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

2020 asp 17

PART 1

[[F1]ASSIMILATED] LAW

Textual Amendments

F1 Word in Pt. 1 heading substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 10**

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

Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, PART 1. (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.

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.

Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, PART 1. (See end of Document for details)*

(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.

Commencement Information
I5 S. 6 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(a)**

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.

Commencement Information

I6 S. 7 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(b)**

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.

Commencement Information

I7 S. 8 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(c)**

Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, PART 1. (See end of Document for details)*

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,

(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.

Commencement Information
I8 S. 9 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(d)**

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.

Commencement Information
I9 S. 10 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(e)**

Changes to legislation: *There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, PART 1. (See end of Document for details)*

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.

(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.

Commencement Information

I10 S. 11 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(f)**

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.

Commencement Information

I11 S. 12 in force at 1.1.2021 by S.S.I. 2020/373, **reg. 2(2)(g)**

Changes to legislation:
There are currently no known outstanding effects for the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, PART 1.