



Law Society  
of Scotland

# Written evidence

The future of Scottish agriculture post-Brexit inquiry

January 2019



## Introduction

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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 Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Rural Affairs sub-committee welcomes the opportunity to consider and respond to Scottish Affairs Committee's inquiry on *The future of Scottish agriculture post-Brexit*<sup>1</sup>. We have the following comments to put forward for consideration.

## General remarks

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In relation to the framework for agriculture following the UK's withdrawal from the EU, we note the considerable importance of strong collaboration between Defra and the devolved administrations. This is of particular importance given the potential impacts on food, farming and the environment of having differing policy and legislation across jurisdictional borders.

It is important that there is extensive engagement with a wide variety of stakeholder groups who will be best placed to highlight the needs of those operating in the sector.

<sup>1</sup> <https://www.parliament.uk/business/committees/committees-a-z/commons-select/scottish-affairs-committee/inquiries/parliament-2017/agriculture-post-brexit-17-19/>

## Consultation response

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### **What should be the priorities of any future agricultural support system in Scotland? Are the needs of the agricultural sector in Scotland different from the rest of the UK?**

We do not suggest any particular priorities. We note the importance of there being stability and security for producers, land managers and businesses following the UK's withdrawal from the EU. We recognise that stability for producers and businesses will likely assist in ensuring stability for consumers.

Any change which comes about as a result of the UK's withdrawal from the EU should be carefully managed. This will be necessary 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 should not be considered as an isolated issue – agriculture has a wide-ranging impact as referred to above, and also impacts on trade and our economy more generally. 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. Strong collaboration between the UK and Scottish Government is of considerable importance.

### **What funding will Scotland's agricultural sector require post-Brexit? What should future agricultural support in Scotland look like, and what goals should it seek to achieve?**

Funding is of great importance to those operating in the agriculture sector. 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. Funding arrangements will be particularly important for sectors which seek to attract new entrants.

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.

While maintaining stability and certainty for those operating in the sector, there may be improvements that could be made to existing arrangements in the short term. There is the potential for simplifications to be made for those who have limited year-on-year change in their business. Simplifications in funding process may help to deliver greater business efficiency.

## **How should a future agricultural policy seek to accommodate different sectors of the farming community, especially those in remote and less favoured areas, and crofters?**

We have no comment on this.

## **What should be included in common frameworks between the UK and devolved administrations in relation to agriculture? What balance should it strike between having a common UK-wide approach and providing flexibility to Scotland's needs?**

We recognise the October 2017 communique from the JMC(EN) acknowledges the need for common frameworks to be in place and that these will recognise devolution in Scotland, Wales and Northern Ireland. We note that areas in which common frameworks are anticipated comprise highly regulated areas of policy implemented by EU Directives, Regulations and Decisions and transposed by UK Acts and subordinate legislation, Scottish Acts and Scottish subordinate legislation; as well as a number of administrative, non-statutory arrangements.

We note that the memorandum agreed by the JMC(EN) requires to take into account the *White Paper on Legislating for the Withdrawal Agreement between the United Kingdom and the European Union* (Cm 9674) (paragraph 67) and also the *White Paper on the Future Relationship between the United Kingdom and the European Union* (Cm 9593) (paragraph 56), while recognising the recommendations of the Public Administration and Constitutional Affairs Committee's report *Devolution and Exiting the EU: Reconciling Differences and Building Strong Relationships* (HC1485). In addition, the memorandum requires to be amended to take account of the changes which were made to the European Union Withdrawal Bill as it progressed through Parliament. The bill received the Royal Assent on 26 June 2018 and is now the European Union (Withdrawal) Act 2018.

The Cabinet Office published in late 2017 a list of 111 points where EU Law intersects with devolved matters. This has been supplemented by the publication of the UK Government's *Frameworks analysis: breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland* on 9 March 2018. The analysis sets out the UK Government's provisional assessment of areas of EU law that intersect with devolved competence in each devolved administration. 24 of the policy areas in question are subject to more detailed discussion to explore whether legislative common framework arrangements might be needed, in whole or in part.

In order to add further information to the debate, we offer a survey of those policy areas relevant to agriculture (annexed to this paper) which includes details of the EU law concerned and the implementing legislation for Scotland and, where appropriate, for the UK (occasionally on a GB basis) and for England and Wales.

Given the significance of potential impacts on food, farming and the environment of having differing policy and legislation across jurisdictional borders, strong collaboration between Defra and the devolved administrations is of considerable importance.

Those operating in the agricultural sector have concerns about a number of features of their business which may be affected by the UK's withdrawal from the EU. Much of that concern is currently founded in the lack of certainty around the terms of the EU Withdrawal Agreement, including transitional arrangements. We understand from some of our members that the primary concern for those operating in the sector concerns the possibility of different regulatory and compliance regimes among UK jurisdictions, including different standards for animal welfare, food quality and food labelling. Changes to compliance regimes in particular will likely bring costs to producers and any such costs are likely to have a significant impact on businesses, particularly small and medium sized enterprises. In light of these concerns, the potential impacts of regulatory regimes upon businesses and consumers should be a priority consideration when common frameworks are being agreed.

Other areas which are causing concern to those in the sector include the availability of workers and increased labour costs; impacts on funding and Government subsidies; and business, land and farm values. Our members report anecdotal evidence of transactions involving farm businesses and land not going ahead in recent months as a result of uncertainty as to business following the UK's withdrawal from the EU. We consider that these concerns will be of particular significance to the functioning of the UK internal market, agreed by the JMC (EN) as a principle for the basis of common frameworks.

We note that any common framework system must be lawful and comprehensive. Our comments above highlight the range of issues which are relevant to the sector.

Any common framework aimed at tackling cross-border differences must be workable in practice. It will be necessary for the 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.

While farmers may be adaptable, for example due to experience in working across intra-UK borders or in differing regimes out with the UK, it is crucial that any framework does not cause an undue burden on businesses with cross-border farms or on those who are undertaking business on either side of a border. This is likely to be particularly significant in the context of small and medium sized business which may be less able than large businesses to adapt quickly and at low costs compared to their income. Differing regulatory regimes are likely to have the most significant impacts in such circumstances.

Finally, we note that the funding required for common frameworks is a matter for political agreement between those parties to the frameworks. Each framework should be accompanied by a detailed Financial Memorandum and policy and equality impact assessments.

## **What should be done to meet the long-term labour needs of Scotland's agricultural sector?**

We have no comments on this question.

## **What role can innovation & technology have in improving productivity in Scottish agriculture?**

We have no particular proposals in relation to innovation and technology in the sector. We recognise that the ongoing development of new technologies presents an opportunity to consider how the challenges faced in ensuring effective and efficient connectivity for the agricultural sector may be tackled.

### **For further information, please contact:**

Alison McNab

Policy Team

Law Society of Scotland

DD: 0131 476 8109

[AlisonMcNab@lawscot.org.uk](mailto:AlisonMcNab@lawscot.org.uk)

**ANNEX**

**Policy areas relevant to agriculture that are subject to more detailed discussion to explore whether legislative common framework agreements might be needed, in whole or in part**

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information
		NI	S	W	
DEFRA	Agricultural support	x	x	x	<p>Policies and Regulations under the EU Common Agricultural Policy covering Pillar 1 (income and market support); Pillar 2 (rural growth, agri-environment, agricultural productivity grants or services and organic conversion and maintenance grants); and cross-cutting issues, including compliance, finance, &amp; controls.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> Direct Payments Regulation 1307/201/EU, which establishes direct payments to farmers under Support Schemes within the framework of the Common Agricultural Policy.</p> <p><a href="https://ec.europa.eu/agriculture/direct-support_en">https://ec.europa.eu/agriculture/direct-support_en</a></p> <p><u>Scottish Law</u> Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 Scotland will receive €4.6 billion to implement the Common Agricultural Policy (CAP) in Scotland until 2020. CAP provides funding for Scotland's farmers and landowners, along with a range of other support schemes. €3.7 billion is in direct payments to farmers, with just over €840 million per the Scotland Rural Development Programme (SRDP). The SRDP funds a wide variety of projects across Scotland to help rural communities, protect and enhance the environment, develop rural businesses and support the forestry and farming sectors.</p> <p><u>UK Government Technical Notices</u> Farm payments if there's no Brexit deal, 23 August 2018- <a href="https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexite-deal">https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexite-deal</a></p> <p>Receiving rural development funding if there's no Brexit deal, 23 August 2018- <a href="https://www.gov.uk/government/publications/receiving-rural-development-funding-if-theres-no-brexite-deal">https://www.gov.uk/government/publications/receiving-rural-development-funding-if-theres-no-brexite-deal</a></p>

DEFRA	Agriculture – fertiliser regulations	x	x	x	<p>Regulations providing common standards for compositional ingredients, labelling, packaging, sampling and analysis of fertilisers. The UK is also signed up to a number of international agreements (e.g. the Gothenburg Protocol) and EU agreements (the National Ceilings Directive related to fertiliser regulation)</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> Regulation (EC) No 2003/2003 relating to fertilisers consolidates all the EU rules that apply to fertilisers. The Regulation ensures that these technical requirements are implemented throughout the EU. This consolidated version is of documentary value only.</p> <p>The regulation applies to mineral fertilisers consisting of one or more plant nutrients. Other fertilisers are governed by EU countries' national legislation.</p> <p>The regulation lists fertiliser types according to their specific characteristics. Once a fertiliser meets this designation it may bear the letters 'EC' which guarantees farmers that the fertilisers contain a minimum nutrient content and are safe to use. Information, including the manufacturer's details and the fertiliser's characteristics, must appear on packages, labelling and accompanying documents.</p> <p><u>English Law</u> The EC Fertilisers (England and Wales) Regulations 2006</p> <p><u>Scottish Law</u> The EC Fertilisers (Scotland) Regulations 2006</p> <p><u>UK Government Technical Notices</u> Manufacturing and marketing fertilisers if there's no Brexit deal, 24 September 2018- <a href="https://www.gov.uk/government/publications/manufacturing-and-marketing-fertilisers-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/manufacturing-and-marketing-fertilisers-if-theres-no-brexit-deal</a></p> <p><u>European Commission Preparedness Notices</u> The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the Field of Fertilisers, 25 September 2018 <a href="https://ec.europa.eu/info/sites/info/files/fertilisers_en.pdf">https://ec.europa.eu/info/sites/info/files/fertilisers_en.pdf</a></p>
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DEFRA	Agriculture – GMO marketing and civilisation	x	x	x	<p>Standards for marketing and cultivation of genetically modified organisms.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u>            Directive 2001/18/EC (Deliberate Release)            Directive (EU) 2015/412 (Deliberate Release-possibility to restrict cultivation of GMOs in Member State's territory)            Directive 2009/41/EC (Contained Use)            Regulation 1829/2003 (Food and Feed)            Regulation 1830/2003 (Traceability and Labelling)            Regulation 1946/2003 (Transboundary Movements)            Genetically Modified Organisms (GMO) technology is strictly regulated and the EU has had a legal framework since the 1990s.</p> <p>EU legislation establishes the conditions for the development, use or marketing of a GMO or a food/feed product derived from GMOs. EU legislation on GMOs has two main objectives:            To protect health and the environment: a GMO or a food product derived from a GMO can only be put on the market in the EU after it has been authorised on the basis of a detailed EU procedure based on a scientific assessment of the risks to health and the environment and to ensure the free movement of safe and healthy GM products in the EU. GM authorisation in Europe adopts a precautionary, case-by-case approach where the scale of release is related to the level of risk.</p> <p>There are the following levels of authorisation:</p> <ol style="list-style-type: none"> <li>a. Contained use – This is GM research carried out in a contained environment, under Directive 2009/41/EC.</li> <li>b. Research releases - this is the deliberate release to the environment authorised under the Deliberate Release into the Environment of GMOs Directive, 2001/18/EC. These are small scale releases carried out under tight control.</li> <li>c. Commercial releases – is the deliberate release to the environment authorised under Part C of the Deliberate Release into the Environment of GMOs Directive, 2001/18/EC, or under the Genetically Modified Food and Feed Regulation, 1829/2003. This type of authorisation covers import and use of a GMO for food or feed and non-food use and it can allow EU-wide commercial scale growing of a GM crop. The Food Standards Agency (FSA) is responsible for food safety issues whilst Defra and</li> </ol>
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			<p>the devolved agriculture departments are responsible for assessing risks to the environment. All new crop varieties (GM and non GM) also have to be approved as suitable for agriculture via the National List trials route. The Traceability and Labelling Regulation 1830/2003/EC and Food and Feed Regulation 1830/2003/EC require the labelling of any intentional use of GM ingredients in food and feed. A GMO that has not been approved is not allowed in food and feed for sale in the EU.</p> <p><u>UK Law</u> Environmental Protection Act 1990 The Genetically Modified Organisms (Contained Use) Regulations 2014 The competent authority responsible for the Regulations consists of the Health and Safety Executive (HSE) and the Secretary of State for the Environment, Food and Rural Affairs (Defra) in England and Wales <a href="http://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs">www.gov.uk/government/organisations/department-for-environment-food-rural-affairs</a></p> <p>In Scotland, the HSE and the Scottish Government are the joint competent authority. The HSE considers the risk to the operator and the Scottish Government considers the risk to the environment from any GMO release.</p> <p><u>Scottish Law</u> Enforcement in Scotland</p> <p>In Scotland there are four sets of regulations granting powers to authorised officers for enforcement, and creating penalties for non-compliance. Local authorities are responsible for the enforcement of traceability and labelling requirements and for sampling and testing food and feed for GMOs. The GM Inspectorate and Science and Advice for Scottish Agriculture (SASA) is responsible for ensuring compliance with the regulations governing the deliberate release into the environment of GMOs in Scotland.</p> <p>The Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002 Genetically Modified Food (Scotland) Regulations 2004 Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004 Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005</p> <p><u>UK Government Technical Notices</u> Developing genetically modified organisms (GMOs) if there's no Brexit deal, 23 August 2018 <a href="https://www.gov.uk/government/publications/developing-genetically-modified-organisms-gmos-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/developing-genetically-modified-organisms-gmos-if-theres-no-brexit-deal</a></p>
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					<p><u>European Commission Preparedness Notices</u> The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Genetically Modified Food and Feed and the Deliberate Release of Genetically Modified Organisms into the Environment, 23 January 2018 <a href="https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_gmo.pdf">https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_gmo.pdf</a></p>
DEFRA	Agriculture – organic farming	x	x	x	<p>Regulations setting out standards for organic production certification.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>The Council Regulation 834/2007/EC sets out the principles, aims and overarching rules of organic production and defines how organic products are to be labelled.</p> <p>The regulation has the following aims:</p> <ol style="list-style-type: none"> <li>a. sustainable cultivation systems</li> <li>b. a variety of high-quality products</li> <li>c. greater emphasis on environmental protection</li> <li>d. more attention to biodiversity</li> <li>e. higher standards of animal protection</li> <li>f. consumer confidence</li> <li>g. protecting consumer interests</li> </ol> <p>Synthetic resources may be permissible if there are no suitable alternatives. Such products, which must be scrutinised by the Commission and EU countries before authorisation, are listed in the annexes to the implementing regulation 889/2008/EC. 15</p> <p>Labelling organic foods Foods can be labelled "organic" if at least 95% of the agricultural ingredients meet the necessary standards. In non-organic foods, any ingredients which meet organic standards can be listed as organic. Organic production outlaws GMOs. However, the regulation on genetically modified food and feed sets a threshold (0.9%) under which a product's GMO content does not have to be indicated. Products with GMO content below this threshold can be labelled organic.</p> <p>Since 1 July 2010, EU producers of organic food have been required to use the EU organic logo.</p>

					<p><u>UK Law</u></p> <p>The Organic Products Regulations 2009 The power of the Secretary of State, as a designated Minister, to make regulations which extend to Scotland, Wales and Northern Ireland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (c. 46); article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I.1999/2788), and article 3(2) of the European Communities (Designation) (No. 3) Order 2000(S.I. 2000/2812).</p> <p><u>UK Government Technical Notices</u> Producing and processing organic food if there's no Brexit deal, 23 August 2018 <a href="https://www.gov.uk/government/publications/producing-and-processing-organic-food-if-there-s-no-brexit-deal">https://www.gov.uk/government/publications/producing-and-processing-organic-food-if-there-s-no-brexit-deal</a></p>
DEFRA	Agriculture – zootech	x	x	x	<p>EU legislation providing a common framework of rules on breeding and trade in pedigree animals and germinal products in the EU and the treatment of imports from 3rd countries. Each of the UK regions has competent authorities in their areas for recognition of breed societies under this legislation.</p> <p><u>Our Comments</u></p> <p><u>EU Law</u> <a href="https://ec.europa.eu/food/animals/zootechnics/legislation_en">https://ec.europa.eu/food/animals/zootechnics/legislation_en</a></p> <p>a. Decision 2007/371/EC as regards herd books for animals of the bovine species b. Decision 2006/427/EC laying down performance monitoring methods and methods for assessing cattle's genetic value for pure-bred breeding animals of the bovine species c. Decision 2005/379/EC on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos d. Decision 2005/375/EC on entering male sheep and goats in an annex to the flock book e. Directive 94/28/EC as amended by Directive 2008/73/EC on third country imports, which also requires Member States to publish up to date lists of approved breed societies and associations on the internet</p> <p><u>English Law</u> The Zootechnical Standards (England) Regulations 2012 <a href="https://www.gov.uk/government/publications/lists-of-recognised-animal-breeding-organisations">https://www.gov.uk/government/publications/lists-of-recognised-animal-breeding-organisations</a></p>

					<p><u>Scottish Law</u> The Zootechnical Standards Regulations 1992 The Zootechnical Standards Amendment (Scotland) Regulations 2007</p> <p><u>European Commission Preparedness Notices</u> The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of breeding of animals, 23 January 2018 <a href="https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-breeding.pdf">https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-breeding.pdf</a></p>
DEFRA	Animal health and traceability	x	x	x	<p>EU rules and standards that aim to maintain animal health and allow their movement, including policies covering: prevention of disease (entering UK) control of disease (endemic and exotic, surveillance (for exotic disease) movement of livestock, pet passports and veterinary medicines.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>The Regulation on Transmissible Animal Diseases, the EU Animal Health Law provides:</p> <ol style="list-style-type: none"> <li>Simpler rules to enable authorities to focus on preventing and eradicating disease</li> <li>Clearer responsibilities for farmers, vets and others dealing with animals</li> <li>Better surveillance of pathogens, electronic identification and registration of animals</li> <li>Earlier detection and control of animal diseases to reduce animal epidemics</li> <li>More flexibility to adjust rules to local circumstances</li> </ol> <p>The Animal Health Law strengthens the enforcement of health and safety standards for the agri-food chain and is also a key output of the Animal Health Strategy 2007-2013 "Prevention is better than cure". Several delegated and implementing acts will be adopted by the EU until April 2019 to make the new rules applicable.</p> <p>Farmed Animals – Council Directive 98/58/EC concerning the protection of animals kept for farming purposes.</p>

			<p>Regulation 1/2005 on the Protection of Animals during Transport and related operations sets out minimum standards for the welfare of animals during transport. The Regulation applies to the transport of all live vertebrate animals for the purposes of economic activity, i.e. a business or trade.</p> <p><u>English Law</u>  The Animal Welfare Act 2006 (AWA) contains the general laws relating to animal welfare. It is an offence to cause unnecessary suffering to any animal. The AWA contains a Duty of Care to animals - anyone responsible for an animal must take reasonable steps to make sure the animal's needs are met. The welfare of farmed animals is additionally protected by The Welfare of Farmed Animals (England) Regulations 2007, which are made under the AWA.</p> <p>The Welfare of Animals at Markets Order 1990 (WAMO) covers treatment of animals in markets to ensure they are not caused injury or unnecessary suffering. The order sets out arrangements for penning, food and water and the care of young animals. Responsibility for enforcing WAMO rests with local councils.</p> <p>The Welfare of Animals (Transport) (England) Order 2006  The welfare of farmed animals is additionally protected by the Welfare of Farmed Animals (England) Regulations 2007, which are made under the AWA.  Welfare of Farmed Animals (England) Regulations 2007  Welfare of Farmed Animals (England) (Amendment) Regulations 2010  These regulations implement EU directives on the welfare of calves, pigs, laying hens, conventionally reared meat chickens and a general welfare framework directive, which sets down minimum standards for the protection of all farmed livestock.  The regulations cover all farmed animals. Schedule 1 contains requirements for inspections, record keeping, freedom of movement, buildings, equipment and the feeding and watering of animals. Guidance has been prepared to accompany the regulations.</p> <p><u>Scottish Law</u>  The Animal Health and Welfare (Scotland) Act 2006  The Welfare of Farmed Animals (Scotland) Regulations 2010  The Welfare of Animals (Transport) (Scotland) Regulations 2006  The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.  <a href="http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/policies/Legislation">http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/policies/Legislation</a>  <a href="http://www.gov.scot/Resource/0051/00512255.pdf">http://www.gov.scot/Resource/0051/00512255.pdf</a></p>
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					<p>The Animal Health and Welfare Framework has been introduced to recognise the importance of central and local government working together. It is a partnership between the Scottish Government, the Convention of Scottish Local Authorities (COSLA), the Society of Chief Officers of Trading Standards in Scotland (SCOTSS), the Society of the Chief Officers of Environmental Health in Scotland (SOCOEHS) and the Animal and Plant Health Agency (APHA). The Framework also helps to address the requirements of Regulation 882/2004/EC on Official Feed and Food Controls, in ensuring verification of compliance with animal health and welfare rules. This regulation aims to improve the consistency and effectiveness of official controls within Member States and across the EC.</p> <p>The Food Hygiene (Scotland) Regulations 2006 The Meat (Official Controls Charges) (Scotland) Regulations 2009 The Animal By-Products (Enforcement) (Scotland) Regulations 2013</p> <p><u>UK Government Technical Notices</u> Registration of veterinary medicines if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/registration-of-veterinary-medicines-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/registration-of-veterinary-medicines-if-theres-no-brexit-deal</a></p> <p>Regulation of veterinary medicines if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/regulation-of-veterinary-medicines-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/regulation-of-veterinary-medicines-if-theres-no-brexit-deal</a></p> <p><u>European Commission Preparedness Notices</u> Notice to marketing authorisation holders of centrally authorised medicinal products for human and veterinary use, 23 January 2018 <a href="https://ec.europa.eu/health/sites/health/files/files/documents/ec_ema_notice_communication_brexit.pdf">https://ec.europa.eu/health/sites/health/files/files/documents/ec_ema_notice_communication_brexit.pdf</a></p>
DEFRA	Animal welfare	x	x	x	<p>EU rules relating to aspects of animal welfare including on-farm issues, movement of livestock and slaughter.</p> <p><u>UK Government Technical Notices</u> Exporting animals and animal products if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexit-deal</a></p> <p>Importing animals and animal products if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexit-deal</a></p>

				<p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on animal feed, 23 January 2018  <a href="https://ec.europa.eu/food/sites/food/files/safety/docs/brexit-notice_animal-feed.pdf">https://ec.europa.eu/food/sites/food/files/safety/docs/brexit-notice_animal-feed.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on animal health and welfare and public health related to the movement of live animals, 27 February 2018  <a href="https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules for authorisations and certificates for transporters of live animals, drivers and attendants, 23 January 2018  <a href="https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-transport.pdf">https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-transport.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Certificates of competence pursuant to the requirements of Regulation (EC) NO 1099/2009 on the protection of animals at the time of killing, to slaughterhouse operators, 23 January 2018  <a href="https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-killing.pdf">https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-killing.pdf</a></p>	
HSE and DERRA	Chemicals regulation (including pesticides)	*x	*x	*x	<p>EU regulations on the classification, labelling and packaging of substances and mixtures (CLP); the placing on the market and use of biocidal products (e.g. rodenticides); the export and import of hazardous chemicals; the registration, evaluation, authorisation and restriction of chemicals (REACH); and plant protection products (e.g. pesticides)</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>The Sustainable Use of Pesticides Directive 2009/128/EC</p> <p>The European Commission is responsible for the approval of active substances for use in pesticides in Member States. Approval is given after a rigorous assessment process involving the European Food Safety Authority, Member States and scientific experts.</p> <p>The Directive includes provisions aimed at reducing risks and impacts on human health and the environment, and to improve controls on distribution and use:</p> <ol style="list-style-type: none"> <li>a. A National Action Plan</li> <li>b. compulsory testing of application equipment</li> <li>c. provision of training for and arrangements for the certification of operators, advisors and distributors</li> <li>d. a ban (subject to limited exceptions) on aerial spraying</li> </ol>

					<p>e. provisions to protect water, public spaces and conservation areas f. the minimisation of risks from handling, storage and disposal g. the promotion of low input regimes</p> <p><u>UK Law</u> The Food and Environmental Protection Act 1985 as amended by the Pesticides Act 1998.</p> <p>When an active substance is approved by the EU, companies can apply to the regulatory authority in each Member State for permission to place their product on the market. In the UK this is the Chemicals Regulation Division (CRD) of the Health and Safety Executive. The CRD publishes guidance on the Health and Safety Executive website.</p> <p>Code of Practice for Using Plant Protection Products in Scotland: <a href="http://www.gov.scot/resource/doc/161422/0043816.pdf">http://www.gov.scot/resource/doc/161422/0043816.pdf</a></p> <p>The Code of Practice reflects the Scottish Government's policy to reduce the effect of pesticide use on people and on the environment while controlling pests, diseases and weeds. The Plant Protection Products (Sustainable Use) Regulations 2012 are UK regulations which implement Directive 2009/128/EC.</p> <p>The power of the Secretary of State, as designated Minister, to make Regulations that extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998.</p> <p><u>European Commission Preparedness Notices</u> Questions and answers related to the United Kingdom's withdrawal from the European Union with regards to plant protection products and pesticides residues, 2 October 2018 <a href="https://ec.europa.eu/info/sites/info/files/qa-plant-protection-products_en_0.pdf">https://ec.europa.eu/info/sites/info/files/qa-plant-protection-products_en_0.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on plant protection products <a href="https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_pesticides.pdf">https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_pesticides.pdf</a></p>
DEFRA	Environmental quality – pesticides	x	*x	*x	Regulations governing the authorisation and use of pesticides products and the maximum residue levels in food, and framework for action on sustainable use of pesticides.
Food Standards	Food and feed safety and hygiene law (food	x	x	x	EU regulations laying down the general principles and requirements of food and feed safety and hygiene; food and feed law enforcement (official controls); food safety labelling; risk analysis; and incident

Agency	and feed safely and hygiene law, and the controls and verify compliance with food and feed law (official controls)		<p>handling. The regulations set out an overarching and coherent framework for the development of food and feed legislations and lay down general principles, requirements and procedures that underpin decision making in matters of food and feed safety, covering all stages of food and feed production.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> See the extensive EU law in this area in the Food and Feed Guide in the section on Scottish Law.</p> <p><u>UK Law (exc. Scotland)</u> Feed and food safety and standards are devolved in the UK. The Food Standards Agency (FSA) has responsibility for feed and food safety law in England, Wales and Northern Ireland. Following changes in 2010, FSA responsibilities for food law across England, Wales and Northern Ireland are no longer harmonised.</p> <p>In England, Defra is responsible for food labelling, other than for matters of food safety such as 'Use By' dates and allergens labelling. The Department of Health has central government responsibility for nutrition-related food legislation in England.</p> <p>In Wales, the FSA retains responsibility for general food labelling. The Welsh Government is responsible for nutrition related to food legislation.</p> <p>In Northern Ireland, the FSA retains responsibility for general food labelling and nutrition related to food legislation in Northern Ireland.</p> <p><i>Food Standards Agency Food and Feed Law Guide</i> <a href="https://www.food.gov.uk/sites/default/files/food_feed_law_guide_dec2016.pdf">https://www.food.gov.uk/sites/default/files/food_feed_law_guide_dec2016.pdf</a></p> <p><u>Scottish Law</u> Food Standards Scotland (FSS) was established 1 April 2015 as the national food body for Scotland, with responsibility for central Government functions previously carried out by the FSA in Scotland. The FSS has published a Food and Feed Law Guide which sets out the EU Law and Scottish implementing regulations. The Guide can be found at: <a href="http://www.foodstandards.gov.scot/downloads/Scottish_Food_and_Feed_Law_Guide_-_August_2017_1.pdf">http://www.foodstandards.gov.scot/downloads/Scottish_Food_and_Feed_Law_Guide_-_August_2017_1.pdf</a></p>
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DEFRA	Food compositional standards	x	x	x	<p>Minimum standards for a range of specific food commodities such as sugars, coffee, honey, caseins, condensed milk, chocolate, jams fruit, juices and bottled water.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> Regulation 1169/2011/EU on the provision of food information to consumers</p> <p><u>English Law</u> The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017</p> <p><u>Scottish Law</u> The Food Information (Scotland) Regulations 2014</p>
DEFRA	Food labelling	x	x	x	<p>Regulations setting out requirements on provision of information to consumers on food labels.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> Regulation 1169/2011/EU on the provision of food information to consumers, <a href="http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011R1169">http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011R1169</a></p> <p><u>English Law</u> The Food Information Regulations 2014 <a href="http://www.legislation.gov.uk/uksi/2014/1855/contents/made">http://www.legislation.gov.uk/uksi/2014/1855/contents/made</a></p> <p><u>Scottish Law</u></p>

					<p>The Food Information (Scotland) Regulations 2014  <a href="https://www.legislation.gov.uk/ssi/2014/312/note/made">https://www.legislation.gov.uk/ssi/2014/312/note/made</a> UK Policy</p> <p>UK Policy  <a href="http://www.foodstandards.gov.scot/publications-and-research/guide-to-creating-a-front-of-pack-nutrition-label-for-pre-packed-products-s">http://www.foodstandards.gov.scot/publications-and-research/guide-to-creating-a-front-of-pack-nutrition-label-for-pre-packed-products-s</a> - (joint UK and devolved guidance)</p>
DEFRA	Plant health, see and propagating material	*x	*x	*x	<p>Requirements in relation to the import and internal EU movement of plants and plant products, risk assessment of new plant pests and outbreak management. Assurance and auditing of policies across the UK to protect plant biosecurity. Requirements for plant variety rights, registration of plant varieties and quality assurance of marketed seed and propagating material.</p> <p><u>EU Law</u>  a. EU marketing requirements, including rules for specific seeds  b. Directives related to Conservation Varieties  c. Lists of implementing measures related to marketing of specific seeds  d. Review of EU legislation on the marketing of seed and plant propagating material</p> <p><u>English Law</u>  The Plant Health (England) Order 2005  Protecting Plant Health: A Plant Biosecurity Strategy for Great Britain:  <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307355/pb14168-plant-health-strategy.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307355/pb14168-plant-health-strategy.pdf</a></p> <p><u>Scottish Law</u>  The Plant Health (Scotland) Order 2005  <a href="http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation">http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation</a></p> <p><u>UK Government Technical Notices</u>  Importing and exporting plants if there's no Brexit deal, 24 September 2018  <a href="https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexit-deal</a></p> <p><u>European Commission Preparedness Notices</u>  The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Plant Health, 21 March 2018  <a href="https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf</a></p>



				<p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Plant Variety Rights, 23 January 2018 <a href="https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_plant-variety-rights.pdf">https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_plant-variety-rights.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of marketing of seeds and other plant reproductive propagating material, undated <a href="https://ec.europa.eu/info/sites/info/files/file_import/plant_reproductive_material_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/plant_reproductive_material_en.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Trade in Protected Species of Wild Fauna and Flora, 7 March 2018 <a href="https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brexit_protected_species.pdf">https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brexit_protected_species.pdf</a></p>
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