

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

EXPLANATORY NOTES

COMMENTARY ON PROVISIONS

Part 2 – Collection and processing of data

Section 18 – Limitations on the processing of required information

157. This section provides for limitations on the use of information provided in response to a requirement imposed under section 14(1) or (2) or 15(1) or (2).
158. Subsection (2) provides that information given in response to a requirement can only be processed for the purpose that was set out in that requirement, and subsection (3) states that this applies both to the person to whom the information is initially provided (which may be the Scottish Ministers or any other person specified in the requirement in accordance with section 16(2)(a)(i)) and any person to whom it is subsequently disclosed.
159. Subsection (4) specifies that any person to whom the information is subsequently disclosed cannot process the information in a way that is contrary to the terms on which it was disclosed.
160. Subsection (5) sets out that, where a requirement specifies a certain type (or types) of processing that information may be used for, that information may not be used for any other types of processing except in circumstances specified in the requirement.
161. Subsection (6) provides that the additional safeguards in subsections (7) and (8) apply where a person proposes to disclose information collected under the powers of this Part. They place restrictions on its disclosure, as a specific type of data-processing. The restrictions apply to any person making such a disclosure. Similar to the purpose limitation in subsection (2), this includes both:
- the initial recipient of the information (for example, the Scottish Ministers), and
 - any subsequent recipient who proposes to further disclose the information (for example, a contracted data processor operating in accordance with a data-sharing agreement).
162. So, for instance, the restrictions in this section would apply to any company or expert consultant contracted by the Scottish Government to conduct analysis of agricultural data on its behalf (for the purposes, say, of developing analysis to provide evidence for a range of policy options or modelling scenarios for contingency planning such as disease outbreak).
163. Subsection (7) safeguards certain commercially sensitive information from being disclosed in a non-anonymised form. It requires that, where the person making the disclosure considers that doing so would or might prejudice the commercial interests of any person (which includes both the person who provided the information and any other

*These notes relate to the Agriculture (Retained EU Law and Data)
(Scotland) Act 2020 (asp 17) which received Royal Assent on 1 October 2020*

person), the information must be disclosed in anonymised form. The only exception to this is if the Scottish Ministers consider that it is in the public interest for the disclosure to be in some other form.

164. Subsection (8) clarifies that where a disclosure is not considered commercially harmful, but the requirement specified the form in which information may be disclosed, disclosure must not be in any other form (except where circumstances specified in the requirement apply to the disclosure).