



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

## 2020 asp 17

### 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—
  - (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—

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- (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.

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**Commencement Information**

**II** S. 13 in force at 1.12.2020 by [S.S.I. 2020/373](#), [reg. 2\(1\)\(a\)](#)

## 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

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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.

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**Commencement Information**

**I2** S. 14 in force at 1.12.2020 by S.S.I. 2020/373, reg. 2(1)(b)

## **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.

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**Commencement Information**

**I3** S. 15 in force at 1.12.2020 by S.S.I. 2020/373, reg. 2(1)(c)

## **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—

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- (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.

**Commencement Information**

**I4** S. 16 in force at 1.12.2020 by S.S.I. 2020/373, reg. 2(1)(d)

**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—

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- (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,
  - (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.

#### Commencement Information

**I5** S. 17 in force at 1.12.2020 by S.S.I. 2020/373, reg. 2(1)(e)

## 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).

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- (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.

**Commencement Information**

**I6** S. 18 in force at 1.12.2020 by [S.S.I. 2020/373](#), [reg. 2\(1\)\(f\)](#)

**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).
- (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.

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**Commencement Information**

**17** [S. 19](#) in force at 1.12.2020 by [S.S.I. 2020/373](#), [reg. 2\(1\)\(g\)](#)

**20**      **Consequential repeals**

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 are repealed.

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**Commencement Information**

**18** [S. 20](#) in force at 1.12.2020 by [S.S.I. 2020/373](#), [reg. 2\(1\)\(h\)](#)

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