Agriculture (Retained EU Law and Data) (Scotland) Act 2020

2020 asp 17

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 26th August 2020 and received Royal Assent on 1st October 2020

An Act of the Scottish Parliament to confer powers to modify certain retained EU law relating to agriculture, including power to make new provision about marketing standards in relation to agricultural products and the classification of carcasses; to make provision about the collection and processing of information connected with food supply chains and agricultural activities; and for connected purposes.

PART 1

RETAINED EU LAW

Introductory

1 Defined terms

(1) This section defines or explains terms used in this Part.

(2) The "main CAP legislation" means—

(a) the Direct Payments Regulation,

(b) the Rural Development Regulation,

(c) the Horizontal Regulation,

(d) the Common Provisions Regulation so far as relating to the operation of the Rural Development Regulation,

(e) any delegated or implementing Regulations made (whether by the Commission or the Council) under any of the Regulations referred to in paragraphs (a) to (d),

(f) any subordinate legislation implementing or otherwise relating to any of the Regulations referred to in paragraphs (a) to (e).

(3) The "Direct Payments Regulation" means Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

for direct payments to farmers under support schemes within the framework of the common agricultural policy.

(4) The "Rural Development Regulation" means Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development.

(5) The "CMO Regulation" means Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.

(6) The "Horizontal Regulation" means Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy.

(7) The "Common Provisions Regulation" means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund etc.

(8) "Modify" includes amend, revoke and repeal (and related expressions are to be construed accordingly).

Commencement Information
I1 S. 1 in force at 5.11.2020 by S.S.I. 2020/315, **reg. 2(a)**

Direct payments, rural development support etc.

2 Power to simplify or improve CAP legislation

(1) The Scottish Ministers may by regulations modify the main CAP legislation.

(2) The Scottish Ministers may only make modifications under subsection (1) that they consider would simplify or improve the operation of the provisions of the legislation.

(3) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

Commencement Information
I2 S. 2 in force at 5.11.2020 by S.S.I. 2020/315, **reg. 2(b)**

3 Power to provide for the operation of CAP legislation beyond 2020

(1) The Scottish Ministers may by regulations modify the main CAP legislation for the purpose of securing that the provisions of the legislation continue to operate in relation to Scotland for one or more years beyond 2020.

(2) The power conferred by subsection (1) includes power to make provision for determining, in respect of any year, a national ceiling of the kind referred to in Article 6 of the Direct Payments Regulation to be applicable in relation to Scotland for the year.

(3) Provision made by virtue of subsection (2)—

(a) must require a determination in respect of a year to be published as soon as practicable after it has been made, and

(b) may confer functions on any appropriate person in connection with, or with the making of, a determination in respect of a year.

(4) Regulations under this section are subject to the affirmative procedure.

Commencement Information

I3 S. 3 in force at 5.11.2020 by S.S.I. 2020/315, **reg. 2(c)**

4 Power to modify financial provision in CAP legislation

(1) The Scottish Ministers may by regulations modify any provision of the main CAP legislation relating to—

(a) the setting or determining of ceilings on the amounts of any payments or expenditure for any purpose under the legislation,

(b) the reallocation or transfer of amounts or proportions of such ceilings between or among different purposes under the legislation.

(2) The provisions of the main CAP legislation that may be modified under subsection (1) include in particular—

(a) Articles 6, 7, 11 and 14 of the Direct Payments Regulation,

(b) Articles 58 and 59 of the Rural Development Regulation,

(c) Articles 30 and 32 of the Horizontal Regulation.

(3) Regulations under this section are subject to the affirmative procedure.

(4) In this section, “ceilings” includes limits and other restrictions.

Commencement Information

I4 S. 4 in force at 5.11.2020 by S.S.I. 2020/315, **reg. 2(d)**

5 Duration of the powers under sections 2, 3 and 4

(1) No regulations may be made under section 2(1), 3(1) or 4(1) after 7 May 2026.

(2) Subsection (1) does not affect the continuation in force of any regulations made under section 2(1), 3(1) or 4(1) before that date.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

VALID FROM 01/01/2021

Market intervention

6 Power to modify CAP legislation on public intervention and private storage aid

(1) The Scottish Ministers may by regulations modify the legislation governing public intervention and aid for private storage.

(2) The Scottish Ministers may only make modifications under subsection (1) for the following purposes—
- (a) securing that provisions of such legislation cease to apply for a period,
- (b) securing that provisions of such legislation cease to have effect,
- (c) simplifying or improving the operation of provisions of the legislation.

(3) In this section, the "legislation governing public intervention and aid for private storage" means—
- (a) Articles 8 to 21 of the CMO Regulation,
- (b) the following so far as relating to public intervention or aid for private storage—
  - (i) Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products,
  - (ii) Commission Delegated Regulation (EU) 2016/1238 of 18 May 2016 supplementing the CMO Regulation with regard to public intervention and aid for private storage,
  - (iii) Commission Implementing Regulation (EU) 2016/1240 of 18 May 2016 laying down rules for the application of the CMO Regulation with regard to public intervention and aid for private storage,
  - (iv) Commission Delegated Regulation (EU) 2017/1182 of 20 April 2017 supplementing the CMO Regulation as regards the Union scales for the classification of beef, pig and sheep carcasses and as regards the reporting of market prices of certain categories of carcasses and live animals.

(4) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

VALID FROM 01/01/2021

Aid for fruit and vegetable producer organisations

7 Power to simplify or improve CAP legislation on aid for fruit and vegetable producer organisations

(1) The Scottish Ministers may by regulations modify the legislation governing aid for fruit and vegetable producer organisations.

(2) The Scottish Ministers may only make modifications under subsection (1) that they consider would simplify or improve the operation of the provisions of the legislation.

(3) In this section, the "legislation governing aid for fruit and vegetable producer organisations" means—

(a) Articles 32 to 38 of the CMO Regulation,

(b) the following so far as relating to aid for fruit and vegetable producer organisations—

(i) Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing the CMO Regulation with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing the Horizontal Regulation with regard to penalties to be applied in those sectors,

(ii) Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of the CMO Regulation with regard to the fruit and vegetables and processed fruit and vegetables sectors.

(4) Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

VALID FROM 01/01/2021

Food Promotion Scheme

8 Power to revoke the EU Food Promotion Scheme

(1) The Scottish Ministers may by regulations modify the legislation establishing the EU Food Promotion Scheme for the purpose of securing that it ceases to have effect in relation to Scotland.

(2) The "legislation establishing the EU Food Promotion Scheme" means—

(a) Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries,

(b) Commission Delegated Regulation (EU) 2015/1829 of 23 April 2015 supplementing Regulation (EU) 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries,

(c) Commission Implementing Regulation (EU) 2015/1831 of 7 October 2015 laying down rules for application of Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries.

(3) Regulations under this section are subject to the negative procedure.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

VALID FROM 01/01/2021

Marketing standards and carcass classification

9 Marketing standards

(1) The Scottish Ministers may by regulations make provision about the standards with which the following products must conform ("marketing standards"), that is products which—
- (a) are listed in section 10(1), and
- (b) are marketed in Scotland.

(2) The provision that may be made under subsection (1) includes in particular provision for or about—
- (a) technical definitions, designation and sales descriptions,
- (b) classification criteria such as grading into classes, weight, sizing, age and category,
- (c) the species, plant variety or animal breed or the commercial type,
- (d) presentation, labelling, packaging, rules to be applied in relation to packaging centres, marking, years of harvesting and use of specific terms,
- (e) criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content,
- (f) specific substances used in production, or components or constituents, including their quantitative content, purity and identification,
- (g) the type of farming and production method, including oenological practices,
- (h) coupage of must and wine (including definitions of those terms), blending and restrictions on blending,
- (i) the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport,
- (j) the place of farming or origin, excluding poultry meat and spreadable fats,
- (k) restrictions as regards the use of certain substances and practices,
- (l) specific use of products,
- (m) the conditions governing—
  - (i) the disposal, holding, circulation and use of products not in conformity with the marketing standards, and
  - (ii) the disposal of by-products,
- (n) the use of terms communicating value-added characteristics or attributes.

(3) Regulations under subsection (1) may include provision about enforcement, including in particular provision—
- (a) about the provision of information,
- (b) conferring powers of entry,
- (c) conferring powers of inspection, search and seizure,
- (d) conferring powers to restrict the movement of anything,
- (e) about keeping records,
- (f) imposing monetary penalties,
- (g) creating offences,

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(h) about appeals,

(i) conferring functions, including functions involving the exercise of a discretion, on a person.

(4) Regulations under this section are subject to the affirmative procedure.

(5) Before laying a draft of a Scottish statutory instrument containing regulations under this section before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider are representative of the interests of persons likely to be affected by the regulations as they consider appropriate.

10 Marketing standards: agricultural products

(1) The products referred to in section 9(1)(a) are products falling within any of the following—

(a) entries (a) to (f) in the table in Part XVI of Annex I of the CMO Regulation (milk and milk products),

(b) paragraphs (a) to (c) in point I of Part VII of Annex VII of the CMO Regulation, where the product has a fat content of at least 10% but not more than 90% by weight (spreadable fats),

(c) the table in Part XV of Annex I of the CMO Regulation, but excluding any entry in the table for live animals (beef and veal),

(d) the table in Part XX of Annex I of the CMO Regulation, including any entry in the table for live poultry (poultry and poultry meat),

(e) the table in Part XIX of Annex I of the CMO Regulation (eggs and egg products),

(f) the table in any of Parts IX to XI of Annex I of the CMO Regulation (fruit and vegetables, other than olives),

(g) the table in Part VII of Annex I of the CMO Regulation (olive oil and table olives),

(h) the table in Part VI of Annex I of the CMO Regulation (hops),

(i) the table in Part XII of Annex I of the CMO Regulation (wine),

(j) the definition of "aromatised wine products" in Article 3 of the Aromatised Wine Regulation (aromatised wine).

(2) In subsection (1)(j), the "Aromatised Wine Regulation" means Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products.

(3) The Scottish Ministers may by regulations amend this section so as to—

(a) add or remove an agricultural product,

(b) alter the description of an agricultural product listed in subsection (1).

(4) Regulations under this section are subject to the affirmative procedure.

11 Carcass classification

(1) The Scottish Ministers may by regulations make provision about the classification, identification and presentation of bovine, pig and sheep carcasses by slaughterhouses in Scotland.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(2) Regulations under this section may include provision about enforcement, including in particular provision—
- (a) about the provision of information,
- (b) conferring powers of entry,
- (c) conferring powers of inspection, search and seizure,
- (d) conferring powers to restrict the movement of anything,
- (e) about keeping records,
- (f) imposing monetary penalties,
- (g) creating offences,
- (h) about appeals,
- (i) conferring functions, including functions involving the exercise of a discretion, on a person.

(3) Regulations under this section are subject to the affirmative procedure.

(4) Before laying a draft of a Scottish statutory instrument containing regulations under this section before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider are representative of the interests of persons likely to be affected by the regulations as they consider appropriate.

12 Marketing standards and carcass classification: consequential amendments and savings

The schedule—
- (a) modifies the CMO Regulation in consequence of sections 9 and 11, and
- (b) makes saving provision in connection with those modifications.

VALID FROM 01/12/2020

PART 2

COLLECTION AND PROCESSING OF DATA

13 Defined terms

(1) This section defines certain expressions for the purposes of this Part.

(2) "Agricultural activity" has the same meaning as in Article 4(1)(c) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.

(3) "Animal" means a vertebrate (other than a human) or invertebrate but does not include fish.

(4) An "agri-food supply chain" is a supply chain for providing individuals with items of food or drink for personal consumption where the items consist of or include, or have been produced using (directly or indirectly and whether or not exclusively), the whole or part of—

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(a) anything grown or otherwise produced in carrying on agriculture,
(b) any animal kept in carrying on agriculture,
(c) any animal or other thing (other than fish) taken from the wild.

(5) The persons in an agri-food supply chain are—
(a) the individuals referred to in subsection (4) (the "ultimate consumers"),
(b) the persons carrying on the agriculture or (as the case may be) taking the things from the wild, and
(c) any other person in the supply chain between those persons and the ultimate consumers.

(6) The persons closely connected with an agri-food supply chain are—
(a) any person supplying seeds, stock, equipment, feed, fertiliser, pesticides, medicines or similar items to the persons referred to in subsection (5)(b) for use in the agriculture or taking,
(b) any person providing to the persons referred to in subsection (5)(b) or (c) services relating to—
(i) the health of animals or plants involved in the supply chain,
(ii) the safety or quality of the food or drink to be provided to the ultimate consumers,
(c) any person carrying on activities capable of affecting a matter mentioned in sub-paragraph (i) or (ii) of paragraph (b), and
(d) bodies representing persons within paragraphs (b) or (c) of subsection (5) or paragraphs (a), (b) or (c) of this subsection.

(7) Activities of the kind mentioned in subsection (6)(c) are to be treated for the purposes of section 14(1) and (2) as connected with the supply chain, but this does not limit the generality of what is meant by "connected" with the supply chain.

(8) "Processing", in relation to information, means an operation or set of operations which is performed on information or on sets of information such as—
(a) collection, recording, organisation, structuring or storage,
(b) adaptation or alteration,
(c) retrieval, consultation or use,
(d) disclosure by transmission, dissemination or otherwise making available,
(e) alignment or combination,
(f) restriction, erasure or destruction,
and related expressions such as "processed" are to be construed accordingly.

(9) In this section—
"agriculture" includes any growing of plants or keeping of animals for the production of food or drink,
"plants" includes fungi,
"seeds" includes bulbs and other things from which plants are grown.

(10) The Scottish Ministers may by regulations amend the definition of "agricultural activity".

(11) Regulations under subsection (10) are subject to the affirmative procedure.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

14 Agri-food supply chains: requirement to provide information

(1) The Scottish Ministers may require a person in, or closely connected with, an agri-food supply chain to provide information about matters connected with any of the person's activities connected with the supply chain so far as the activities take place in Scotland.

(2) The Scottish Ministers may by regulations impose requirements on persons in, or closely connected with, an agri-food supply chain to provide information about matters connected with any of the persons' activities connected with the supply chain so far as the activities take place in Scotland.

(3) Requirements under subsection (1) or (2) may not be imposed on individuals in the supply chain so far as they are in the supply chain by reason of them, or members of their household, being the ultimate consumers.

(4) Requirements under subsection (1) or (2) may not be imposed on persons in relation to any of their activities connected with the supply chain so far as the activity is carried on otherwise than for profit or reward.

(5) But subsection (4) does not apply where the activity being carried on otherwise than for profit or reward is capable of affecting a matter mentioned in section 13(6)(b)(i) or (ii).

(6) A requirement under subsection (1) must be made in writing.

(7) Regulations under subsection (2) are subject to the affirmative procedure.

15 Agricultural activity: requirement to provide information

(1) The Scottish Ministers may require a person who carries on an agricultural activity (and who is not a person in, or closely connected with, an agri-food supply chain) to provide information about matters connected with the activity so far as the activity takes place in Scotland.

(2) The Scottish Ministers may by regulations impose requirements on persons who carry on an agricultural activity (and who are not persons in, or closely connected with, an agri-food supply chain) to provide information about matters connected with the activity so far as the activity takes place in Scotland.

(3) Requirements under subsection (1) or (2) may not be imposed on persons in relation to an agricultural activity so far as the activity is carried on otherwise than for profit or reward.

(4) A requirement under subsection (1) must be made in writing.

(5) Regulations under subsection (2) are subject to the affirmative procedure.

16 Provision of information etc.

(1) This section applies to a requirement imposed under section 14(1) or (2) or 15(1) or (2).

(2) The requirement may specify—

(a) how and when the required information is to be provided, including in particular—

(i) the person to whom the information is to be provided (who may be a person other than the Scottish Ministers),
(ii) the form in which the information is to be provided,
(iii) the means by which it is to be provided,
(iv) the time or times at which or by when it is to be provided,

(b) the types of processing to which the information may be subjected,

(c) the form in which the information may be disclosed.

17 Purposes for which information may be required and processed

(1) This section applies to a requirement imposed under section 14(1) or (2) or 15(1) or (2).

(2) The requirement must specify the purposes for which the information is required and may be processed.

(3) Each purpose specified must be in or covered by the list of purposes in subsection (4).

(4) The list of purposes is—

(a) helping persons in agri-food supply chains or persons carrying on agricultural activities to—
(i) increase productivity,
(ii) manage risks (including, but not limited to, financial risks, non-financial trading risks, climatic risks, risks to animal or human health and risks of or from disease or pollution),
(iii) manage market volatility,

(b) promoting transparency or fairness in agri-food supply chains or agricultural activities,

(c) promoting the health, welfare or traceability of animals of a kind kept for the production of food, drink, fibres or leathers,

(d) promoting the health of plants,

(e) minimising adverse environmental effects of activities connected with agri-food supply chains or agricultural activities,

(f) minimising waste arising from activities connected with agri-food supply chains or agricultural activities,

(g) monitoring or analysing markets connected with agri-food supply chains or agricultural activities,

(h) monitoring or analysing—
(i) supply sources for food (including the availability to the public of food from those sources),
(ii) household expenditure on food,

(i) the purposes of any function of a public authority so far as it is a function relating to one or more of the following—
(i) agri-food supply chains,
(ii) activities connected with agri-food supply chains,
(iii) agricultural activities,
(iv) the health or welfare of people or animals,
(v) the health or quality of plants or soil,
(vi) the safety or quality of food or drink,

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(vii) waste,
(viii) environmental protection,
(ix) the countryside.

(5) In subsection (4)—
"plants" includes fungi,
"public authority" means a public authority—
(a) in any part of the United Kingdom,
(b) in a country or territory outside the United Kingdom.

18 Limitations on the processing of required information

(1) This section applies to information provided in response to a requirement imposed under section 14(1) or (2) or 15(1) or (2).

(2) The information may be processed for, and only for, purposes specified in the requirement in accordance with section 17.

(3) Subsection (2) applies to—
(a) the person to whom the information is provided, and
(b) any person to whom the information is disclosed.

(4) In the case of a person mentioned in subsection (3)(b), subsection (2) does not authorise processing contrary to the terms on which the information is disclosed.

(5) Where the requirement specifies the types of processing to which the information may be subjected, the information may not be subjected to other types of processing except in circumstances specified in the requirement.

(6) Subsections (7) and (8) apply if a person ("P") proposes to make a disclosure of the information.

(7) Where P proposes that the disclosure should be of the information otherwise than in anonymised form—
(a) P must consider whether the disclosure (if made in that form) would or might prejudice the commercial interests of any person, and
(b) if P considers that it would or might do so, the disclosure (if made) must be of the information in anonymised form unless the Scottish Ministers consider that it is in the public interest for the disclosure to be of the information in some other form (in which event the disclosure may be of the information in that other form).

(8) Where—
(a) subsection (7)(b) does not apply to the disclosure, but
(b) the requirement specifies the form in which the information may be disclosed,
the disclosure must not be of the information in any other form except in circumstances specified in the requirement.

19 Enforcement of information requirements

(1) The Scottish Ministers may by regulations make provision for or in connection with the enforcement of requirements imposed under section 14(1) or (2) or 15(1) or (2).

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(2) In subsection (1) "enforcement" includes in particular—
- (a) monitoring compliance,
- (b) investigating non-compliance,
- (c) dealing with non-compliance.

(3) The provision that may be made in regulations under subsection (1) includes in particular—
- (a) provision for the imposition of monetary penalties for non-compliance, including penalties—
  - (i) of a specified amount,
  - (ii) of an amount calculated in a specified manner,
  - (iii) of an amount, not exceeding a specified maximum or a maximum calculated in a specified manner, decided by a specified person or a person of a specified description,
  - (iv) by way of suspending or withholding payment of any amounts,
- (b) provision for the recovery of amounts due in respect of monetary penalties, including provision for any interest, set-off and security for payment,
- (c) provision about the giving of advice or warnings,
- (d) provision for the imposition of restrictions (including prohibitions) on carrying out activities,
- (e) provision for the acceptance of undertakings to take, or refrain from taking, particular actions,
- (f) provision giving persons functions in connection with enforcement of requirements,
- (g) provisions about review of, or appeals against, things done (including decisions made) in connection with enforcement of requirements.

(4) In subsection (3) and this subsection—

"specified" means specified in regulations under subsection (1),

"specified manner" includes in particular a manner framed by reference to a specified matter such as a person's profits, income or turnover.

(5) Regulations under subsection (1) are subject to the affirmative procedure.

20 Consequential repeals

Sections 78 to 81 of the Agriculture Act 1947 (power to obtain agricultural statistics etc.) are repealed.

PART 3

GENERAL

21 Regulations: supplementary

(1) A power of the Scottish Ministers to make regulations under this Act includes power to make—
- (a) different provision for different purposes,

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(b) incidental, supplementary, consequential, transitional, transitory or saving provision.

(2) The provision that may be made by virtue of subsection (1)(b) includes provision modifying any enactment.

(3) Regulations which—

(a) contain provision made by virtue of subsection (1)(b) that adds to, replaces or omits any part of the text of an Act, and

(b) would, apart from this subsection, be subject to the negative procedure,

are subject to the affirmative procedure.

(4) Regulations under this Act creating an offence may not provide for the offence to be punishable with imprisonment for a period exceeding—

(a) 5 years, in the case of a conviction on indictment,

(b) 12 months, in the case of a summary conviction.

(5) This section does not apply to regulations under section 26.

22 Requirement for new Scottish agricultural policy

(1) The Scottish Ministers must lay a report before the Scottish Parliament on progress towards establishing a new Scottish agricultural policy.

(2) A report under subsection (1) must include—

(a) the Scottish Ministers' policies and proposals as to—

(i) the sustainability of Scottish agriculture and its resilience to climate change,

(ii) the simplicity of any modified or future agricultural payment schemes,

(iii) the profitability of Scottish agriculture and the agri-food supply chain,

(iv) the support and encouragement to innovations and good business practice,

(v) the inclusion of new entrants,

(vi) the improvement of productivity of Scottish agriculture,

(b) an outline of any legislation that will be required to implement the policies and proposals mentioned in paragraph (a) and a timeline of when that legislation will be introduced,

(c) the details and result of any consultation undertaken on proposed policies and proposals and any required legislation under paragraph (b),

(d) any other matter related to Scottish agriculture that the Scottish Ministers consider appropriate.

(3) A report under subsection (1) must be laid before the Parliament no later than 31 December 2024.

(4) For the purposes of subsection (2)(b), reference to legislation being introduced means—

(a) the introduction of a Bill for an Act of the Scottish Parliament,

(b) the making, or laying before the Parliament of a draft, of regulations in exercise of powers in an Act of Parliament or an Act of the Scottish Parliament.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

23 Ancillary provision

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purpose of, in connection with or for giving full effect to this Act or any provision made under it.

(2) Regulations under this section may modify any enactment.

(3) Regulations under this section—

(a) are subject to the affirmative procedure if they contain provision that adds to, replaces or omits any part of the text of an Act,

(b) otherwise are subject to the negative procedure.

24 Interpretation and effect

(1) A reference in this Act to any EU regulation (within the meaning of Article 288 of the Treaty on the Functioning of the European Union) is a reference to the EU regulation as it forms part of domestic law by virtue of—

(a) section 3 of the European Union (Withdrawal) Act 2018,

(b) section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, or

(c) such other enactment as the Scottish Ministers may by regulations specify.

(2) In so far as any provision of this Act, or any provision made under it, would, if it were in force before the relevant time, be incompatible with EU law, the provision is to have no effect until the relevant time.

(3) In this section—

"EU law" has the same meaning as in the Scotland Act 1998 (see section 126(9) of that Act),

the "relevant time", in relation to any provision of this Act or any provision made under it, means the time at which the provision of EU law with which it would be incompatible ceases to have effect in Scots law as a consequence of UK withdrawal from the EU,

"UK withdrawal from the EU" means the withdrawal of the United Kingdom from the EU in consequence of the notification given under section 1 of the European Union (Notification of Withdrawal) Act 2017.

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

25 Crown application

(1) Nothing in or under this Act makes the Crown criminally liable.

(2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).

(3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

26 Commencement

(1) This Part and section 5 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

(3) Regulations under subsection (2) may—

(a) include transitional, transitory or saving provision,

(b) make different provision for different purposes.

27 Short title

The short title of this Act is the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

VALID FROM 01/01/2021

SCHEDULE

(introduced by section 12)

MODIFICATIONS OF THE CMO REGULATION

Modifications

1 (1) The CMO Regulation is amended as follows.

(2) In Article 19 (public intervention and aid for private storage: delegated powers), in paragraph 6, at the end insert—

"This paragraph does not apply to the classification, identification and presentation of carcasses by slaughterhouses in Scotland (see section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020).".

(3) In Article 20 (public intervention and aid for private storage: implementing powers in accordance with the examination procedure), at the end insert— " Points (p) to (t) do not apply in relation to slaughterhouses in Scotland (see section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020). ".

(4) In Article 21 (public intervention and aid for private storage: other implementing powers), at the beginning insert— " This Article does not apply to the classification of carcasses by slaughterhouses in Scotland (see section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020). ".

(5) In Article 73 (marketing standards: scope), at the end insert— " References in this Section to marketing standards, as they apply in relation to products marketed in Scotland, include standards set in regulations under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. ".

(6) In Article 75 (marketing standards: establishment and content), at the beginning insert—

"A1A This Article does not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020)."".

(7) In Article 78 (marketing standards: definitions, designations and sales descriptions for certain sectors and products), at the end insert—

"6A Paragraphs 3 to 5 do not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020).".

(8) In Article 80 (marketing standards: oenological practices and methods of analysis), at the end insert—

"6A Paragraphs 3 to 5 do not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020).".

Status: *Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. (See end of Document for details)*

(9) In Article 86 (reservation, amendment and cancellation of optional reserved terms), at the beginning insert— " This Article and Articles 87 and 88 do not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020). ".

(10) In Article 91 (common provision: implementing powers in accordance with the examination procedure), at the beginning insert— " This Article does not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020). ".

(11) In Article 119 (labelling and presentation in the wine sector: compulsory particulars), in paragraph 3, at the end insert—

"Point (b) of this paragraph does not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020).".

(12) In Article 122 (labelling and presentation in the wine sector: delegated powers), at the beginning insert—

"A1A This Article does not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020).".

(13) In Article 123 (labelling and presentation in the wine sector: implementing powers in accordance with the examination procedure), at the beginning insert— " This Article does not apply in relation to products marketed in Scotland (see section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020). ".

Savings

2 (1) Regulations made by the European Commission under—

(a) Article 19(6) of the CMO Regulation,

(b) any of points (p) to (t) of Article 20 of the CMO Regulation, or

(c) Article 21 of the CMO Regulation, continue to apply to slaughterhouses in Scotland despite the modifications made by paragraph 1(2) to (4).

(2) Regulations made by the European Commission under Section 1 or Section 3 of Chapter 1 of Title 2 of the CMO Regulation continue to apply to products marketed in Scotland despite the modifications made by paragraph 1(5) to (13).

Status:
Point in time view as at 05/11/2020. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.