

AGRICULTURE BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Agriculture Bill (Bill 191) as brought from the House of Lords on 5 October 2020.
- 2 These Explanatory Notes have been prepared by the Department of Environment, Food and Rural Affairs in order to assist the reader of the Bill, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 112, the Bill as first printed for the introduction in the Lords.
- 4 These Explanatory Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Lords amendments.
- 5 Lords Amendments 2 to 8, 10, 13 to 15, and 19 to 46 were tabled in the name of the Minister.
- 6 Lords Amendments 1 and 17 were tabled by Baroness Jones of Whitchurch and were opposed by the Government.
- 7 Lords Amendment 9 was tabled by Lord Krebs and was opposed by the Government.
- 8 Lords Amendment 11 was tabled by Lord Whitty and was opposed by the Government.
- 9 Lords Amendments 12 and 16 were tabled by Lord Grantchester and were opposed by the Government.
- 10 Lords Amendment 18 was tabled by Lord Curry of Kirkhale and was opposed by the Government.
- 11 In the following Commentary, an asterisk(*) appears in the heading of any paragraph that deals with a non-Government amendment.

Commentary on Lords Amendments

Lords Amendments to Clause 4: Multi-annual financial assistance plans

Lords Amendment 1*

- 12 Lords Amendment 1 would amend Clause 4 to place a requirement on the Secretary of State to have regard to the Government's environmental improvement plan when setting out the Government's strategic priorities for giving financial assistance in the multi-annual financial assistance plan.

Lords Amendment 2

- 13 Lords Amendment 2 would amend Clause 4 subsection 6 to place a duty on the Secretary of State to lay before Parliament and publish a multi-annual financial assistance plan at least 12 months ahead of it coming into effect. This would apply for all multi-annual financial assistance plans, except the first plan, which must be published as soon as practicable before 1 January 2021.

Lords Amendments after Clause 16

Lords Amendments 3 and 4

- 14 Lords Amendment 3 would insert a new clause into the Bill to allow the Secretary of State, Welsh Ministers, DAERA and Scottish Ministers to continue to make payments to producer organisations implementing operational programmes in the Fruit and Vegetable Producer Organisation Aid Scheme and to a person holding an agreement under a rural development programme.
- 15 Lords Amendment 4 would insert a new clause into the Bill to ensure that legislation relating to rural development, producer organisations in the Fruit and Vegetable Producer Organisation Aid Scheme, apiculture and promotion measures for agricultural products will be retained direct EU legislation after the end of the Implementation Period, even where this legislation has direct effect under the Withdrawal Agreement.

Lords Amendments to Clause 17: Duty to report to Parliament on UK food security

Lords Amendment 5 to 8

- 16 Lords Amendments 5 to 8 would require the Secretary of State to lay the first report on UK food security on or before the last sitting day before 25 Dec 2021 and subsequently to publish further reports every three years.

Lords Amendments after Clause 17

Lords Amendment 9*

- 17 This new Clause would place a statutory duty on the Secretary of State to prepare a Food Strategy within twelve months of the act being passed. The Strategy would cover matters such as increasing the UK's sustainability of food production, supporting food production and consumption, and improving dietary health. It must also consider the merits of achieving different food-related goals.

Lords Amendments to Clause 32: Identification and traceability of animals

Lords Amendment 10

- 18 Lords Amendment 10 would amend Clause 32(1) to add subsection (2) to new section 89A inserted into the NERC Act 2006. New subsection (2) provides that that the Secretary of State should seek approval from devolved administrations before making an order which assigns functions relating to the operation of the Livestock Information Service which are exercisable in those administrations.

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Lords Amendments after Clause 34

Lords Amendment 11*

- 19 Lords Amendment 11 would insert a new clause which would place a statutory duty on the Secretary of State to make regulations to prohibit the use of any pesticide used for agriculture or horticulture near several locations. These locations are: near buildings where people live; near buildings or open spaces used for work or recreation; and near buildings such as schools, nurseries and hospitals where members of the public may be present. The regulations would specify the minimum distance to be maintained between where a pesticide is used and these locations. The regulations would be subject to the affirmative resolution procedure.

Lords Amendments to Clause 35: Marketing standards

Lords Amendment 12*

- 20 Lords Amendment 12 would add a statement of compliance for imported products to Subsection 2 of Clause 35. This is the non-exhaustive list of matters that marketing standards regulations may cover. The statement would confirm that imported goods meet the relevant domestic marketing standards and regulations.

Lords Amendments to Clause 37: Organic products: supplementary

Lords Amendment 13 and 14

- 21 Lords Amendment 13 and 14 would amend Clause 37 to ensure that before making Regulations under this clause that are within the competence of the Scottish Ministers, Welsh Ministers or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, the Secretary of State would have to seek the consent of the authority concerned.

Lords Amendments to Clause 42: Regulations under section 40: classification of domestic support and provision of information

Lords Amendment 15

- 22 Lords Amendment 15 would remove the provisions in 42(4) and 42(5) for making regulations requiring devolved authorities to provide to the Secretary of State information on their classification and use of domestic support.

Lords Amendments to after Clause 42

Lords Amendment 16*

- 23 Lords Amendment 16 would prevent an international agreement being laid in Parliament under the Constitutional Reform and Governance Act (2010), a prerequisite for ratification, unless the following conditions are fulfilled.
- 24 The first condition is that a Minister of the Crown has made a statement in Parliament confirming that the agreement contains an affirmation of the UK's rights and obligations under the WTO SPS agreement and that any agri food import under the agreement has been produced and processed under standards which are equivalent to, or which exceed, the UK's domestic standards on animal health and welfare, plant health, food safety, hygiene and traceability and environmental protection.

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- 25 The second condition is that the Secretary of State has specified, through regulations, the process by which this assessment will be made and how it will be assessed that the enforcement of these standards is at least as effective as that of the UK.
- 26 The third and fourth conditions are that the relevant Chapters of an FTA must have been approved by the House of Commons and the House of Lords must have been given an opportunity to debate the Chapter.

Lords Amendment 17*

- 27 Lords Amendment 17 would require the Secretary of State to have due regard to the target to reach net zero in 2050 as set out in the Climate Change Act 2008 and in international climate change treaties. It would require the Secretary of State to account for advice from the Committee on Climate Change and to introduce an interim climate change target for 2030 in agriculture and associated land use.
- 28 The Secretary of State would have to introduce the 2030 target through affirmative regulations within six months of royal assent. The amendment would also require the Secretary of State to lay before Parliament a strategy to meet the interim target within 12 months of royal assent. Before tabling new regulations or publishing a strategy, the Secretary of State must consult the devolved authorities and take advice from the Committee on Climate Change.

Lords Amendment 18*

- 29 Lords Amendment 18 would insert a new clause into the Bill which provides for the establishment of a Trade and Agriculture Commission which would have a duty to produce a report containing recommendations on the promotion, maintenance and safeguarding of food production standards through international trade policy as well as an ongoing duty to report on the impact of new trade agreements on the Secretary of State's ability to promote, maintain and safeguard food production standards.
- 30 The Secretary of State would be required to lay the Commission's first report before Parliament and respond to the recommendations including setting out how the Government intends to maintain UK standards for food production in importing agricultural products in relation to food safety, the environment and animal welfare. The Secretary of State would be required to table motions enabling both Houses to approve the Commission's recommendations and adopt resolutions on the Government's response. The Secretary of State would have a statutory objective to achieve outcomes consistent with these resolutions.
- 31 The Secretary of State would also be required to lay the Commission's reports on trade agreements before Parliament and a Minister of the Crown would be required to move a motion to consider any recommendations in the report in each House of Parliament prior to the relevant agreement being signed.

Lords Amendments to Clause 48: Interpretation

Lords Amendment 19

- 32 Lords Amendment 19 would ensure that the terms "EU regulation", "EU decision" and "EU tertiary legislation" have the same meaning as in the European Union (Withdrawal) Act 2018.

Lords Amendments to Clause 50: Power to make consequential etc provision

Lords Amendment 20 to 29

- 33 Lords Amendment 20 to 29 would amend clause 50 to provide the devolved administration ministers with the power to make supplementary and consequential provision to amend primary legislation (either UK or devolved) in all additional areas of the Bill where a Legislative Consent Motion is being sought.

Lords Amendments to Clause 51: Financial provision

Lords Amendment 30

- 34 Lords Amendment 30 would add to the list of purposes for which sums are required to be paid out of money provided by Parliament: the Secretary of State giving financial assistance for continuing EU programmes.

Lords Amendments to Clause 52: Extent

Lords Amendment 31

- 35 Lords Amendments 31 would extend clauses 17 and 18 so that they apply to England, Scotland, Wales and Northern Ireland.

Lords Amendments to Clause 53: Commencement

Lords Amendment 32 to 44

- 36 Lords Amendments 32 to 44 would bring forward the commencement of powers conferred on the Secretary of State to make regulations to immediately after the bill receives Royal Assent, except for section 49 and Schedule 7.

Lords Amendments to Schedule 5: Provision relating to Wales

Lords Amendment 45

- 37 Lords Amendment 45 would allow the Welsh Ministers to modify retained EU legislation relating to apiculture.

Lords Amendments to Schedule 6: Provision relating to Northern Ireland

Lords Amendment 46

- 38 Lords Amendment 46 would allow DAERA to modify retained EU legislation relating to apiculture.

Financial Effects of Lords Amendments

- 39 Lords Amendment 18 does not provide detail on how the new Trade and Agriculture Commission established under the proposed New Clause would be composed, staffed or funded. The Department considers it probable that the annual cost to public expenditure would be significant (and would go beyond what could be met under existing authorisation for administrative expenditure incurred by the Secretary of State).

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