

AGRICULTURE (RETAINED EU LAW AND DATA) (SCOTLAND) ACT 2020

EXPLANATORY NOTES

COMMENTARY ON PROVISIONS

Part 1 – Retained EU law

Section 2 – Power to simplify or improve CAP legislation

102. This section provides for the Scottish Ministers to be able, by regulations, to modify the main CAP legislation, but only if they consider that the modification would simplify or improve the operation of the legislation.
103. An example of the type of simplification or improvement that could be made using this power involves the CAP Pillar 2 support for less favoured areas (LFA). Under EU CAP legislation the options currently open to the Scottish Government are to continue with the “Less Favoured Area Support Scheme” (LFASS) but with a much reduced payment available to farmers in 2020, and then move to a replacement “Areas of Natural Constraint” (ANC) scheme from 2021. This power in the Act would provide an additional option as it would enable the Scottish Ministers to modify the retained CAP legislation to ensure that support can continue for farmers whose land is designated as being in an LFA under the current CAP, and who receive payments under LFASS. This will allow any changes to support for constrained areas to be considered as part of the future overall income support package for farmers and crofters.
104. Regulations made under this section which have not been subject to the affirmative procedure, are subject to the negative procedure. This is sometimes known as an ‘either way’ power, and the effect is that the Scottish Ministers can choose which procedure is to apply to any particular use of the power.