpinning the Committee's Terms of Reference.

### **The draft Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015**

24. A draft Order to abolish the ACP (and the Advisory Committee on Pesticides for Northern Ireland), using the powers contained in the Public Bodies Act 2011, was laid before the UK Parliament on 15 December 2014. Copies of the draft Order and the accompanying draft explanatory memorandum, as laid at Westminster, are provided at Annexes A and B.

25. It is the effect of the abolition of the ACP which falls to the competence of the Scottish Parliament. This is because the functions which ACP exercises in Scotland **relate broadly to devolved matters** and, accordingly, it would be open to the Scottish Parliament to legislate to provide that some or all of ACP's devolved functions are no longer exercisable in Scotland.

26. The Order abolishes the ACP (and the Advisory Committee on Pesticides for Northern Ireland) established under section 16(7) of the Food and Environment Protection Act 1985. It also makes repeals and revocations (including the repeal of the power to appoint a committee) associated with the abolition.

### **Scottish Government position**

27. The Scottish Government has sought assurances from Defra, who have confirmed that the restructured ACP will continue to provide independent, scientific advice, and that the change in status will not lead to any practical changes in the current procedures governing pesticide authorisations.

28. Additionally, it has been established that restructuring the ACP as an expert Committee would continue to allow the SG to draw on independent scientific expertise on pesticides as hazardous substances that can cause some public concern.

29. The new ACP, along with other scientific advisory bodies, will be overseen by Defra's Chief Scientific Adviser (CSA). While arrangements are still being developed, these are expected to be light touch, involving regular but infrequent meetings between the CSA and the chair of the Committee. Scottish interests will not be compromised by this arrangement.

### **Consultation**

30. Section 10 of the 2011 Act requires the UK Minister proposing an Order to consult on the proposed changes. The UK Government consulted on its proposals from 8 March to 15 May 2012 to seek views on the proposed abolition of the ACP and outlined three options:

Option A: Maintain the status quo – the ACP continues as a statutory, advisory Non-Departmental Public Body (NDPB).

Option B: Abolish the ACP and put nothing in its place.

Option C: Abolish the ACP and reconstitute it as an expert scientific committee.

31. A total of 45 responses were received. Of these, thirty were received from the farming/growing industry and businesses, six from government advisory bodies and nine from the public/Non-Government Organisations (NGOs).

32. Twelve respondents wished to maintain the status quo (Option A) but some suggested they would accept Option C if the new body were constituted to address their concerns. There was no support for Option B.

33. Twenty four respondents supported the Government's preferred option C to abolish the ACP and reconstitute it as an expert scientific committee. Eight respondents did not favour one option over the other, but provided comments on the remit and operation of the committee.

34. One respondent suggested abolishing the committee and replacing it with a new committee advising on the overall aspects of pest management with priority on non-chemical pest control.

35. UK Ministers have now formally concluded that the ACP should be abolished and reconstituted as a non-statutory expert committee.

### **Financial/Resource Implications**

36. There are no financial implications for Scotland as the proposals do not impose any new costs, administrative burdens, or information obligations.

### **Equal Opportunities Implications**

37. There are no Equal Opportunities implications.

### **Conclusion**

38. The Scottish Government invites the Scottish Parliament to consent to the making of The Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015, a draft of which was laid before the UK Parliament on 15 December 2014 and which makes provision which would be within the legislative competence of the Parliament if it were contained in an Act of that Parliament.

**Scottish Government  
January 2015**

1. *Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2015 No. 000**

**PESTICIDES**

**PUBLIC BODIES**

**The Public Bodies (Abolition of the Advisory Committees on  
Pesticides) Order 2015**

*Made*       -       -       -       -       *\*\*\**

2. *Coming into force in accordance with article 1*

3. The Secretary of State makes this Order in exercise of the powers conferred by sections 1(1), 6(1) and (5) and 35(2) of the Public Bodies Act 2011 (“the Act”)(2).

4. In accordance with section 8 of the Act, the Secretary of State considers that this Order—

- (a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1) of the Act; and
- (b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

5. The consent of the Scottish Parliament, the consent of the Northern Ireland Assembly and the consent of the National Assembly for Wales has been obtained in accordance with section 9(1), (3) and (6) of the Act respectively.

6. The Secretary of State has consulted in accordance with section 10 of the Act.

7. The Secretary of State has consulted the Scottish Ministers in accordance with section 88(2) of the Scotland Act 1998(3) and the Welsh Ministers in accordance with section 63(1) of the Government of Wales Act 2006(4).

8. A draft of this Order and an explanatory document containing the information required by section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3).

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<sup>(2)</sup> 2011 c. 24.

<sup>(3)</sup> 1998 c. 46.

<sup>(4)</sup> 2006 c. 32.

9. In accordance with section 11(4) of the Act, a draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

### Title and commencement

10. —(2) This Order may be cited as the Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015.

(3) It comes into force on the day after the day on which it is made, except as provided by paragraph (4).

(4) The entry for the Public Bodies Act 2011 in the table of repeals in Part 1 of the Schedule, and article 3 so far as relating to that entry, come into force on the second day after the day on which the Order is made.

### Abolition of advisory committees

2. The following bodies established under section 16(7) of the Food and Environment Protection Act 1985<sup>(5)</sup> are abolished—

- (a) the Advisory Committee on Pesticides<sup>(6)</sup>; and
- (b) the Advisory Committee on Pesticides for Northern Ireland<sup>(7)</sup>.

### Repeals and revocations

3. The Schedule (repeals and revocations) has effect.

Date Name  
Parliamentary Under Secretary of State  
Department

## SCHEDULE Article 3

### Repeals and revocations

### PART 1

#### Repeals

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Parliamentary Commissioner Act 1967 (c.13) (8)	In Schedule 2, the entry relating to the Advisory Committee on Pesticides.
Food and Environment Protection Act 1985 (c.48)	Section 16(7), (8) and (9). In section 25(4), the words “and Schedule 5 to this Act”. Schedule 5.

<sup>(5)</sup> 1985 c. 48.

<sup>(6)</sup> The Advisory Committee on Pesticides was established by article 3 of the Control of Pesticides (Advisory Committee on Pesticides) Order 1985 (S.I. 1985/1516).

<sup>(7)</sup> The Advisory Committee on Pesticides for Northern Ireland was established by article 4 of the Control of Pesticides (Advisory Committee) Order (Northern Ireland) 1987 (S.R. (NI) 1987 No 341).

<sup>(8)</sup> Schedule 2 to the Parliamentary Commissioner Act 1967 was amended by S.I. 2011/2986.

Food Standards Act 1999 (c. 28)	In Schedule 3, paragraph 16(6).
Freedom of Information Act 2000 (c. 36)	In Schedule 1— (a) in Part 6, the entry relating to The Advisory Committee on Pesticides; (b) in Part 7, the entry relating to The Advisory Committee on Pesticides for Northern Ireland.
Public Bodies Act 2011 (c. 24)	In Schedule 1, the words “Advisory Committee on Pesticides and Advisory Committee on Pesticides for Northern Ireland (bodies established under section 16(7) of the Food and Environment Protection Act 1985).”.

## PART 2

### Revocations

<i>Instrument</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Control of Pesticides (Advisory Committee on Pesticides) Order 1985	S.I. 1985/1516 <sup>(9)</sup>	The whole Order.
The Control of Pesticides (Advisory Committee on Pesticides) (Terms of Office) Regulations 1985	S.I. 1985/1517 <sup>(10)</sup>	The whole Regulations.
The Control of Pesticides (Advisory Committee) Order (Northern Ireland) 1987	S.R. (NI) 1987 No 341.	The whole Order.
The Control of Pesticides (Advisory Committee) (Terms of Office) Regulations (Northern Ireland) 1987	S.R. (NI) 1987 No 342.	The whole Regulations.
The Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999	S.I. 1999/1319 <sup>(11)</sup>	In the Schedule, the entry in the table relating to the Advisory Committee on Pesticides.
The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc) Order 1999	S.I. 1999/1747 <sup>(12)</sup>	Schedule 2.

<sup>(9)</sup> As amended by S.I. 1999/1747.  
<sup>(10)</sup> As amended by S.I. 1999/1747.  
<sup>(11)</sup> There are amendments not relevant to this Order.  
<sup>(12)</sup> There are amendments not relevant to this Order.



The Scotland Act 1998  
(Agency Arrangements)  
(Specification) Order 1999

S.I. 1999/1512(13)

In Schedule 2—

- (a) paragraph 2;
- (b) paragraph 3.

# **EXPLANATORY NOTE**

*(This note is not part of the Order)*

11. This Order abolishes the Advisory Committee on Pesticides and the Advisory Committee on Pesticides for Northern Ireland established under section 16(7) of the Food and Environment Protection Act 1985. It makes repeals and revocations associated with the abolition (including the repeal of the power to appoint a committee).

12. An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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<sup>(13)</sup> There are amendments not relevant to this Order.

**ANNEXE B**

**EXPLANATORY DOCUMENT TO  
THE PUBLIC BODIES (ABOLITION OF THE ADVISORY COMMITTEES ON  
PESTICIDES) ORDER 2015**

**2015 No. [xxxx]**

1. This explanatory document has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament under section 11(1) of the Public Bodies Act 2011.

2. **Purpose of the instrument**

2.1 This instrument abolishes the Advisory Committee on Pesticides (the ACP) and the Advisory Committee on Pesticides (Northern Ireland) (the ACP (NI) – jointly referred to in this document as the ACPs). The ACPs were established by section 16(7) of the Food and Environment Protection Act 1985 and abolition is part of the Government's public body reform programme.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 The ACPs are statutory bodies set up by Ministers under section 16 (7) of the Food and Environment Protection Act 1985 to advise on all matters relating to the control of pesticides. The Advisory Committee on Pesticides is established by the Control of Pesticides (Advisory Committee on Pesticides) Order 1985, SI No 1985/1516; and the Advisory Committee on Pesticides for Northern Ireland by the Control of Pesticides (Advisory Committee) Order (Northern Ireland) 1987, S.R. (NI) 1987 No 341. In practice the same body of experts has been appointed under both regulations, meaning that there is a single committee serving as both legal entities.

4.2 As statutory Non-Departmental Public Bodies (NDPBs), the ACPs should be abolished in their present form before they are reconstituted as a committee of experts. Both bodies were therefore included in Schedule 1 to the Public Bodies Act 2011, which allows abolition of the listed bodies by secondary legislation. This instrument, made under the Act, provides for the abolition of the ACPs.

4.3 The legislation which established the ACPs (the Food and Environment Protection Act 1985) does not provide for their abolition. Therefore, the ACPs were included in Schedule 1 to the Public Bodies Act 2011 in order to achieve their legislative dissolution. An announcement on Defra's proposals to reform a number of public bodies, including the

ACPs, was made in July 2010 by the then Secretary of State for Environment, Food and Rural Affairs.

4.4 The Minister for the Cabinet Office announced the outcome of the Public Body Review on 14 October 2010, which included the proposal to abolish the ACPs. The Review examined whether a body's functions are needed and, if they are, whether the body should continue to operate at arm's length from Government. This decision was based upon three tests:

- Does it perform a technical function?
- Do its activities require political impartiality?
- Does it need to act independently to establish facts?

## **5. Territorial Extent and Application**

5.1 This instrument applies to the United Kingdom. The ACP covers England, Scotland and Wales and the ACP (NI) covers Northern Ireland. Sections 16(7), 16(8), 16(9) of, and Schedule 5 to, the Food and Environment Protection Act 1985 are repealed by this instrument and Section 25(4) is amended. Those parts of the Act apply to the whole of the UK.

## **6. European Convention on Human Rights**

6.1 Lord de Mauley, Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (the "Minister") has made the following statement regarding Human Rights:

"In my view the provisions of the Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015 are compatible with Convention rights".

## **7. Policy background**

### What is being done and why

7.1 The Government is proposing to abolish the ACPs as statutory NDPBs and to replace them with an expert committee of Defra. This committee would work for a number of UK Departments and for the Devolved Administrations as set out below.

7.2 The ACPs are established under section 16(7) of the Food and Environment Protection Act 1985 (FEPA) to advise Ministers, either when requested to do so or otherwise, on any matters relating to the control of pests in furthering the general purposes of Part III of FEPA. The general purposes (set out in section 16(1) of FEPA) are that the provisions of Part III shall have effect:

- (i) with a view to the continuous development of means:
  - (a) to protect the health of human beings, creatures and plants;

- (b) to safeguard the environment; and
- (c) to secure safe, efficient and humane methods of controlling pests; and
- (ii) with a view to making information about pesticides available to the public.

7.3 Under section 16(9), Ministers are required to consult the ACPs:

- (i) as to regulations which they contemplate making;
- (ii) as to approvals of pesticides which they contemplate giving, revoking or suspending; and
- (iii) as to conditions to which they contemplate making approvals subject.

7.4 Sections 16(7) and (9) of FEPA provide the terms of reference for the ACPs. The ACPs have a membership of about 18. Most members are academics working in areas relevant to assessing the risks and benefits of pest control – including pesticides. The remainder are appointed specifically to consider the issues from a lay perspective, or to bring practical experience of farming and horticulture.

7.5 The ACPs operate cross-border advising Ministers in Defra, DWP, DH, the Scottish and Welsh Governments and the Northern Ireland Executive. Collectively, these Ministers are referred to in this document as “the Ministers”. Appointments are made by Defra Ministers in agreement with the Ministers and in accordance with the Code of Practice of the Commissioner for Public Appointments<sup>14</sup>. One of the members is appointed on the basis of a nomination by the Food Standards Agency (FSA).

7.6 Since the ACPs were established, the regulatory system for pesticides has changed considerably. In the 1980s, all decisions on the approval of pesticides were taken by UK Ministers following a scientific assessment of risks to people and to the environment. This was then a new system under FEPA and required high levels of expertise to establish precedents and build a robust and consistent regulatory system. A team within the then Ministry of Agriculture, Fisheries and Food was set up to project manage the work and to carry out the technical assessment. In these early days, this team of in-house experts was spread thin in some areas and the expertise of the ACPs was central to carrying out all the necessary risk assessments.

7.7 The in-house Government expertise is now within the Health and Safety Executive (HSE), which carries out the day to day regulatory functions on behalf of the Ministers. The in-house team is very much stronger than was the case in the early stages of FEPA and the

<sup>14</sup> <http://publicappointmentscommissioner.independent.gov.uk/the-code-of-practice/>

expertise of the ACPs therefore provides an independent check and challenge rather than an integral part of the assessment. The ACPs normally provide input on

- The first approval of an active substance in the UK;
- Special reviews of active substances (reviews triggered by new information. There is also a routine review programme within the EU);
- Emergency authorisations determined case by case on the basis of pressing need and safety assessment;
- Other applications that do not fit within the framework specified by the ACP or are of particular significance in terms of science or policy.

7.8 The EU has come to play an increasingly important role in the evaluation and approval of pesticides. Since the 1990s, decisions on the approval of active substances falling within the remit of the ACPs have increasingly been taken at EU level under provisions of legislation covering plant protection products and biocidal products. That transition from UK to EU decision-making for active substances is now almost complete. The process for deciding whether an active substance can be approved for use in the EU involves all Member States, an independent Agency (the European Food Safety Authority (EFSA) for plant protection products or the European Chemicals Agency for biocidal products) and the European Commission.

7.9 Decisions on the approval of products containing approved active substances are taken at national level but according to an increasingly tightly defined body of EU rules and guidance. Regulation (EC) No. 1107/2009 (which came into force in 2011) has further harmonised the regulatory system for plant protection products. In particular, previous arrangements that allowed provisional approval in Member States alongside applications for EU approval have been discontinued unless there are significant delays in the EU decisions.

7.10 Regulation (EU) No. 528/2012, which came into force on 1 September 2013, continues to offer a derogation to Member States allowing the issue of provisional authorisations for biocidal products, following a complete evaluation of the active substance and agreement of the Member States receiving an application for provisional authorisations that the product is likely to meet the requirements of the regulation.

7.11 These developments mean the role for the UK regulator (the Health and Safety Executive, reporting to the Ministers) and for independent expert advice to support and challenge this work has changed.

7.12 The proposed abolition of the ACPs as statutory NDPBs, and their reconstitution as a single expert scientific committee, is an outcome of the Government's 2010 review of public bodies. The Cabinet Office review aimed to increase the transparency and accountability of public bodies and to reduce their number and cost. Each body was tested under three criteria detailed in 4.4.

7.13 The ACPs were tested under these criteria and it was concluded that there was a continuing need for their work. However, it was concluded

that this could be better delivered through a different model. On 14 October 2010, Defra announced its intention to reconstitute the majority of its advisory bodies as committees of experts. The announcement read as follows.

“Recognising their excellent work for Defra, the department has reviewed the role and functions of its scientific and technical advisory bodies to determine the scope for rationalisation where it is relevant and appropriate to do so. The number of Defra’s scientific and technical advisory NDPBs is to be reduced significantly, with the majority of them becoming expert committees to the department. This will improve transparency and accountability, provide for stronger co-ordination whilst allowing Defra to have continued access to independent, authoritative and cost-effective advice to support its policies.”

- 7.14 Also in 2010, Professor Charles Godfray led a review of Defra’s Science Advisory Council (SAC)<sup>15</sup>. Following that review and informed by advice from the Government Chief Scientific Adviser (CSA), Professor Sir John Beddington, the then Secretary of State for Environment, Food and Rural Affairs, Caroline Spelman, made a statement to Parliament on 26 January 2011<sup>16</sup>.
- 7.15 The SAC remained a Non-Departmental Public Body with a strengthened role in supporting the CSA in the oversight of all Defra expert scientific committees. The reformed SAC provides independent advice to Ministers and the CSA on the science underpinning a wide range of Defra policies. The new SAC and the CSA have an oversight function for Defra’s science bodies.
- 7.16 The Government has given a commitment that, where Departments are considering reconstituting bodies as expert scientific committees, they should put in place a number of safeguards. Such committees must provide independent advice in line with the Government’s Principles for Scientific Advice<sup>17</sup> and the Code of Practice for Scientific Advisory Committees<sup>18</sup>. Escalation routes must be in place to ensure advice from expert scientific committees can be submitted directly to Ministers, as appropriate. These requirements will be met in establishing the successor to the ACPs and will be written into the draft terms of reference.
- 7.17 The ACPs must be abolished before their successor is put in place. The successor body will continue to provide expert, impartial and

<sup>15</sup> <http://sac.defra.gov.uk/2010/11/02/scientific-advice-to-defra-praised-in-independent-review-2-november-2010/>.

<sup>16</sup> <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110126/wmstext/110126m0001.htm#11012644000014>

<sup>17</sup> <https://www.gov.uk/government/publications/scientific-advice-to-government-principles-of-scientific-advice-to-government>

<sup>18</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/278498/11-1382-code-of-practice-scientific-advisory-committees.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278498/11-1382-code-of-practice-scientific-advisory-committees.pdf)

independent advice to the Ministers and to the FSA. In respect of Defra's interests, it will operate within an enhanced framework for scientific bodies in Defra, and with new terms of reference which reflect changes in the regulatory landscape for pesticides since the ACPs were established.

- 7.18 Following the announcement of the review referred to at 7.13 above, Defra's Secretary of State wrote to each of the Devolved Administrations to outline the overall plans for changing the status of a number of Defra advisory bodies. In her letter, she recognised that arrangements would be needed to ensure that the Devolved Administrations and all UK Government Departments with an interest in pesticides policy and regulation had access to the new body and to the advice it will provide in the same way as at present.
- 7.19 Before the ACPs can be abolished, the Public Bodies Act 2011 requires: consultation with the Committee itself and other interested parties; scrutiny by the UK Parliament; and the consent of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. In addition, as the proposal is to abolish a cross-border body, Defra is required to consult with Scottish Ministers in accordance with section 88(2) of the Scotland Act 1998 and with Welsh Ministers in accordance with section 63(1) of the Government of Wales Act 2006.
- 7.20 Following official level discussions, Defra Ministers will shortly write to all Devolved Ministers seeking their agreement to the proposed changes to the ACPs, providing information on how the new body is intended to work and asking them to request the consent of their Assembly/Parliament. The Devolved Administrations – and all interested Whitehall Departments - will be fully engaged with all aspects of the successor body. In brief, this means that all will:
  - Participate in the appointment process and agree appointments;
  - Agree changes to the terms of reference including if there was ever a proposal to abolish the new committee;
  - Receive and be able to commission advice from the new committee;
  - Be able to nominate a representative ("Assessor") to attend meetings and receive papers and advice from the committee.

## **8. Satisfying the requirements of section 8(1) of the Public Bodies Act 2011**

- 8.1 Section 8 of the Public Bodies Act 2011 states that a Minister may make an order under that Act only where it is considered that the order serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. The Minister has reviewed the proposed legislative abolition of the ACPs and considers that this Order serves the purpose of improving the exercise of public functions in section 8(1) of the 2011 Act, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers.

- 8.2 The public function in question is set out at paragraphs 7.2 and 7.3 above. In summary it is the provision of advice to the Ministers on pesticides regulation and approvals. There are a number of strong features of the current ACPs, which include their independence, right of direct access to the Ministers, technical expertise and transparency. The proposed successor arrangements – which will cover the current range of issues – will retain these strengths. However, there will be several areas of improvement, arising in particular from the greater flexibility enabled by the new body's non-statutory nature. These are outlined in paragraphs 8.3 to 8.13 below.

### Efficiency

- 8.3 The abolition of the ACPs and their replacement with an expert committee will be more efficient. This is because the requirement to consult the ACPs currently set out in the Food and Environment Protection Act 1985 is very broad. The proposed expert committee would be able to offer advice on any matter within its remit. But it would not routinely be asked for advice to support decisions which do not raise new or contentious issues. This will enable the new committee to devote more time to the most important questions.

### Effectiveness

- 8.4 There are two broad ways in which the new arrangements should be more effective than those they replace. First, a non-statutory basis will provide greater flexibility, particularly because terms of reference can be updated to reflect the changing EU regulatory regimes. Second, the new body will take its place in a more coherent system for science advice across Defra. The work of the new body will fall under new arrangements to strengthen the science and evidence base to support policy across Defra. The new body will operate within a closer network of expert bodies overseen by Defra's CSA, supported by his SAC. This will provide greater co-ordination of scientific advice and evidence gathering within the Department, making the process as a whole more effective and flexible. These arrangements sit within wider Government reform for Arms-Length Bodies and measures led by the Government's Chief Scientific Adviser.
- 8.5 One difficulty with the current static statutory arrangements derives from the fact that the regulatory systems for pesticides now derive from two EU regimes on plant protection products (PPPs - agricultural, horticultural, amenity and garden pesticides) and biocidal products. Under these two regimes, decisions on the approval of active substances are taken at the EU level. Product authorisations are determined nationally but according to common rules. Even authorisation is taking an increasingly transnational dimension with decisions being taken on a European 'zonal' basis for PPPs and the possibility of 'Union authorisations' for biocides. Mutual recognition of authorisations in between member states is a common efficiency measure for both PPPs and biocides under their respective regulations.



- 8.6 All this means that there is less need for UK specific expert advice on UK applications for approval. There remains a strong need for independent advice on broader risk assessment and risk management issues. However, the role is changed and the bodies carrying it out need to be adaptable in the face of constantly developing EU regimes.
- 8.7 Non-statutory advisory bodies are inherently more flexible and nimble and can be adapted, for example to acquire new terms of reference. The change of status to the ACPs will allow the successor body to take on new, more flexible and strategic terms of reference. It will then be more straightforward to adapt the terms of reference in future to meet currently unforeseen changes in demand.

#### Economy

- 8.8 The costs of the ACPs are modest. Defra pays around £25,000 per year for administering meetings, meeting Members' travel and subsistence costs, and for recruitment campaigns. The costs to Defra of the Secretariat based in the Health and Safety Executive amount to around £40,000 per year. Similar amounts are also drawn from industry funding. The costs of the successor expert committee are likely to be slightly less. The size of the committee is likely to be similar to the ACPs but, as a result of the changes outlined at 8.3, the new committee may not need to meet so frequently. Minor savings in the costs of recruiting members are expected for the successor body, as it is anticipated there will no longer be a requirement to involve independent Office of the Commissioner for Public Appointments (OCPA) assessors.
- 8.9 There are no potential jobs impacts arising from this proposal – the size of the very small Secretariat for this body (within the Health and Safety Executive) will remain unchanged.
- 8.10 Immediate transitional costs will be negligible. The existing and proposed Committees will require a similar range of expertise in meeting the demand for the type of advice required in the near future. Current members of the ACPs are fully aware that, subject to the completion of the transition, their membership will carry across to the successor body.

#### Accountability to Ministers

- 8.11 Across the Defra evidence network, the reconstitution of advisory NDPBs as expert scientific committees has been focussed on improving transparency and securing appropriate accountability to Ministers.
- 8.12 The new expert committee will retain the high degree of independence and transparency that characterised the ACPs. It will carry out an

independent and technical advisory function in a sensitive area which Government requires, which society values, and which is best delivered through other arrangements, for which the status of expert scientific committee best describes its role and function.

- 8.13 The new expert committee will bring together independent scientific experts and will work independently of Government and in an open manner. It will provide advice to the Ministers and to the FSA. It will be able to put advice direct to any of the Ministers where the Members consider this appropriate. The Ministers will be closely engaged with the committee's work, commissioning some of that work and considering its advice. They will also be involved in recruiting and appointing committee members. They will not control the committee's operations, which will remain at arms' length.

## **9. Compliance with the conditions in section 8(2) of the Public Bodies Act 2011**

- 9.1 Section 8(2) of the Public Bodies Act 2011 provides that a Minister may make an order under sections 1 to 5 only if the Minister considers that—

- (a) the order does not remove any necessary protection, and
- (b) the order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

- 9.2 The Minister considers that the conditions in Section 8(2) are met. The ACPs statutory functions as advisory bodies have no impact on personal protections, rights or freedoms. It follows that abolition of the ACPs functions will not remove any necessary protection nor prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise. The proposals would not impose any new costs, administrative burdens, or information obligations on companies or third sector organisations.

- 9.3 The Government intends to reconstitute the committee as an expert scientific committee to continue its work after the draft Order comes into force. This will maintain the flow, openness and independence of advice.

## **10 Parliamentary activity during passage of the Public Bodies Act**

- 10.1 The debates that took place during the passage of the Public Bodies Bill are summarised below. Hyperlinks are provided to the full Hansard transcripts.

- 10.2 **During the Committee Stage of the Public Bodies Bill, 2nd sitting, 29 November 2010, in the House of Lords an amendment was tabled by Lord Whitty<sup>19</sup>** seeking to remove the ACPs from Schedule 1 of the Bill. The proposer expressed concern at the prospect that these

<sup>19</sup> <http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/101129-0003.htm>

bodies, together with the Advisory Committee on Hazardous Substances (ACHS), might be abolished and not replaced. Lord Henley, the then Defra Minister, explained why abolition was proposed and how the issues covered by the Committees would be covered in the future. The amendment was withdrawn.

10.3 **During the Report Stage of the Public Bodies Bill, 1<sup>st</sup> sitting, 23 March 2011, in the House of Lords an amendment was tabled by Baroness Quin<sup>20</sup>** seeking to remove the Advisory Committee on Pesticides from Schedule 1 of the Bill. The proposer again asked why the ACPs and ACHS were to be abolished, saying that they had done good work on sensitive public issues. Lord Henley described the proposed arrangements and how the proposed changes fitted with those planned for other Defra science advisory bodies. The amendment was withdrawn.

10.4 **During the Committee Stage of the Public Bodies Bill, 2nd sitting, 8 September 2011, in the House of Commons an amendment was tabled by Roberta Blackman-Woods and Jon Trickett<sup>21</sup>** seeking to remove the Advisory Committee on Pesticides from Schedule 1 of the Bill. Dr Blackman-Woods asked how the proposed expert committee would do a better job than the existing committees. David Heath, the then Defra Minister, explained how the arrangements would work and why they would be more effective. The amendment was withdrawn.

## 11 Consultation outcome

11.1 In accordance with Section 10 of the Public Bodies Act, a public consultation inviting comments on the Government's proposals on the future of the ACPs was carried out. It was launched on 8 March and closed on 15 May 2012. The three options in the consultation were:

- Option A Maintain the status quo - the ACPs continue as statutory, advisory Non-Departmental Public Bodies;
- Option B Abolish the ACPs and put nothing in their place;
- Option C Abolish the ACPs and reconstitute as an expert scientific committee.

11.2 The consultation explained that the Government's preferred option was to abolish the Committees as statutory NDPBs and to reconstitute them as a new expert scientific committee. However, the Government wished to consider alternative approaches and to hear respondents' views on their proposals.

<sup>20</sup> <http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110323-0001.htm#11032365000810>

<sup>21</sup> <http://www.publications.parliament.uk/pa/cm201011/cmpublic/publicbod/110908/pm/110908s01.htm>

- 11.3 Forty five responses were received. Thirty responses were received from the farming/growing industry and businesses, six from government advisory bodies and nine from the public or Non-Government Organisations (NGOs). Of these:
- No respondent supported Option B (to abolish the ACPs and put nothing in their place).
  - Twelve respondents stated specifically that they are opposed to the abolition of ACPs and wished to maintain the status quo (Option A) but some suggested that they could accept Option C if the new body were constituted so as to address their concerns (which, as set out at paragraph 11.6 below, is the intention).
  - Twenty four respondents supported the Government's preferred option (Option C) to abolish the ACPs and reconstitute as an expert scientific committee. However, some respondents in favour of this option attached a number of caveats in their support of its abolition.
  - Eight respondents did not favour one option over the other, but provided comments on the remit and operation of the committee.
  - One respondent suggested an alternative option - to abolish the committee and replace it with a new committee advising on the overall aspects of pest management with the priority on non-chemical pest control.
  - Many respondents highlighted similar views as to the strengths of the ACPs and the qualities which they would wish to see replicated in any expert committee. These included: independence; impartiality; scientific expertise; transparency; a direct line to Ministers; and the ability to initiate its own lines of enquiry.
- 11.4 The Minister wrote to the Chair of the ACPs on 16 October 2010 to inform them of the intention to abolish. The Committees were consulted, as required by Section 10(1)(a) of the PBA, on the proposal to abolish and were also consulted (at their 15 May 2012 meeting) on the remit and terms of reference of the proposed successor body.
- 11.5 In view of the support expressed during this consultation for the Government's preferred option, Defra is proceeding as planned to lay a draft Order to abolish the ACPs. The Government will work with the ACPs on the transitional and subsequent on-going arrangements.
- 11.6 The consultation showed strong support for a body to provide expert, impartial and independent advice on pesticides to the Ministers and FSA. The Government reaffirms that the proposed successor body to the ACPs would continue to take this role. The Committee would operate in line with the Government's Principles for Scientific Advice and the Code of Practice for Scientific Advisory Committees.
- 11.7 The new committee would normally provide advice to officials supporting the Ministers on request but, as at present, would be entitled to choose its own subjects for consideration and to put advice direct to the Ministers.

- 11.8 The new committee would draw together an appropriate range of experts – and the Government will invite the current members to transfer to the new body. Future members would be chosen in a similar way as at present (although appointments would be made by a senior official rather than by a Minister). The new committee would not be regulated by the Code of Practice of the Commissioner for Public Appointments but recruitment would be carried out in line with the guidance and principles on public appointments set by the Office of the Commissioner for Public Appointments. Members would be expected to act impartially and to follow the seven ‘Nolan’ principles of public life.
- 11.9 The Government’s response to the consultation was published on 14 November 2014 and can be found on the Single Government Website at <https://www.gov.uk/government/consultations/the-future-of-the-advisory-committee-on-pesticides>

## **12. Guidance**

- 12.1 This instrument abolishes a body providing expert advice to Ministers. It is not necessary to publish guidance for stakeholders or enforcement agencies in relation to this measure.

## **13. Impact**

- 13.1 This Order has no impact on business or civil society bodies. It does not impose any new costs, administrative burdens or information obligations. No Impact Assessment has therefore been prepared for this instrument.
- 13.2 The abolition of the ACPs and replacement with an expert committee will retain a number of good features of the ACPs but will produce improvements in effectiveness and efficiency.
- 13.3 The impact on the public sector is essentially neutral as a successor body will be established with the same level of Secretariat support from the Chemicals Regulation Directorate (a directorate of the Health and Safety Executive). Transitional costs will be negligible and ongoing savings will be small.
- 3.4 An Equality Impact Assessment initial screening was carried out for the ACPs. This showed no equality impact – ACP Members and the Secretariat will continue in similar roles as at present.

## **14. Regulating small businesses**

- 14.1 The legislation does not affect small businesses.

## **15. Monitoring and review**

- 15.1 The body which replaces the ACP will continue to work openly, and papers for meetings will continue to be available with agendas and minutes routinely published and detailed papers available on request in line with freedom of information legislation (Freedom of Information Act and Environmental Information Regulations). Members of the public, specialist press and other stakeholders will be able to attend annual open meetings. The terms of reference for the new committee will be kept under review, in line with Cabinet Office guidelines for such bodies. The openness of the replacement body will continue to be kept under review in line with the Code of Practice for Scientific Advisory Committees. The oversight of the successor committee by the Defra CSA, supported by the Defra SAC, will provide an additional level of peer review and scrutiny.

**16. Contact**

- 16.1 David Williams at the Department for Environment, Food and Rural Affairs (Tel. 01904 455363 or e-mail [davidp.williams@defra.gsi.gov.uk](mailto:davidp.williams@defra.gsi.gov.uk)) can answer any queries regarding the instrument.