



Law Society
of Scotland

Consultation Response

Support for Agriculture and the Rural Economy - Post
Brexit Transition

August 2018



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the United Kingdom and Scottish Governments, Parliaments, wider stakeholders and our membership.

Our Rural Affairs sub-committee welcomes the opportunity to consider and respond to the Scottish Government's consultation: Support for Agriculture and the Rural Economy - Post Brexit Transition¹. We do not seek to respond to the consultation questions but have the following general comments to put forward for consideration.

General comments

We are not in a position to comment on the detailed proposals set out within the consultation paper, but we welcome the general themes of stability and security for producers, land managers and businesses. This is of particular importance as negotiations in relation to the UK's withdrawal from the EU continue. We recognise that stability for producers and businesses will likely assist in ensuring stability for consumers.

Funding is of great importance to those operating in the farming and agriculture sectors. Where legislation places obligations on individuals to use land in particular ways for public benefit, or restricts their use of land (other than the usual planning constraints), there is an argument that there should be a measure of support for such individuals. For example, under legislation relating to crofting, a tenant is obliged by primary legislation to cultivate the croft or put it to a purposeful use. This may be particularly relevant if such sectors seek to attract new entrants. In addition, it should be recognised that levels and types of funding provided to those in the agriculture sector are likely have an impact upon food affordability, which impacts upon consumers.

We do recognise that, while maintaining stability and certainty, there may be improvements that could be made to existing arrangements in the short term. As suggested in the consultation, simplifications could be

¹ <https://consult.gov.scot/agriculture-and-rural-communities/economy-post-brex-it-transition/>

made for those who have limited year-on-year change in their business – such simplifications may help to deliver greater business efficiency. Those operating in the sector will be best placed to comment upon practical simplifications which could be applied.

We note that the consultation recognises that “change is inevitable” following the withdrawal from the EU. We consider that such change should be carefully managed to protect against the possible negative effects which may arise following changes to practical arrangements and/or policy, particularly in relation to funding arrangements. Such changes could impact upon food, farming and/or the environment and it will be important for these matters to be fully considered in the context of proposed changes.

Support for agriculture and the rural economy should not be considered as an isolated issue – not only does agriculture and the rural economy impact on food, farming and the environment as highlighted above, but also upon our wider economy and trade. Policy divergence across jurisdictional borders has the potential to have negative effects, particularly in relation to trade matters and environmental impact, but also on a practical level if different regulatory regimes apply cross-border. We consider therefore that strong collaboration between Scottish and UK Governments is of considerable importance.

We note that it is important that any system of support is lawful and comprehensive. It will be necessary for any system to be comprehensible and transparent so that it can be understood by those whom it will affect. It is crucial to upholding the rule of law that the law is clear and has specification. Individuals and organisations must be able to guide their conduct based on clear and understandable legal standards. This is of particular importance in the context of the penalty regime.

For further information, please contact:

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