



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

2020 asp 17

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,
 - (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.

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.

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.