



Department for
Business, Energy
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Lord Callanan
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Lord Bruce of Bennachie
House of Lords
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25th January 2022

Dear Lord Bruce,

May I thank you for your comments at the Second Reading of the Subsidy Control Bill on 19 January. I am writing to provide additional information in response to your comments on the inclusion of agriculture and fisheries within the scope of the Subsidy Control Bill.

As I mentioned in the Second Reading of the Bill, the inclusion of agriculture and fisheries in the regime was supported by the majority across the UK in the consultation on the legislation. Indeed, 81% of respondents who answered the question agreed that one or both of agriculture and fisheries should be included in the scope of the regime.

Responses to the consultation were received from all across the UK; as I confirmed in the House, no regional breakdown of responses is available. A full list of respondents to the consultation is available in the Government's response to the consultation, but for confidentiality reasons the Government does not publish individual responses.

I continue to engage closely with the responsible ministers in each of the Devolved Administrations and with my Defra colleagues to further understand and address the concerns of the Scottish Government and Welsh Government.

I have attached as an annex to this letter a fact sheet, which I hope will provide useful information on this approach for the new regime.



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Additionally, my officials have prepared illustrative regulations, guidance and Streamlined Routes (also known as Streamlined Subsidy Schemes in the Bill text) that I hope will support noble Lords' scrutiny of the Subsidy Control legislation at Grand Committee. I am sharing these products in order to provide more information about some of the Bill concepts; to give an indication of how Government may use these elements to support its priorities; and to encourage comments on the proposed policy direction.

These documents can be accessed on GOV.UK¹.

Thank you for your continued interest in this vital piece of legislation. I will be placing copies of this letter in the libraries of the House.

Yours sincerely,

Lord Callanan

Minister for Business, Energy and Corporate Responsibility

¹ <https://www.gov.uk/government/publications/subsidy-control-bill-2021-illustrative-regulations-guidance-and-streamlined-routes>

Subsidy Control Bill: Agriculture and Fisheries Fact Sheet

Why agricultural and fisheries subsidies are included in the regime:

1. Our new approach to subsidy control will provide a single, coherent framework for all sectors. The inclusion of agriculture and fisheries will protect competition and investment in these sectors across all parts of the UK – as for other sectors. It will also ensure consistency for public authorities and subsidy recipients, whilst giving all public authorities, including the devolved administrations, the flexibility to design subsidies that are tailored and bespoke for local needs.
2. In the consultation on the future subsidy control regime, we asked whether agricultural subsidies in scope of the World Trade Organisation (WTO) Agreement on Agriculture (AoA) and fisheries subsidies should be subject to the proposed domestic arrangements? Of the respondents who answered the question, 81% agreed that one or both of agriculture and fisheries should be included in the scope of the domestic regime.²

The UK's international obligations:

3. Agricultural and fisheries subsidies across the UK must comply with a number of international obligations such as the WTO AoA and the WTO Agreement on Subsidies and Countervailing Measures (ASCM). Subsidies in scope of the AoA and subsidies related to trade in fish and fish products are not subject to the subsidy control requirements in the UK-EU Trade and Co-operation Agreement (TCA).
4. The AoA is an international agreement aimed at reducing distortion of international trade in agriculture. It does not, however, directly safeguard the UK domestic market. The new subsidy control regime will not only facilitate compliance with our international commitments, but also go beyond this by protecting UK competition and investment. A number of other countries – including the EU – have both WTO subsidy commitments and their own internal regime, and this is the approach we are taking for subsidies in all sectors in the UK.
5. Other subsidies in support of wider agriculture and fisheries policy not covered by the AoA or related to trade in fish and fish products, are subject to the UK-EU TCA subsidy control obligations. The Subsidy Control Bill facilitates compliance with the TCA for these subsidies and avoids public authorities needing to make complicated decisions about whether their subsidy is or is not in scope.
6. Subsidies in relation to support for fisheries and aquaculture products and the production of and trade in agricultural products in Northern Ireland, in respect of measures which affect that trade between Northern Ireland and the EU, must comply

² 75% of respondents to that question explicitly supported agriculture being in scope, and 72% explicitly supported fisheries being in scope.

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with state aid rules where support exceeds the cap agreed under Article 10(2) of the Northern Ireland Protocol. These subsidies are explicitly carved out of the requirements in the Subsidy Control Bill, so there is no double regulation.

Arrangements for *existing* subsidies and schemes:

7. Under the Subsidy Control Bill's broad and flexible grandfathering provisions for legacy schemes, agricultural subsidies and schemes in existence prior to the Subsidy Control Bill coming into force may continue indefinitely, if provided for under the original terms of the scheme. The Bill will not require these subsidies made under legacy schemes to carry out an assessment of compliance against the principles.
8. For agricultural subsidies, this means that subsidies which started under EU CAP policy, such as the Rural Development Programmes or Basic Payment Schemes, can continue on the same terms as before. Fisheries schemes in operation before the regime comes into force may also utilise legacy provisions through the Bill.
9. The Subsidy Control Bill also does not impose transparency requirements on agricultural and fisheries subsidies granted under legacy schemes (where those schemes are not in scope of the UK-EU TCA).
10. The Bill furthermore allows for limited changes – referred to as 'permitted modifications' – to be made to legacy schemes without requiring assessment against the subsidy control requirements. This includes changes in accordance with a scheme's terms as they had effect before the regime comes into force.
11. Further guidance will be issued before the regime is in place to ensure public authorities and beneficiaries are aware of all conditions or changes to existing and new subsidies.

Arrangements for *new* agricultural and fisheries subsidies:

12. The subsidy control requirements include seven main common-sense principles – for example, requiring public authorities to ensure their subsidies address a legitimate public policy objective; are not excessively large; minimise distortion to UK competition and investment; and designed to bring about a change in the behaviour of the recipient (compared to what would've happened in the absence of the subsidy). In addition, the requirements include a small number of prohibitions and sensible, proportionate transparency requirements – alongside appropriate exemptions for emergencies and small subsidies. These requirements will promote competition and investment in agriculture and fisheries, as in all other sectors, and are aligned with general good practice for spending public money and delivering value for taxpayers.
13. We will develop clear, easy-to-follow guidance for all public authorities in good time before the new regime comes into force. This guidance will take into account any sector-specific details or nuances as necessary, including for agriculture. We are also

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considering agriculture schemes and streamlined routes (under Clause 10 of the Bill) to ensure the process of compliance is as straightforward as possible.

14. Consideration is also being given as to whether the minimal financial assistance threshold to exempt agricultural subsidies from the subsidy control requirements should be different to that for other subsidies.
15. The UK Government has engaged regularly with the devolved administrations on the design of the new subsidy control regime, both at official and ministerial level, and will continue close engagement when developing guidance, secondary legislation and streamlined routes.