



# Agriculture Act 2020

## 2020 CHAPTER 21

### PART 3

#### TRANSPARENCY AND FAIRNESS IN THE AGRI-FOOD SUPPLY CHAIN

### CHAPTER 1

#### COLLECTION AND SHARING OF DATA

#### **23 Agri-food supply chains: requirement to provide information**

- (1) The Secretary of State 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 are in England.
- (2) The Secretary of State may make regulations requiring 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 are in England.
- (3) See section 24 for provision about—
  - (a) the meaning of “agri-food supply chain”,
  - (b) who is in such a supply chain, and
  - (c) who is closely connected with such a supply chain.
- (4) Subsections (1) and (2) do not apply in relation to individuals in a supply chain so far as they are in the supply chain by reason of them, or members of their households, being the ultimate consumers (see section 24).
- (5) A requirement imposed on a person under subsection (1) or (2) does not apply to so much of the information as the person would in legal proceedings be entitled to refuse to provide on grounds of legal privilege.
- (6) A requirement under subsection (1) must be in writing.

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- (7) Subsection (1) binds the Crown.
- (8) Regulations under subsection (2) are subject to affirmative resolution procedure.

## **24 Meaning of “agri-food supply chain”**

- (1) This section has effect for the purposes of this Chapter.
- (2) 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 creature kept in carrying on agriculture, or
  - (c) any creature or other thing taken from the wild.
- (3) The persons in an agri-food supply chain are—
  - (a) those individuals (“the ultimate consumers”),
  - (b) the persons carrying on the agriculture or (as the case may be) taking things from the wild, and
  - (c) anybody in the supply chain between those persons and the ultimate consumers.
- (4) The persons “closely connected” with an agri-food supply chain are—
  - (a) anybody supplying seeds, stock, equipment, feed, fertiliser, pesticides, medicines or similar items to the persons within subsection (3)(b) for use in the agriculture or taking,
  - (b) anybody providing, to persons within subsection (3)(b) or (c), services related to—
    - (i) the health of creatures, or plants, involved in the supply chain, or
    - (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 any of paragraphs (b) and (c) of subsection (3) and paragraphs (a), (b) and (c) of this subsection.
- (5) Activities of the kind mentioned in subsection (4)(c) are to be treated for the purposes of section 23(1) and (2) as connected with the supply chain, but this is not to be read as limiting the generality of “connected” in section 23(1) and (2).
- (6) In this section—
  - “agriculture” includes any growing of plants, and any keeping of creatures, for the production of food or drink;
  - “plants” includes fungi;
  - “seeds” includes bulbs and other things from which plants grow.

## **25 Requirement must specify purposes for which information may be processed**

- (1) This section applies to a requirement imposed under section 23(1) or (2).

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- (2) The requirement must specify the purposes for which the information 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 as follows—
  - (a) helping persons in agri-food supply chains to—
    - (i) increase productivity,
    - (ii) manage risks (including, but not limited to, financial risks, non-financial trading risks, climatic risks, and risks of or from disease or pollution), or
    - (iii) manage market volatility;
  - (b) promoting transparency or fairness in agri-food supply chains;
  - (c) promoting the health, welfare or traceability of creatures of a kind kept for the production of food, drink, fibres or leathers;
  - (d) promoting the health or quality of plants, fungi or soil;
  - (e) minimising adverse environmental effects of activities connected with agri-food supply chains;
  - (f) minimising waste arising from activities connected with agri-food supply chains;
  - (g) monitoring, or analysing, markets connected with agri-food supply chains.
- (5) For the meaning of “agri-food supply chain” (and “person in” such a chain) see section 24.

## **26 Requirements under section 23(1): duty to publish draft requirement**

- (1) Before a particular requirement is imposed under section 23(1), the Secretary of State must have—
  - (a) published—
    - (i) a draft of the requirement,
    - (ii) a description of the persons on whom it is proposed that the requirement may be imposed, and
    - (iii) the deadline for making comments on the draft, which must not be earlier than 4 weeks after the date of publication, and
  - (b) decided, in the light of comments received before the deadline (and any other relevant matters), whether the requirement should be imposed in the terms of the draft or in revised terms.
- (2) A requirement in the decided form may be imposed on a person at any times after the decision when the person is within the published description.

## **27 Provision of required information and limitations on its processing**

- (1) This section applies to a requirement imposed under section 23(1) or (2).
- (2) Information provided in response to the requirement may be processed for, but only for, purposes specified in the requirement (see section 25).
- (3) Subsection (2) applies—
  - (a) to the person to whom the information is provided, and

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- (b) to a person to whom the information is disclosed,  
but, in the case of a person within paragraph (b), subsection (2) does not authorise processing contrary to the terms on which disclosure is made.
- (4) Subsections (2) and (3) are subject to subsections (7) to (9).
- (5) The requirement may specify how and when the required information is to be provided, including (in particular)—
  - (a) the person to whom the information is to be provided (who may be a person other than the Secretary of State);
  - (b) the form in which the information is to be provided;
  - (c) the means by which it is to be provided;
  - (d) the time or times at which, or by when, it is to be provided.
- (6) The requirement must specify—
  - (a) the types of processing to which the information may be subjected, and
  - (b) if the types of processing specified include disclosure of any kind, the forms in which the information may be disclosed.
- (7) Information provided in response to the requirement—
  - (a) may not be subjected to types of processing other than those specified in the requirement, and
  - (b) may not be disclosed in any form other than those specified in the requirement, except in circumstances specified in the requirement.
- (8) Subsection (9) applies if—
  - (a) information is provided in response to the requirement, and
  - (b) a person (“P”) proposes to make a disclosure of the information that is permitted by subsection (7).
- (9) 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 the form proposed) 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 Secretary of State considers that it is in the public interest for the disclosure to be of the information in some other form permitted by subsection (7) (in which event the disclosure may be of the information in that other form).
- (10) In this Chapter “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, or
  - (f) restriction, erasure or destruction.

## **28 Enforcement of information requirements**

- (1) The Secretary of State may by regulations make provision for enforcement of a requirement imposed under section 23(1) or (2).
- (2) In the following provisions of this section “specified” means specified in regulations under subsection (1).
- (3) In subsection (1) “enforcement” includes (in particular)—
  - (a) monitoring compliance,
  - (b) investigating non-compliance, and
  - (c) dealing with non-compliance.
- (4) The provision that may be made by regulations under subsection (1) includes (in particular)—
  - (a) provision for the imposition of monetary penalties for non-compliance with requirements, whether 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, or
    - (iv) by way of suspending, or withholding, payment of any amounts;
  - (b) provision for recovery of amounts due in respect of monetary penalties, including provision for any of interest, set-off and security for payment;
  - (c) provision about the giving of advice or warnings;
  - (d) provision for the acceptance of undertakings to take, or refrain from taking, particular actions;
  - (e) provision giving persons functions in connection with enforcement of requirements;
  - (f) provision about review of, or appeals against, things done (including decisions made) in connection with enforcement of requirements.
- (5) In subsection (4)(a) “specified manner” includes (in particular) a manner framed by reference to a specified matter such as a person’s profits, income or turnover.
- (6) Regulations under subsection (1) are subject to affirmative resolution procedure.