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The Agriculture Bill: Five Key Asks at Report Stage

Introduction

The Agriculture Bill is crucially important for the farming sector. It seeks to provide continuity and stability for farmers as we leave the European Union (EU) and its passage will pave the way for a bold and ambitious new approach to domestic agricultural policy that can be designed specifically for the needs, and recognising the unique characteristics, of UK agriculture once we leave the Common Agricultural Policy (CAP).

The challenge is to improve the Bill to ensure it provides a watertight framework, given the ongoing uncertainties relating to Brexit, in which government can support farmers as productive and sustainable food producers – with all of the accompanying benefits that has for their effectiveness in delivering public goods. The NFU therefore considers the following five key aspects of the Bill of great importance for debate at Report stage.

The NFU hopes that specific amendments will be tabled for Report Stage to improve the Bill in these areas, and will work with MPs ahead of the Bill's remaining stages to ensure the legislation is fit for purpose.

1. An “agricultural” Agriculture Bill

The Bill needs to include explicit and clear overarching agricultural objectives on the face of the Bill – it is after all an Agriculture Bill. The government has made clear that it intends to use Brexit to establish a new system of farm support, where financial assistance is provided to deliver public goods, alongside additional measures to improve the productivity and resilience of UK agriculture. The NFU supports this approach, but in order to meet these goals the financial assistance provisions in the Agriculture Bill must focus specifically on agriculture, underpinning a farming model in the UK that is sustainable, productive and plays an active role in delivering food production and public goods. As it currently stands, financial assistance can be provided for a wide range of measures, whether related to agriculture or not. While many such measures may be desirable, if unrelated to agriculture they should be pursued outside the framework of the Agriculture Bill, otherwise the opportunity to develop a sustainable farming model – sustainable both environmentally and economically – will be missed. Government should seek to pursue other environmental objectives through other legislation or policy levers.

The NFU believes that the Bill should, in the first clause, state the ultimate objectives (as opposed to general purposes) to which any financial assistance should contribute. This should relate explicitly to agricultural activity, farm businesses or farmland. This remains consistent with the wide range of purposes for which financial assistance can be provided, as stated in Clause 1 of the Bill. But it will ensure that those purposes are connected to agriculture – for instance ensuring farm practices protect soils, water and air, mitigate climate change or improve agricultural productivity. These are goals shared by a wide range of stakeholders across the sector, from farming organisations to civil society and environmental NGOs. Such an approach would preclude programmes being designed which would be unrelated to agriculture (e.g. on golf courses or airfields) and which would draw support away from incentivising and rewarding sustainable agricultural practice and revitalising UK farming in a post-Brexit Britain – the stated aim of this government.

2. Promoting domestic food production

The NFU believes that supporting domestic agriculture to ensure food security and stability of food supply should be included in the purposes to which financial assistance can be directed under Clause 1 of the Bill. The government has a strategic interest in ensuring a sufficient level of domestic food production, and the Bill should ensure there are powers for the government to support UK agriculture so it can continue to meet these expectations.

It's interesting to note that the powers provided under the landmark Agriculture Act 1947 were in pursuit of "a stable and efficient agricultural industry capable of producing such part of the nation's food and other agricultural produce as in the national interest it is desirable to produce in the United Kingdom", and among the objects of the Treaty of Rome which establishes the CAP are the stabilisation of markets, the availability of supplies and reasonable prices for consumers. This demonstrates a recognition, by different governments in different jurisdictions in different eras, of the important requirement for any government to serve the interests of its people by investing in domestic food production, to ensure stability and security in the provision of a safe and affordable domestic supply of food.

3. Budgetary cycles

Whilst not on the face of the Bill itself, the NFU welcomes the government's commitment to maintain cash total for farm support funding until the end of this Parliament (expected in 2022, but possibly sooner). Longer term we believe that the current levels of public investment in agriculture should be maintained.

We believe that the Agriculture Bill should establish a multi-annual budgetary framework that provides certainty for farmers and allows them to plan and invest for the future. Budgetary cycles should be independent of the parliamentary cycle to reflect the need for long term planning and investment and to avoid the agricultural budget becoming politicised and subject to annual discretionary spending decisions. There should be scope within the Bill for Ministers to "carry over" any monies left unspent at the end of a particular budget year for spending in subsequent years.

4. Valuing and Protecting our Standards

The NFU wants to see British farmers continuing to produce food to the current high environmental and animal welfare standards of which they are proud, whilst being able to compete on a level playing field with producers elsewhere in the world. If UK farmers are undermined by cheaper imports produced to lower standards then the aims of the Bill to promote sustainable and high quality UK farming would be fatally undermined. Moreover, UK consumers would increasingly have to rely on food produced to lower standards elsewhere in the world.

The government must ensure that future trade deals always contain provision to prevent agricultural products and food which does not meet our environmental, animal welfare and food safety standards from entering the country. But this does not address the wider issue of how, outside specific trade agreements, government intends to stick to its promise not to allow food produced to lower food safety, environmental and animal welfare standards – and it is important to note the distinction between all three – that could undermine the government's broader ambitions for a productive and sustainable UK farming industry.

The Bill should contain provisions to require all food imported into the UK be produced to at least equivalent standards, as they relate to animal welfare, environmental protection and any other legitimate public policy concerns associated with food production, as those required of producers in the UK. A failure to do so would undermine the principles that should be at the very heart of the Bill - an efficient, productive, profitable UK farming sector meeting the needs and expectations of the British public, both in terms of the food they eat and the public goods they value.

5. Financial Resilience

The NFU believes that the Bill should be strengthened to provide Ministers with the scope to introduce financial assistance to support the resilience of farm businesses, helping them better manage risk and times of poor market returns. **We believe the simplest way of achieving this would be for the powers conferred on Welsh Ministers (schedule 3, paragraph 1 (2)) to be replicated in Clause 1 for Ministers exercising England-only powers**, which allows financial assistance to support “persons who are involved in the production, processing, marketing or distribution of products deriving from an agricultural, horticultural or forestry activity.” Not only would this provide flexibility for provision of support to English farmers, it would also put English and Welsh farmers on an even footing, reducing the chance for internal market distortions through different legal frameworks for agricultural support.

We also believe powers for ministers to respond to exceptional market conditions (Clause 19) are too limited. Requiring the conditions for the exercise of such powers to be cumulative sets the bar for their deployment too high, and the ‘exceptional market conditions’ involved should include ‘significant’ rather than ‘severe’ disturbances. Such market conditions should also include disturbances to input costs and/or costs of production, as well as disturbances to agricultural markets/prices. These changes would significantly help farmers manage uncertainty and volatility which is only likely to be exacerbated by external factors as a result of Brexit in the years to come.

Further areas for improvement

The NFU still has a number of other concerns relating to the Bill. Some of these were discussed during Committee Stage, but remain outstanding. Further to the key areas outlined above, we believe that the Bill can also be improved in following areas, and would be happy to brief MPs if there is interest in pursuing the matters below at Report Stage:

- **UK Frameworks: Maintaining a level playing field:** Ministers must ensure that the Bill adequately addresses the issues stemming from devolution, maintaining a level playing field amongst farmers and growers across the home nations while respecting the devolution settlements, the UK internal market and the United Kingdom’s international obligations.
- **Criminality (Clause 3):** The Bill introduces powers for Ministers to make regulations that may include provisions to create criminal offences with respect to financial assistance provided for through the Bill. This is disproportionate and should be removed.
- **Brexit uncertainty – increasing or varying the level of direct payments (Clause 5):** The Bill foresees the phasing out of Direct Support payments to farmers in England, during a transition period commencing from 2021. The NFU is concerned that, should the coming years prove particularly challenging for farming, the Bill does not provide sufficient scope in England for government to make the necessary interventions.

- **Payment certainty (Clause 9)** – A major concern of many farmers with the existing support regime is the lack of certainty surrounding the timeframes under which the government paying agency (the RPA) makes payments. At present the CAP foresees a payment window of 1st December to 30th June. At the very least such a payment timeframe should be replicated and indeed the NFU believes that this should be tightened to ensure that farmers have greater certainty of when they can expect payments due.
- **Delinking (Clause 9):** The Bill introduces provisions for Ministers to make a delinked payment in lieu of a direct payment to farmers during the transition period, which require further detail.
- **Collection and sharing of data (Clauses 14-18):** Farmers need access to robust market data to improve their bargaining power in the supply chain and to increase their resilience. There are provisions in the Bill which would contribute to this, which we welcome. However, as currently drafted we are concerned that the powers conferred on Ministers would go well beyond what is needed for these purposes. Clause 16 allows for information to be collected for a very wide number of reasons, many of which are not directly connected with promoting transparency or fairness in the supply chain.
- **Fair Dealing with agricultural producers (Clause 27):** The powers to impose obligations on first purchasers of agricultural products in relation to contracts with producers are very welcome. The lists of matters that may be specified under such contracts should be as wide as possible and certainly not exhaustive; the government should be able to specify contract terms in regulations as necessary.
- **Competition law agricultural exemption (Schedule 2):** As currently drafted, Schedule 2 removes the Common Agricultural Policy objectives exemption from competition law. This exemption should be maintained as there is no justification for its removal, and it may be useful for farmers working together.