



The Scottish Parliament  
Pàrlamaid na h-Alba

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c/o Clerk to the Committee  
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***By email only***

11 December 2019

Dear Cabinet Secretaries,

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

The Committee considered this Bill, in so far as it relates to its remit, at its meeting yesterday morning and members agreed to seek further information on the following points—

### *Transition from EU CAP to UK CAP*

The EU CAP system provides for regional discretion over some aspects (such as Greening payments under pillar 1 and the Agri-Environment Climate Scheme (AECS) under pillar 2); these aspects are administered by the SG.

- 1. Has the UKG committed to continuing this regionalised approach whereby, post-exit, the SG will administer the UK CAP as much as it relates to devolved competence?**
- 2. To what extent is Scottish Ministers' scope to use the powers set out in the Bill dependent on this regionalised approach?**

The Minister for Public Finance and Digital Economy told the Committee on 26 November that “the UKG is still to provide clarity on future arrangement for EU funding”.

- 3. What options would the SG have if the UKG does not provide a comparative level of funding for UK CAP?**

CAP funding is not part of the block grant and is, therefore, not covered by the Barnett formula. It is not clear whether the UKG would include CAP funding in the block grant in future or if Barnett would be used to calculate any adjustments to these budget lines post-exit.<sup>1</sup>

4. **Has the UKG indicated whether funding for UK CAP would continue to be allocated on the same basis as the current arrangements or whether it may be included in the block grant?**
5. **What is the SG's preferred position for the funding arrangements for the UK CAP?**

If the UK reaches a withdrawal agreement with the EU, the UK would remain a member of EU CAP until the end of the transition period (currently 31 December 2020).

6. **If the UK leaves on 31 January 2020 with a deal, how would the SG intend to use the powers set out in the Bill?**
7. **How would an agreement on the future relationship with the EU at the end of the transition period impact on how Scottish Ministers could use the powers in the Bill?**

#### *Impact of UK context on SG policy*

It is not clear to what extent UK agricultural and environmental policy decisions would impact on Scottish Ministers' ability to exercise either their powers under retained EU law or those proposed in the Bill. For example, what would be the impact of a UK Agriculture Bill and Environment Bill.

8. **What consideration has the SG given to the impact on this Bill if the next UKG was to introduce a new Agriculture Bill and Environment Bill?**

The Scottish and UK Governments have previously agreed that a common framework for agricultural support (including CAP) may be necessary following exit.

9. **To what extent would Scottish Ministers' ability to exercise the powers proposed in the Bill be constrained by a UK common framework for agricultural support?**

The UKG would negotiate and sign international agreement and trade deals on behalf of the UK. It is expected these agreements would determine how the UK internal market would operate.

10. **What role does the SG expect to have in relation to international agreements/trade deals and the UK internal market?**
11. **What arrangements should be put in place to enable the Scottish Parliament to scrutinise these discussions and their outcome?**
12. **To what extent do Scottish Minister's expect the UK internal market and trade deals agreed by the UKG to impact on their ability to exercise powers under the Bill?**
13. **Given the uncertainty about all these external factors, why has the SG decided to proceed with introducing the Bill at this time?**

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<sup>1</sup> The Committee notes comments made by the Scottish Biodiversity Information Forum made to the [REC Committee on 27 November](#) (col. 15) that, "if the division of money across the UK came down to application of the Barnett formula, that would not be great for biodiversity. Scotland holds more and richer populations of important threatened species, so it has many more of them to conserve and many more are left here than exist in other parts of the UK."

*Impact of the Bill on environmental policy*

14. **What modifications did the Stability and Simplicity consultation suggest should be made to improve environmental delivery, e.g. by changes to Greening payments and the AECS? Will the SG make these modifications – and, if not, why?**
15. **Given the current challenges with carrying on the AECS – as outlined by Fergus Ewing MSP on 24 October 2019 – would this Bill enable the continuation of environmental incentives in the short-to-medium-term?**
16. **What other elements of CAP in the ECCLR remit would be impacted by this Bill?**

The accompanying documents state the SG would not use the powers provided by the Bill to make significant changes to any devolved elements of a UK CAP. In evidence to the RECC, however, an SG official stated that a reason for taking the powers proposed in the Bill was to allow the SG to make changes [such as moving pillar 1 payments to pillar 2] “although we [the SG] have no plans to do something as radical as that”. The Committee noted that, although the current SG may not have such plans, the powers provided by the Bill would be available to future governments.

17. **What is the SG’s response to possible concerns that the powers under the Bill would allow this, or a future, SG to make significant changes to the CAP via secondary legislation?**

*Long-term Scottish environment policy*

There are significant policy challenges around climate change, biodiversity and land reform, amongst others and it is not clear how a five-year period of stability and simplicity would impact on the SG’s ability to meet these challenges.<sup>2</sup>

18. **In terms of environmental policy, what would be the impact of the proposed five-year period of stability and simplicity?**
19. **What consideration has the SG given to a more ambitious response?**

Given the impact of the Bill on Scottish Ministers’ environmental objectives, the Committee may want to consider whether there is a tension between agricultural and environmental policy and stakeholder needs and demands.

20. **Is there a risk that powers exercised under the Bill to address agricultural policy could negatively impact on environmental policy?**
21. **Why doesn’t the Bill set out some overarching principles to guide the direction of travel of any modifications made?**

The SG has stated the farming and food production future policy group is considering recommendations for future policy development for farming and food production to inform the long-term policy for agricultural support.

22. **To what extent does the remit of the farming and food production future policy group require it to consider the environmental impact of farming and food production?**

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<sup>2</sup> Again, the Committee notes the comments made by the Scottish Biodiversity Information Forum to the [REC Committee on 27 November](#) (col. 8) that the report of the Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services “makes it clear that, without a transformative change in these types of policies, there is no policy scenario under which we will reverse the declines in biodiversity. That is not writ large in the bill, which does not really reflect the contribution of the agricultural sector to those biodiversity declines.”

The SG has stated the Bill's powers would only be required in the "short to medium term" (paragraph 4) and for a five-year transition period.

**23. Why does the Bill not include a 'sunset' clause for these powers?**

It would be helpful if you could provide a **response by Friday 17 January**.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gillian Martin".

Gillian Martin MSP

Convener

Environment, Climate Change and Land Reform Committee