Aberdeenshire COUNCIL Infrastructure Services

NORTH EAST SCOTLAND AGRICULTURE ADVISORY GROUP BULLETIN – 23 SEPTEMBER 2020

UK INTERNAL MARKET BILL

1 Recommendation

1.1 **It is recommended that the Group notes this report**

2 Discussion

2.1 The UK Internal Market Bill was published on 9 September 2020 to prepare for the end of the transition period, following which the UK Government and Devolved Administrations will no longer be collectively bound by EU law. The UK government has argued that the Bill will be necessary to underpin the proper functioning of the UK internal market once the transition period ends. https://publications.parliament.uk/pa/bills/cbill/58-01/0177/20177.pdf

2.2 As powers over key policy areas will return to the UK Government and the devolved administrations from the EU, different parts of the UK could in future adopt different rules and potentially create barriers to trade between constituent parts of the UK. The Bill aims therefore to adopt principles of mutual recognition and non-discrimination to ensure no new barriers are created for businesses trading within the UK Internal Market. This approach is not endorsed by the Devolved Administrations in Scotland and Wales which would prefer to manage potential barriers to trade through mutually-agreed common frameworks in specific policy areas. The Bill also gives UK ministers powers to amend how the UK could implement financial and other measures within the Northern Ireland protocol if there is a failure to reach further agreement with the EU despite the NI protocol having already been agreed as part of the EU/UK Withdrawal Agreement and enshrined within International Law.

2.3 A brief overview of some of the main features of the Bill as follows:

- UK Government will be given exclusive powers to set State Aid rules
- UK Government to be given powers to provide investment funding comparable to European Structural Funds. One interpretation suggests UK structural funding programmes could in part be centralised, in contrast to Agriculture and Fisheries which have specific provisions for management by Devolved Administrations. The Bill could also introduce a new, non-Barnet spending formula for Structural Fund-type programmes by bypassing Devolved Adminstrations. The Bill appears not to prevent the Scottish Government and other Devolved Administrations from introducing their own (and potentially competing) programmes.
- Devolved administrations to be prevented from introducing *legislation* which conflicts with the Internal Market Bill. The obverse will not apply due to overarching sovereignty of the UK Parliament and the fact that there is no separate devolved administration for England.

- If it is legal to sell goods or provide services in one part of the UK, it will be legal to sell them across all of the UK in most cases, even if this conflicts with other legislation in place in other parts of the UK, under the principle of non-discrimination. Potentially therefore, the area of the UK with the lowest standards could 'set the bar'. This provision does not make it legal to produce goods in all parts of the UK to the same lower standards. For example Scottish producers could potentially be bound to higher production and/or environmental standards than those in other parts of the UK but may require to compete with products produced to a lower standard in the Scottish domestic market (or vice versa). This also applies to goods imported from outside the UK which can be legally sold in all parts of the UK if they can be legally sold in one part of the UK. If Northern Ireland continues to be bound to EU rules to some degree, its producers may not have the same degree of flexibility to lower its standards.
- The Competition and Market Authority (CMA) is to be given powers to monitor state aid and impose fines - but not to impose penalties on UK Government or Devolved Parliaments. There appears to be no requirement for UK Government or Devolved Administrations to act on CMA reports. A question then arises on who may be liable for CMA fines.
- The Bill provides for the UK Government to withdraw requirements for exit paperwork for goods going from Northern Ireland to the rest of the UK. This could result in the Republic of Ireland breaching EU Single Market requirements for exit declarations and may require additional certification for goods leaving the Republic to Northern Ireland and the creation of border inspections infrastructure. The Bill also provides under certain circumstances for the UK to ignore EU interpretations or regulations of State Aid applicable to Northern Ireland.

2.4 Whilst the stated overall objective of the Bill is to ensure a level playing field in the UK single market, some market distortion could potentially occur. However, the UK Government has committed firmly to maintaining (and where possible exceeding) current regulatory standards. The main areas of domestic contention are likely to arise within the constitutional arena: devolution settlements; enforceability and rights to legally challenge interpretations.

3 Scheme of Governance

3.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3.2 NESAAG is able to consider this item in terms of its remit to provide a NE Scotland focus to enable issues and concerns across the agricultural and related sectors to be addressed. This includes strengthening economic development links across the wider land-based sector and food industry, contributing to regional and local priorities, improving links between industry, the environment and biodiversity and contributing to policy development and consultations.

4 Council Priorities, Implications and Risk

4.1 The table below sets out whether risks and implications apply if the recommendations are agreed.

Subject	**Yes**	**No**	**N/A**
Financial		x	
Staffing		x	
Equalities		x	
Fairer Scotland Duty		x	
Town Centre First		x	
Sustainability		x	
Children and Young People's Rights and Wellbeing		x	

5.3 An equality impact assessment is not required because the recommended actions do not have a differential impact upon people with protected characteristics.

5.4 No risks have been identified at Corporate or Strategic level.

Stephen Archer
Director, Infrastructure Services

Report prepared by Martin Brebner Team Manager – Economic Strategy & Policy and Derek McDonald, Industry Support Executive (Rural & Maritime)
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