

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## AGRICULTURE BILL

*Ninth Sitting*

*Tuesday 13 November 2018*

*(Morning)*

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### CONTENTS

CLAUSE 11 agreed to, with an amendment.

CLAUSES 12 TO 16 agreed to.

CLAUSE 17 under consideration when the Committee adjourned till this day at Two o'clock.

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**Saturday 17 November 2018**

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**The Committee consisted of the following Members:**

*Chairs:* † SIR ROGER GALE, PHIL WILSON

- |   |   |
|---|---|
| † Antoniazzi, Tonia ( <i>Gower</i> ) (Lab)                                | † Harrison, Trudy ( <i>Copeland</i> ) (Con)             |
| † Brock, Deidre ( <i>Edinburgh North and Leith</i> ) (SNP)                | † Hoare, Simon ( <i>North Dorset</i> ) (Con)            |
| † Chapman, Jenny ( <i>Darlington</i> ) (Lab)                              | † Huddleston, Nigel ( <i>Mid Worcestershire</i> ) (Con) |
| † Clark, Colin ( <i>Gordon</i> ) (Con)                                    | † Lake, Ben ( <i>Ceredigion</i> ) (PC)                  |
| † Davies, Chris ( <i>Brecon and Radnorshire</i> ) (Con)                   | † McCarthy, Kerry ( <i>Bristol East</i> ) (Lab)         |
| † Debbonaire, Thangam ( <i>Bristol West</i> ) (Lab)                       | † Martin, Sandy ( <i>Ipswich</i> ) (Lab)                |
| † Drew, Dr David ( <i>Stroud</i> ) (Lab/Co-op)                            | † Stewart, Iain ( <i>Milton Keynes South</i> ) (Con)    |
| † Dunne, Mr Philip ( <i>Ludlow</i> ) (Con)                                | † Tracey, Craig ( <i>North Warwickshire</i> ) (Con)     |
| † Eustice, George ( <i>Minister for Agriculture, Fisheries and Food</i> ) | † Whitfield, Martin ( <i>East Lothian</i> ) (Lab)       |
| † Goodwill, Mr Robert ( <i>Scarborough and Whitby</i> ) (Con)             | Kenneth Fox, Anwen Rees, <i>Committee Clerks</i>        |
|   | † <b>attended the Committee</b>                         |

## Public Bill Committee

Tuesday 13 November 2018

(Morning)

[SIR ROGER GALE *in the Chair*]

### Agriculture Bill

9.25 am

**The Chair:** Good morning, ladies and gentlemen. May I remind you of the housekeeping arrangements? Please switch electronic devices to silent. Although we do not recognise the Public Gallery, it would be helpful if that could be done there as well. Tea and coffee are not allowed—but I cannot see any, so that is all right.

On line-by-line consideration of the Bill, the ground rules apply as usual. I decide whether there is a stand part debate. You can have a stand part debate, if it is convenient to you, during the debate on the clause or at the end, but not both. You have to exercise your judgment.

#### Clause 11

##### SUPPORT FOR RURAL DEVELOPMENT

**Jenny Chapman** (Darlington) (Lab): I beg to move amendment 79, in clause 11, page 7, line 35, leave out “simplifying or improving” and insert “making a change or changes which the Secretary of State believes to be necessary to”.

**The Chair:** With this, it will be convenient to discuss the following:

Amendment 80, in clause 11, page 8, line 19, leave out “negative” and insert “affirmative”.

Amendment 81, in clause 11, page 8, line 19, at end insert—

“(5) Before making regulations modifying legislation under this section, the Secretary of State must consult persons who, in his or her opinion, are representative of the sector to which the regulations will apply, or who may otherwise be affected.”

*This amendment would ensure that there are checks and balances on the use of Ministerial powers in relation to rural development that would be granted under Clause 11.*

**Jenny Chapman:** It is good to be back after our week’s rest last week. Clause 11 concerns support for rural development and I am afraid, looking back at our previous deliberations, I must rerun some of the arguments we applied to previous clauses. The issue that runs through the Bill is what the Secretary of State may want to do with the powers, and the inadequate definition of that. In the present case, the Minister wants the powers to be subject to the negative resolution procedure, which we went over in some detail the week before last.

Clause 11 states that the Secretary of State “may by regulations modify”

“retained direct EU legislation relating to support for rural development”

and

“subordinate legislation relating to that legislation.”

That is quite a broad power. Subsection (3) sets out some of the measures that the Secretary of State would be able to modify. It begins:

“In this section ‘retained direct EU legislation relating to support for rural development’ includes in particular—”

but it is not clear to me, and I should like the Minister’s view, whether the list of measures that follows is intended to be exhaustive, or whether the Secretary of State would be able to add to it. If he could add to it, and could use the powers in other ways, too, would the use of the negative procedure be appropriate in all circumstances, and not just the instances specified in the list? I should like the Minister to enable the Committee to understand the aim of the clause properly.

Amendment 79 relates to the Secretary of State’s power, under the clause, to simplify or improve the measures. The amendment would make the quite modest but important change of replacing the words “simplifying and improving” with

“making a change or changes which the Secretary of State believes to be necessary to”.

**Mr Robert Goodwill** (Scarborough and Whitby) (Con): Would the hon. Lady rather give powers to the Secretary of State to complicate legislation or make it worse? It seems she is opening a door for that to happen.

**Jenny Chapman:** No—clearly, that is not the intention. If the Minister needs to table something to make that clear, we will gladly discuss that.

**Sandy Martin** (Ipswich) (Lab): Does my hon. Friend agree that although additional, more specific regulations might be more complicated, they would be clearer?

**Jenny Chapman:** I agree, yes. The change we are seeking in the amendment is to include “necessary”, because the Secretary of State has powers under the clause to make changes that he or she thinks would simplify or improve, but that is so subjective. The power that the Government seek would be through the negative procedure, so any change ought to be needed and not just used for things that the Secretary of State desires to do, for motives that we could not discern.

If the Secretary of State wishes to change the scheme in ways that today we can only guess at, we want to know more about how that power can be used. It could be said that it is very generous to allow the Secretary of State to make changes that, in his or her opinion, simplify or improve—he or she could say that just about any change was an improvement if he or she wanted to.

All amendment 79 seeks to do is to place a duty on the Secretary of State to ensure that any future changes are really needed: these measures will potentially have a significant impact on rural communities. The Secretary of State may decide to do nothing in this policy area, despite having the powers. People watching our deliberations will want to know an awful lot more about what will happen as a consequence of the clause.

I move on to amendment 80, which subjects regulations under the clause to the affirmative procedure—not the negative procedure, as the Secretary of State desires. We went over this point at length last time when we discussed the difference between the two processes. I do not see

any benefit in going over all that again. It would be helpful if the Minister justified why he thinks the affirmative procedure is not appropriate in this instance.

As we discussed at some length previously, amendment 81 requires the Secretary of State to consult persons who, “in his or her opinion, are representative of the sector to which the regulations will apply, or who may otherwise be affected.”

The Opposition believe that that is a necessary safeguard. We want the amendment on the face of the Bill because the clause affords such great power and discretion to the Secretary of State.

We know, because he said it last time, that the Minister has good intentions to consult, but the majority of consultations conducted by his Department take place because they are required in legislation. We talked about there being several hundred consultations—could he tell us how many of those come about because they are required in legislation? How many happen because the Department feels that it is the right thing to do?

There is no requirement at all in the clause to consult, but perhaps there ought to be. The Minister is asking us to rely just on his good will and the custom and practice that he says exists in the Department, but I question whether that is the case and whether the consultations that take place in the Department for Environment, Food and Rural Affairs are by and large required by legislation. They are often required for very good reasons and are an important safeguard that ought to apply when we are talking about support for rural development.

As we discussed last time and as is worth repeating, done correctly, consultation improves decision making and avoids costly mistakes and unintended consequences. Why does the Secretary of State believe it is not appropriate to require consultation in this case?

**Dr David Drew (Stroud) (Lab/Co-op):** I am delighted to be back, Sir Roger. I spent much of last week in Northern Ireland and Ireland, and will no doubt be referring to that in Committee.

A couple of points are important to the clause. We need to understand that the Bill should encompass pillar 2 of the common agricultural policy. I am not sure whether it does, although this is the closest that we get to it. I am aware that in due course we will be debating my amendment 115, so I am not going to talk about timetables.

I want to talk about the substance of rural development: it is very important that we understand that although agriculture is crucial to rural development, it is not the totality of it. I would argue that the Government have not got a rural policy, and they need one. Things are going on in rural England, to which the Bill largely refers, that are not good at the moment. Anyone who has read the material that has come out about the relative decline of market towns should be very clear that we need to invest in those communities and the villages around them.

The worry is that the Government not only do not have a rural policy, but they have no one to speak on a rural policy. They dismissed all rural advocacy. I am not saying that new Labour was wonderful in this area, although we did have a good rural policy between 1999 and 2004—principally around the countryside White Paper of 2000 and what the £1 billion earmarked for rural areas implied. It made a significant difference.

Sadly, that has all gone: we have lost the rural tsar and the Commission for Rural Communities. That worries me when it comes to this Bill; I do not know how pillar 2, which largely invested in rural communities through the common agricultural policy, transfers into the Bill.

I will be interested to hear what the Minister says. We are back again to the usual game of powers and duties. The Minister and Secretary of State do not need to do anything. They can make lots of warm noises about rural areas, but the reality is that unless we have vibrant rural areas, we will not have a vibrant farming sector because those are inextricably linked.

It is important that we get clarity from the Government on how pillar 2 is embedded in the Act, to make sure that rural areas are not forgotten. The Agriculture Bill is the nearest we will get to being able to talk about rural areas and their need for investment and support through the nature of farming—obviously, a lot of the people who get the benefit of rural development are farmers or farm businesses along the food chain.

Will the Minister clarify what guarantees there are in respect of pillar 2? It was never perfect, but a lot of the academic and support work that goes into rural areas came through that channel. We all know that that sort of funding is highly questionable at the moment. I hope the Government will make some real statements today about how they intend to fund rural development.

**The Minister for Agriculture, Fisheries and Food (George Eustice):** I want to begin by addressing the shadow Minister’s over-arching point about rural development and the pillar 2 scheme. I will respond to that specific question, which is not directly relevant to this clause but is picked up in other parts of the Bill.

Pillar 2 and pillar 1 are an EU construct: that distinction will no longer exist, but the policy objectives, currently delivered under pillar 2, will be delivered in the following ways. Clause 1(1) is all about the farmed environment and supporting farmers to farm in a more sustainable way and enhance the environment. The objectives delivered by the current countryside stewardship schemes and the previous entry level stewardship and higher level stewardship schemes, which account for the lion’s share of the funding in pillar 2, will be picked up in clause 1(1).

**Jenny Chapman:** This gets to the nub of the problem. As we have said, the Secretary of State may give financial assistance for those things, but the Bill does not say that the Secretary of State is going to do any of those things.

**George Eustice:** We had a long debate about the drafting protocols that we have always had in this country, and “may” is the wording that has been used in a number of Acts, including the Natural Environment and Rural Communities Act 2006 and a number of other Acts that Opposition Members are passionate about, such as the Agriculture Act 1947. We covered that in detail last week when we debated this issue.

I want to return to the point that clause 1(2) enables us to make grant aid and loans for farm productivity, and that picks up a number of the other components of the pillar 2 schemes—notably what we currently call countryside productivity schemes, which are all about supporting farmers to invest in new equipment.



[George Eustice]

Finally, as I also made clear in earlier debates, there will also be a shared prosperity fund with a rural dimension, which will pick up some of the other objectives currently delivered in pillar 2, such as the LEADER scheme. We have a clear plan, both in the Bill and the development of a shared prosperity fund, to deliver rural development and support.

This clause, in common with clauses 9 and 10, is all about the power to modify retained EU law. That is very important because our frustration at the moment with the bureaucracy around the current schemes is horrendous. The amendment seeks to change “simplifying” or “improving” the operation of the scheme to saying simply to make

“changes which the Secretary of State believes to be necessary”.

I am not sure that the hon. Lady’s amendment narrows the scope—it might, in fact, give more discretion to the Secretary of State. We are clear we want that power to be used to simplify and improve. A number of people have asked what “simplify” and “improve” mean. I think that is understood: it is to simplify and improve. As my right hon. Friend the Member for Scarborough and Whitby made clear, we would not want to make the situation worse and more complex.

**Jenny Chapman:** It is not sufficient to say that people have asked what “simplify” and “improve” mean and then to say that they mean to simplify and improve. It might help if the Minister gave a couple of examples so that we have a clearer idea of what he intends.

**George Eustice:** Yes, I was coming on to do just that. One frustration at the moment is having LEADER groups up and down the country regularly complaining to me about the process that they have to go through in the application. The current regime has been made more onerous with the number of checks and the amount of paperwork required.

We have had problems in the past when people with relatively small grants have been told that they have to get three or four quotes for the job to be done. There is nothing wrong with that in principle but, if there is a slight modification to their plan and they have to make an adjustment to their investment, they have to go out to the market again and get a whole new set of quotes. They find that kind of bureaucracy deeply frustrating. This provision would enable us to improve that.

Another example comes from the countryside stewardship schemes. People get deeply frustrated about the amount of photographic evidence they have to send in; we have even had complaints that people have had to send in photographs of invisible boundaries because that is a requirement of the scheme rules. Again, that has all been done because of pressure from the IACS regime, as it is called: the integrated administration and control system, enforced by the EU. The provision would give us the ability to take off some of those rough edges.

At the moment, we get about £100 million of disallowance fines a year from the European Union, and a large amount of that is for trivial points around the way something is recorded. One example that I remember particularly well is that we ended up with

fines from the European Union because it did not like how we had recorded how we checked whether companies were VAT registered; they were large companies with grants under the fruit and veg regime in that instance. We had checked that they were VAT registered. The check took place and was recorded through an email exchange, but the EU said we should have recorded it on a particular type of form.

That is the monstrous complexity and bureaucracy that bedevils all these schemes, and that is why it is right that we strike down that unnecessary bureaucracy and administration, as we seek to do in clause 9.

9.45 am

**Mr Goodwill:** I was in the European Parliament for some time, and it strikes me that the way EU regulations are drafted makes the assumption that every farmer is a crook who is trying to dodge the system; in the UK, we have a long tradition of great honesty from the agricultural community in the way they work through these schemes.

**George Eustice:** My right hon. Friend makes an incredibly important point.

**Jenny Chapman:** Will the Minister give way?

**George Eustice:** I will answer that important point first. The regulations are drafted in a way that assumes guilt—often, it is worse than that. For example, farmers might have made a number of innocent and minor record-keeping errors and we might have chosen to write warning letters instead of imposing fines. Under the penalty matrix, the EU auditors take the view that there almost has to be a quota for guilt: if we were to be more lenient on some farmers because they had made innocent errors, we would have to apply higher penalties to other farmers, deeming them to be guilty. It is an EU process that is completely inconsistent with British notions of justice and the rule of law, but it is a system that we have had to endure for many years.

**Jenny Chapman:** People watching this will be astonished that we are being asked to assume that one group within society is somehow to be treated differently when they are in receipt of public funds, because they have a tradition of honour and not being misleading and should be viewed differently from other people who are getting support. There will have to be rigorous procedures around all this. The Government are in for a huge shock if they think that the scrutiny and pressure from the EU will not be replaced by pressure from constituents and taxpayers.

**George Eustice:** That was not my point at all, and it was not my right hon. Friend’s point. The point was that we should allow farmers and other landowners to be treated the same as everybody else; apply the principles of justice and rule of law that we have in this country; and not have an arbitrary system of penalties coming from the EU.

To come back to my point about the areas in which we can improve, clause 9 will be an important area for some of our evidence requirements and rules on deadlines and dates; we would be able to show more flexibility. The powers in clause 11 will probably be more modest,

but they enable us to sort out some of that unnecessary administration—on the LEADER scheme, in particular. They would enable us, for instance, to vary the length of agreements when we thought that was appropriate, particularly if we wanted to extend and roll forward some of the legacy agreements for a few years.

**Dr Drew:** The problem with the LEADER scheme is that it is pan-European. With exit from the EU, will there be the opportunity to allow institutions in this place, and communities, to indulge themselves in a pan-European sense because of the nature of that rural development? We have always learned from other parts of Europe and they have learned from us. Will that be possible or will this expenditure be very constrained?

**George Eustice:** The LEADER scheme is probably the most devolved of all the EU schemes, in that we literally have local action groups—LAGs, as they are called—which are local committees that appraise individual local projects for small grants. The scheme does not require a pan-European architecture; it has just ended up that way. In fact, those types of local grants, which are often administered or certainly appraised locally, lend themselves to a more national scheme.

**Dr Drew:** I hear what the Minister says, and that will be all right from the UK's perspective, but we will be dealing with countries that are subject to the CAP and continuing LEADER obligations. Do the Government intend to negotiate with the EU post-March to ensure that those cross-country arrangements can continue? Otherwise we will be precluded. Whatever money we choose to put into a new LEADER, we will not be part of LEADER, so what is the Government's plan?

**George Eustice:** Our plan is to leave the European Union, which means leaving the common agricultural policy and LEADER, but also putting in place superior schemes that we will design nationally. That is what we intend to do.

**Mr Philip Dunne (Ludlow) (Con):** If I can take the Minister back to his comments about the duration of existing schemes, perhaps he can take this opportunity to inform the Committee that he will have the powers to continue to pay under the existing higher-level, entry-level and countryside stewardship schemes, which in many cases run for up to 10 years. As I understand it, we had commitments from the Treasury that that amount of money would continue to be made available. Will he confirm that he will have the power to ensure that those existing agreements will be honoured?

**George Eustice:** That is a very important point. I can absolutely confirm that existing schemes will be honoured for the lifetime of those projects. I know that we will probably come to this when we consider later amendments, but the grant agreements between the Government and individuals will be honoured even after we leave the European Union. The Bill, together with the European Union (Withdrawal) Act 2018, gives us the power to bring across retained EU law and to continue to make payments under it.

**Simon Hoare (North Dorset) (Con):** Yesterday morning, I met an organic farmer in my constituency. His is quite a small farm, and his question about the stewardship

scheme, and others through which he receives payment, was whether size will be important when determining who receives money and how. LEADER+ and other types of support system are important, but there is an anxiety that the small and beautiful smallholding, as it were, is likely to miss out as people look to scale up. Can my hon. Friend assure me that there will be a range of support within the new system that he proposes, irrespective of the size of an operation?

**George Eustice:** Yes, I can. We discussed this when we touched on clause 1, which is about the way in which we will support people. We heard representations from people engaged in small projects, such as agroecology projects, about whether they could have support. They are often not entitled to support under existing schemes, but I absolutely said that clause 1 will enable us to support those. Indeed, this is an area that we are looking at closely. Clause 1(2) gives us the power to award grants to some of those smaller businesses, including new entrants.

**Chris Davies (Brecon and Radnorshire) (Con):** Following the question from my hon. Friend the Member for Ludlow, the Minister mentioned that the schemes and their financing will continue. Can he reassure me and colleagues from across the various borders that the devolved nations will also continue to have the money over the period of the schemes?

**George Eustice:** Yes. The devolved nations have that retained EU law through the EU withdrawal Act. We have discussed previously that Scotland requires some kind of clause to be able to continue to make payments after we leave the European Union, but that is relatively easy to remedy. A combination of this Bill and the EU withdrawal Act gives us the power right across the UK to honour all those commitments that have been entered into.

Returning to clause 11, the hon. Member for Darlington asked whether subsection (3) is an exhaustive list or whether we can add to it. It is not exhaustive but it covers the bulk of the regulations. I will explain why we drafted it in that way. The regulations listed under subsection (3) are effectively all the current in-force rural development regulations. However, we have kept open the option to broaden the list slightly because we have some legacy schemes—older agreements under previous countryside stewardship or productivity EU schemes that are no longer technically in force—and we might still want the ability to modify and tweak them. The best way to describe it is to say that the list is not exhaustive, but is close to being exhaustive. It covers all the regulations currently in force, but we need just a slight amount of room to capture the previous legacy schemes that are no longer in force.

**Jenny Chapman:** If there are not many of those additional measures, why did the Minister not include them, just to ensure more clarity in the Bill?

**George Eustice:** The problem with EU regulations is that they are often chopped and changed all the time. We can capture the snapshot of what is there at the moment, but some of these regulations will have repealed and replaced elements of previous ones, but often not all elements. This is a complex area. Often there will be

[George Eustice]

a grant agreement in place where there are binding requirements between the two, but where the initial regulation under which it was made has lapsed and, sometimes, been partially—but not fully—replaced by new ones. There is a constant churn of EU regulations, so we have tried to capture the vast majority of those in force now, but we need that movement to cover areas that might have been missed.

Amendment 80 proposes that regulations under this clause should be made under the affirmative rather than the negative resolution procedure. We discussed this issue in debates on earlier clauses where we are seeking to modify retained EU law. We are talking about technical changes and improvements to legacy schemes that are going to be wound down anyway, and it is not appropriate to have lots of affirmative resolutions for that type of change. We envisage making a single sweep of changes to improve and simplify these schemes in one point, and that would be the end of it.

However, I can give the hon. Lady some reassurance on her amendment 81. As I explained earlier in relation to a similar amendment, DEFRA needs no encouragement to hold consultations. We love consultations. My constant refrain to officials is: “Are we sure we really need a consultation on this?” We often hold consultations where we have just a couple of dozen people who can bear to respond to them. While we do not need to put this requirement in legislation—the only legislative requirement for consultation in the DEFRA sphere, for obviously good reason, is for food safety, which is in the Food Safety Act 1990—I can give her an undertaking that, before making changes to the scheme under the powers of clause 11, we would hold a consultation to ensure that all relevant parties could be engaged.

**Jenny Chapman:** I have such concerns about this, because it could become a free-for-all, where the Government can do what on earth they like. We cannot sit back and allow that to happen. Minette Batters said in evidence that she did not wish this kind of support to become politicised. I do not blame her for that, and I would not wish that in her position either, but the fact is that it is going to be politicised, and the Government have no idea what they want to do. I am not accusing the Government of having some sort of sneaky plan up their sleeve that they wish to inflict on rural communities, but I do not think they know what they want to do. They have therefore decided to come up with this clause, to give themselves as much flexibility as possible. I accept the Minister’s undertaking on consultation. I take him at his word and will be holding him to that, but the Government have not been clear. I do not think they know what they want to do. The list is not exhaustive, as we would have hoped.

I will not push each amendment to a vote—aspects of this issue will undoubtedly be dealt with in the House of Lords—but we have genuine concerns. We are not just trying to make a point; it is a real problem for Parliament and, potentially, rural communities that the Secretary of State is being allowed these kinds of sweeping powers under an inadequate procedure, which cuts out parliamentary scrutiny and Members’ ability to voice their concerns. I will therefore put amendment 80 to a vote.

**The Chair:** The hon. Lady needs to say that she first wishes to withdraw the lead amendment, if that is what she intends.

**Jenny Chapman:** I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

10 am

**Dr Drew:** I beg to move amendment 115, in clause 11, page 8, line 18, at end insert—

“(3A) Regulations under this section must make provision for any schemes entered into under the retained direct EU legislation relating to support for rural development prior to the date of enactment of this Act to continue until those schemes come to an end in accordance with their specific terms.”

*This amendment would ensure that existing agri-environment and rural development schemes, and those entered into prior to the Agriculture Act coming into force, remain in place and continue to operate.*

The Minister will be pleased to know that I will be a bit quicker on this amendment, which is about timing. Although we have debated the substantive meaning of the changes to rural development, the amendment deals with how they will work in practice, which we are still a little confused about. Let us see if we can tease out from the Minister at least whether existing schemes will continue.

The amendment is clear: it asks what happens to the retained direct EU legislation on rural development from before the Act and how schemes can continue when people have signed up. Farmers are affected, but so are communities, because they may be part of the LEADER scheme, which the Minister has intimated will be no more. There may be a new scheme, but it certainly will not be LEADER unless we can have some relationship with other European countries. The amendment is about the functionality of these schemes. Many of us know them and feel strongly that they have considerable merit. The question is how we take them forward post-Brexit—if that happens.

Many of the schemes have gone on for a long time; they should have a proper run down, or perhaps they can be reinvented in a different guise. Farmers have made heavy investment in time and money in the existing arrangements, but it is important that rural communities also have certainty and security in the knowledge of where those schemes will go. It would be unfair if Ministers were to force the end of the schemes before they would have ended anyway—they are all time limited—and, more particularly, the existing agreements must be met with the full benefit of money and support from DEFRA and other agencies that have been crucial to the schemes coming about. The amendment is designed to maintain continuity, so we have genuine knowledge. People have invested a great deal of their time, and they are very good schemes.

We have done the work on how to develop a revitalised rural community. I hope the Minister looks favourably on the amendment. It may be that today is not the time, but we will be happy to consider a Government amendment, either on Report or in the other place. If the Minister is not prepared to give us that assurance, what assurance will he give to farmers and communities that want the schemes to continue? The worst thing possible would be if people were to start dropping out of them now. That would be a total waste of money. It is important, because we need to know where these types of scheme will fit in the transition scheme. Will there be an understanding that money will be available to keep the schemes going for a period of time, as intended?



**George Eustice:** I am grateful for the opportunity to clarify our intentions regarding the current schemes—the higher level and the entry level stewardship schemes—and, more importantly, some of the countryside stewardship schemes that are being entered into now. My hon. Friend the Member for Ludlow also spoke about the importance of continuity for existing schemes. I am grateful for the opportunity to clarify that the UK Government have already guaranteed that all pillar 2 agreements signed before 31 December 2020 will be fully funded for their lifetime. Even as we leave the European Union in March, until the end of December 2020 we will honour any agreements entered into before that date.

The amendment is unnecessary, because the current regulations do not in fact set an end date in EU law. Had the EU regulations stipulated a cut-off point for agreements, of course we would have needed to address that in the clause, but they do not. We have agreements that are binding under the public sector grant agreements protocols that we have in government. Effectively, that is akin to contract law: we have entered into public sector grant agreements with agreement holders, and that is legally binding for the duration of those agreements.

The underpinning EU regulations set out only limited circumstances in which we could terminate an agreement. First, and quite reasonably, the agreement can be terminated if there is a massive breach of the agreement—for instance, if the agreement holder is not doing any of the things that they said they would. Secondly, if there is a transfer of land and the agreement does not go with the new owner of the land or they do not agree to abide by the agreement, for similar reasons it is right to discontinue the agreement. Thirdly, an agreement can be terminated early by mutual agreement—that is, if the parties choose to do so. That is important in terms of transition to the new order and the new types of schemes.

To answer the shadow Minister's question about how we envisage moving from these legacy schemes to the new schemes, it may be that in the later years of some of these schemes, agreement holders opt voluntarily to convert their agreement into one of the new environmental land management agreements. They will not have to do so if they choose not to: the agreement that they have will be legally binding. However, if they were to choose to convert their agreement into an environmental land management scheme and both parties thought that was the right thing to do, we would be able to have that option.

I hope that I have reassured the hon. Gentleman. Although he highlights an important point, our intentions are clearly set out, and we are already bound by the public sector grant agreements. The amendment is therefore unnecessary and I hope that he will withdraw it.

**Dr Drew:** I will not press the amendment to a vote—obviously, that would be nonsensical—but I am worried about the tenor of what the Minister is saying. It is easy to find fault with the existing arrangements, but we have to give people confidence that what they have been doing is right. The biggest hurdle arises when the schemes are coming to an end. No one is going to invest time and money then, so ending the schemes early is quite possible, not because farmers and communities necessarily want them to end early, but because they see no future in them.

We need to give a great deal of encouragement to those who have entered into these schemes. They are more than farming schemes: they are to do with the development of our rural communities. It is vital that the Government get the message that the sooner they say what will replace LEADER in particular—all of us with rural constituencies could hold up LEADER as wonderful practice—the better. The sooner we can get some clarity about what will replace it and the degree to which it will allow flexibility to work with other communities and countries, the better for all concerned. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Amendment proposed:* 80, in clause 11, page 8, line 19, leave out “negative” and insert “affirmative”—(*Jenny Chapman.*)

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 10.

### Division No. 8]

#### AYES

Antoniazzi, Tonia	McCarthy, Kerry
Chapman, Jenny	Martin, Sandy
Debbonaire, Thangam	Whitfield, Martin
Drew, Dr David	

#### NOES

Clark, Colin	Harrison, Trudy
Davies, Chris	Hoare, Simon
Dunne, Mr Philip	Huddleston, Nigel
Eustice, George	Stewart, Iain
Goodwill, Mr Robert	Tracey, Craig

*Question accordingly negated.*

*Amendment made:* 5, in clause 11, page 8, line 19, at end insert “(unless section 29(4A) applies)”—(*George Eustice.*)

*See the Explanatory Statement for Amendment 2.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clauses 12 and 13 ordered to stand part of the Bill.*

### Clause 14

REQUIREMENT MUST SPECIFY PURPOSES FOR WHICH  
INFORMATION MAY BE PROCESSED

**Kerry McCarthy (Bristol East) (Lab):** I beg to move amendment 113, in clause 14, page 9, line 45, at end insert—

(ia) achieve a reduction in food waste of no less than 50 per cent by 2030, from a 2015 baseline”

*This amendment would require the provision of transparent data of food wasted in agri-food supply chains to meet the UN's Sustainable Development Goal (SDG 12.3) of halving per capita food waste from farm to fork by 2030, against 2015 baselines.*

**The Chair:** With this it will be convenient to discuss the following:

Amendment 114, in clause 14, page 10, line 5, at end insert “(including terms of employment and pay for persons within the meaning of section 13(3)(b) or (c))”

[The Chair]

Amendment 116, in clause 14, page 10, line 7, at end insert—

“(ca) promoting the welfare of creatures of a kind kept for the production of food, drink, fibres or leathers”

*This amendment would ensure there is provision in clause 14 for the processing of data for the promotion of animal welfare.*

**Kerry McCarthy:** Amendment 113 revisits the issue of food waste, which we discussed last week. I declare that I am chair of the all-party group on food waste. We submitted a response to the “Health and Harmony” consultation paper, along with organisations involved in food waste campaigning—This is Rubbish and Feedback. I am pleased to see that the Government have made some progress recently, particularly in the food waste reduction road map, but their approach still seems to be based on voluntary action. It is important that we see something more specific that binds the Government to future action.

There are powers in the Bill that could be used to require those in the agri-food supply chain to supply information on waste in the supply chain. The explanatory notes state that clause 14(4)(f)

“allows data to be collected for minimising waste from agri-food supply chains, which may include food waste”.

Mandatory food waste audits are crucial if we are to get any idea of the scale of the food waste problem and who is responsible for where it occurs in the supply chain. We said last week that too often there is a focus on the consumer end, and I am keen to ensure that it is not just the farmers who are blamed for this. Many of the problems are caused by what happens in the middle—the pressures that supermarkets and food manufacturers put on farmers, and the way that products are marketed and sold to consumers.

**Sandy Martin:** We had a debate yesterday about plastic packaging. One of the barriers to the reduction of plastic packaging in supermarkets is that they are very reluctant to let anybody know exactly what is happening. If we are going to reduce food waste, we need to make sure that supermarkets give that information.

**Kerry McCarthy:** That is true. Some supermarkets have been a lot better than others. Tesco has taken quite significant steps in auditing the waste in its supply chain; others have only paid lip service. One of the problems with the way that the Courtauld commitment works is that everyone is bundled in together and they report in aggregate, so we do not know who is making progress and who is not. We are also committed to meeting sustainable development goal 12.3, and I believe we should make that a binding statutory target, which must be done in legislation.

**Mr Goodwill:** Obviously, crop yields vary according to the season and often farmers need to grow plenty to ensure that they can supply their contracts. Would the hon. Lady define stock feed potatoes or carrots used to feed livestock as waste, or would that be exempted from her definition?

10.15 am

**Kerry McCarthy:** Let us be clear: this is a discussion we have had in part about whether, if certain produce is ploughed back into the field, it should count as waste.

This is not about pointing the finger at farmers and blaming them for what happens on their farms; it is about trying to ensure that the data is there, so that we can see what processes are needed to reduce avoidable waste. In the food waste hierarchy, the aim is to ensure that any food produced that is fit for human consumption is consumed by humans, and then, working our way down the hierarchy, by livestock, and then used in processes such as anaerobic digestion. At the bottom of the hierarchy is landfill—an absolute no-no, I would say.

Although there is a legal obligation for that food waste hierarchy to be enforced, we know that it is not and there are no consequences if people do not follow it. One of the reasons it is not enforced is that we do not have the data on where food waste is occurring. I say clearly that this is not about blaming farmers for anything; it is about trying to reward farmers for doing the right thing. We need the information to be available.

**Mr Goodwill:** May I press the hon. Lady further? On our farm, we used to grow swedes, which by and large were for livestock, but we would harvest and net up one in 10 or one in 20 for human consumption. It would be hard for any farmer to collect data on her description of food that is fit for human consumption but then finds its way into the animal food chain.

**Kerry McCarthy:** I am trying to get at where the policies of the supermarkets and the buyers lead to food waste on farms. We are talking about when food is produced and supermarkets reject the produce—sometimes on spurious cosmetic grounds, but usually because of poor predictions of when they will need it. Perhaps it is a bad summer and the supermarkets are not selling as many salads or other summertime foods as they otherwise would. That is what we are trying to get to the bottom of.

This is not about farmers choosing to do certain things with their produce; it is about trying to get to the bottom of the unfair relationship. We have the Groceries Code Adjudicator, but although there are measures in the Bill to strengthen that role, they still do not go anywhere near far enough. The Groceries Code Adjudicator has said that she does not believe she needs any more powers, whereas I know that farmers and a significant number of people throughout the supply chain are crying out for that relationship to be made fairer and be more firmly enforced.

**Martin Whitfield (East Lothian) (Lab):** Is it not the case that the data is not with the farmers, but with the supermarkets through the buyers’ decisions on what they take and what they reject? Surely we cannot expect the farmers to differentiate the uses made of their crops?

**Kerry McCarthy:** Yes, that is entirely the case. This is about the food supply chain. If we are only to look at our food system in relation to farming and treat that as something segregated, we cannot help farmers in the way they need to be helped.

**Mr Dunne:** I am listening carefully to what the hon. Lady is saying; perhaps I could illustrate to her, with a current example from my farm, the difficulty with what I think she is suggesting. We have a potato crop, and the

very dry conditions through the summer, followed by some rain in August, have led to a large proportion of the potatoes in unirrigated fields developing what are called “dolly heads”, where there is an extra spurt of growth, and the potato, instead of being a single shape, has a misshapen bit alongside.

To get buyers to accept loads that contain those shapes, we have to send samples off to them. They decide whether to accept or reject them; sometimes, we send the entire load off and it is rejected on sight and sent back to the farm—we cannot anticipate precisely how the supermarket or intermediary will react until they see the load. What is being suggested can lead to extreme complication for the farmer in deciding what should happen to the particular product. What happened to the product is not their fault, but is to do with the climatic conditions.

**Kerry McCarthy:** There is certainly evidence that, whereas under the Groceries Code Adjudicator regime produce should not be rejected because supermarket buyers have just decided they do not actually need what they are contracted to buy, they are increasingly using cosmetic reasons as an excuse, because they are still allowed to reject on cosmetic grounds. A crop of potatoes in one period might be entirely acceptable to the supermarkets because they need those potatoes, but then, on cosmetic grounds, they will reject produce that looks almost identical, because they have got their predictions wrong and do not actually need the potatoes they thought they would. Sometimes this produce is not going to be sold as nicely smooth and rounded baking potatoes packaged up in the supermarket; it will be going into products where the shape does not matter, but the supermarkets have got their predictions and buying calculations wrong and do not actually want it, so they use cosmetic reasons as an excuse.

The memorandum on the delegated powers in the Bill says that clause 20 provides powers for new marketing standards that could be used to

“reduce food waste (for example, by having the flexibility to change any standards that are purely visual)”.

That picks up the contention about EU marketing specifications being responsible for some produce being rejected. As I understand it, the supermarket standards are actually much higher than the EU marketing standards, so the fault does not lie with EU standards; the issue might be supermarkets trying to employ them as an excuse. I think that having more flexibility in relation to marketing standards is unlikely to make a difference, and I hope that the Minister addresses that point.

My key point is this. When we discussed amendment 85, I think, the Minister said we should not make farmers responsible for meeting the food waste target, as most of the time they are not responsible for food waste, and I absolutely agree. That is why the mandatory target should sit in this part of the Bill, where we are talking about the supply chain.

I have said that the Courtauld 2025 commitment is a helpful tool, but it is not ambitious enough. The fact that participation is voluntary means that it will never achieve as much as we would like and will certainly not get us towards the sustainable development goal. However, when Courtauld 2025 was announced, the Waste and Resources Action Programme was meant to be generating

a baseline for primary production by the end of 2018. Can the Minister update us on that? My understanding is that it might now be only an estimate rather than a set figure. The fact that there have been funding cuts to WRAP and the industry is still being secretive with its data means that we cannot come up with the baseline that we would like to see.

Finally on amendment 113, I just reiterate the point that we want to see a level playing field. At the moment, 89 businesses have signed up to the food waste reduction roadmap, but that is fewer than half of the top 250 food businesses. Again, the good guys will sign up and get a lot of credit, and then the Government can say, “This is really working. We’ve got companies that are doing their best to reduce food waste.” But what about those companies that have not signed up? I will leave the food waste side of things there.

Amendment 114 is a probing amendment to follow up on a debate that I had a few weeks ago, on international Anti-Slavery Day, about modern slavery and labour exploitation in supermarket supply chains. We know that the sector has a really serious problem with that. The International Labour Organisation estimates that agriculture, if grouped with forestry and fishing, is the sector with the fourth highest proportion of victims of forced labour worldwide. Other sectors, such as apparel—the fashion or clothing industry—seem to be getting to grips with the problem, but the food sector does not appear to be. I mentioned many examples during that debate, so I will not go into detail now, but they ranged from organised crime in the Italian tomato-growing sector to workers in the Thai seafood industry—cases of torture, enslavement and workers being kept at sea and passed from ship to ship for years at a time, with 59% of workers, I think, saying that they had seen the murder of a fellow worker. In this country, we still very much have an issue with gangmasters and poor conditions in the sector.

Oxfam has sent up the Behind the Barcodes scorecard, which rates supermarkets on their transparency, accountability and treatment of workers and farmers. There is also a gender element, because women tend to be more likely to be victims. On that scorecard, Tesco again comes out best—at 23%. It did actually come along to a meeting of the all-party group on human trafficking and modern slavery, which I thought was good. It listened to the clothing industry talk about what it had done, and it seemed keen to do more. So Tesco was on 23%. Morrisons and Lidl are on 5%, and Aldi is on 1%, so we have a discrepancy between the supermarkets trying to do the right thing and others not taking it seriously at all.

**Sandy Martin:** Does my hon. Friend share my frustration that, when supermarkets or anyone else involved in the agri-food supply chain do not want to give information that would enable some of the problems to be dealt with, they can hide behind the cloak of commercial confidentiality? Amendments 114 and 113 would enable the Secretary of State and people engaged in the purposes of the Bill to overcome the commercial confidentiality blanket used by some.

**Kerry McCarthy:** Supply chains can be so opaque and so long. I am very much in favour of shorter supply chains so that we know where the produce comes from.



[Kerry McCarthy]

Again, as I mentioned in the debate in the Chamber, when the horsemeat scandal broke and we were discussing lasagne that might contain horsemeat, it was astonishing to discover that it had been on an around-Europe trip to at least a dozen different countries—perhaps more—before it ended up as a finished 99p lasagne in the frozen food section of a supermarket. It is amazing how something so cheap can be produced by going on that journey. Some products have dozens and dozens of ingredients, and it becomes almost impossible to trace the origin of those ingredients. I am all in favour of shorter supply chains and less-processed food.

The key point with both amendments, as my hon. Friend the Member for Stroud said, is that it is all well and good for the Government to put transparency provisions in the Bill, but we would like to know a bit more about how they intend to use them to ensure that we root out not only food waste but labour exploitation in supply chains. The information I was given—in a new briefing from the Independent Anti-Slavery Commissioner and the University of Nottingham—is that only 19% of companies in the agriculture sector abide by the terms of the Modern Slavery Act 2016. It is not enough to say that we already have the legislation when fewer than only one in five adheres to it. We need a wider definition of supply chain liabilities, so that participants in that supply chain cannot feign ignorance or rely on real ignorance. The companies are huge, and they need to know what is going on in their supply chain.

I also want to ask the Minister about the EU's unfair trading practices directive and how we will seek to replicate that in the UK supply chain. We have been told that the UK supports the broad aim of the directive but that we want to do our own thing. I am interested to know how that will relate to the supply chain provisions in the Bill.

**Dr Drew:** I thank my hon. Friend for this group of amendments, which are important in terms of both food waste and how our food chain operates. This is the Agriculture Bill, rather than a waste Bill, but it is appropriate for us to look to amend and improve it. I strongly concur with what amendment 114 is trying to do. We clearly welcome the reintroduction of an Agricultural Wages Board. We always thought it was a real loss when the coalition Government got rid of it. There are reasons why it is difficult to attract people into the agriculture sector, including the employment limitations caused by that change, so we would always concentrate on reintroducing that body.

10.30 am

However, I rise to speak to the amendment in the names of myself and other hon. Friends. It aims to help the Government and is in no way intended to criticise them. A lacuna has come about because clause 14(4)(c) talks of

“promoting the health or traceability of creatures of a kind kept for the production of food, drink, fibres or leathers”.

The problem is that that leaves out animal welfare, which we think is absolutely crucial, as does the British Veterinary Association. I put it on the record that I am an associate of the British Veterinary Association. However, we would support the amendment anyway. We believe

that animal welfare is a public good, and that this is the appropriate place in the legislation to link animal health to animal welfare.

There are objective outcome measures of animal welfare. Those need to be put in the Bill—particularly the five welfare needs, which are not covered by the definition of animal health and should be there in their own right as animal welfare. The needs are: a suitable environment; a suitable diet; that they should be examined to see if they exhibit normal behaviours; that they should be housed with or apart from other animals; and that they should be protected from pain, injury, suffering and disease. Those are important requirements and they are not in the Bill. I am quite happy to take the Minister's advice on whether he will look at this and see if there is a way of incorporating it.

I will not labour the point, but there are clear reasons why animal welfare measures should be in the Bill and central to the Department for Environment, Food and Rural Affairs' operation. Welfare considerations for poultry include: frequency of deviations from normal behaviour; feather pecking; evenness of using the space; avoidance distance testing; that they have access to an outdoor area with the possibility of dust-bathing; the ratio of animals and feeders and water access; the availability of hay bales or pecking stones; the availability of sufficient perching space; and the provision of adequate light.

The considerations are similar for cattle, including: frequency of deviations from normal behaviour; stereotypies, including licking the wall and playing with the tongue; undisturbed resting; average avoidance distance, to assess good animal-stockman relationships; presence of tethered animals; access to pasture or, at least, paddocks; suitable space with separated function areas; suitable size of cubicles; and the availability of cow comfort equipment, such as rotating brushes.

I could go on to pigs, but I will not, because the Minister will have the measure of how I am trying to help the Government in this respect. I really hope that the Government look at the inclusion of animal welfare in the Bill, alongside animal health. If not, I want to know from the Minister why not. If he can find a better place to put it, so as to secure animal welfare, I am very open to that suggestion. However, it must be somewhere; otherwise, it would be a real loss. We are not here always to criticise the Government, as I said, but to help.

**George Eustice:** We have had an interesting discussion on a range of issues in this collection of amendments. I want to touch on each in turn.

First, I turn to amendment 113 in the name of the hon. Member for Bristol East. The amendment attempts to insert an additional paragraph in clause 14, adding to the list of purposes for which information can be collected, to cover a target for food waste. I think this may be a probing amendment; we had a discussion of a similar nature last week.

Food waste is incredibly important and the Government recognise that, which is why later this year we are going to publish a new waste and resources strategy that will cover the issue. As I explained in a debate on an earlier amendment, WRAP is doing a piece of work at the moment looking at waste in the primary sector. Between 2007 and 2015 we have seen a 19% reduction per capita



in the amount of food that is being thrown away that could have been eaten. As the hon. Lady pointed out, the quartal 2025 commitment is a commitment for a further 20% per capita reduction by 2025. There are ambitious targets already set through quartals, and we are working with WRAP, which is a DEFRA-supported agency, to deliver that objective.

In terms of the specific amendment, I draw the hon. Lady's attention to clause 14(4)(f), which states a purpose as

“minimising waste arising from activities connected with agri-food supply chains.”

My contention would be that we already have a clear purpose stated in the clause, which enables us to collect information. It is about minimising waste arising from activities. I think her amendment is unnecessary because it duplicates what we have already provided for in clause 14(4)(f).

**Kerry McCarthy:** I have given my notes to *Hansard* now, but I think I am right in saying that the clause I cited says that it could be used for that purpose. I am trying to make sure that it is used for that purpose.

**George Eustice:** It is a point that we have often heard here, about the powers or the duties. We have set out our commitments and our targets, such as through the quartal 2025 and our waste and resources strategy, and we have the power here to do what is necessary to collect data, so that we can minimise risk in the supply chain. It is there, listed with all the other purposes, so I believe that the hon. Lady's amendment is unnecessary. It is an inappropriate place to introduce a target. We can have a debate about targets and whether there should be targets of this nature in a future environment Bill, for example, or whether we should continue to work with the quartal commitments. As I said, they have already made solid progress. This particular clause is about the collection of information and I do not think it is the appropriate place to set a target in the way that the hon. Lady has outlined.

I turn to amendment 114, also in the hon. Lady's name. Again, it links to an earlier discussion we had about the Agricultural Wages Board, which was removed. Fairness of employment contracts is an important issue, but it is dealt with in other ways. We have the national living wage, introduced by this Government. It is currently £7.83 per hour for over-25s and in April next year it is due to rise to £8.21 per hour. The regulations are already set out and are enforced by Her Majesty's Revenue and Customs, which enforces all the national minimum wage legislation. In addition, we have the Gangmasters and Labour Abuse Authority, which deals with some of the practices that I know the hon. Lady is concerned about, such as modern slavery and abuse in the labour market. We have the GLAA already, which has powers to tackle and investigate that issue.

**Dr Drew:** I understand all that. We can have all sorts of regulations quoted back to us. The simple fact is that we are ploughing fruit and vegetables back into the ground again this year, because of the lack of a suitable seasonal agricultural workers scheme. I know this is slightly different from domestic wage rates, but the reality is that we cannot attract people to work on the land because both the wages and the conditions are not seen to be suitable. That is why the Agricultural Wages

Board was so crucial. It was not just about wage setting, but setting the environment. Although I accept that the National Farmers Union always campaigned to get rid of it, many farmers welcomed it, because now they have to set those rates and conditions themselves, subject to the national minimum wage and the national living wage, which is always a difficult process. I hope that the Government will, at some future date, think again about this whole area.

**George Eustice:** The hon. Gentleman has strong views on this. We debated this at an earlier stage of the Committee. Our view is that the Agricultural Wages Board became redundant, first with the introduction of the national minimum wage and then, more importantly, the introduction by this Government of the national living wage, which provides new protections, so the Agricultural Wages Board was no longer required.

**Kerry McCarthy:** I appreciate that there are problems with enforcement of the living wage, such as people trying to get around it by offering accommodation at extortionate rates. The Gangmasters and Labour Abuse Authority—I have looked at the figures for prosecutions—could do more. I am not so concerned about what is happening in this country as about the supply chain. None of the measures the Minister talks about make any difference to rooting out exploitation and modern slavery in the supply chain. We import millions of pounds'-worth of seafood from the Thai sector, which we know is rife with slavery and exploitation. They come into our supermarkets and are sold on our shelves. The legislation the Minister talks about does not help us deal with that, which is why we need transparency, and to put an obligation on the supermarkets and food processors, to know what is going on and who is doing what. If we have cheap food on our shelves it is cheap for a reason, and I think the Government have an obligation to find out why.

**George Eustice:** I understand that point, but there is obviously a limit to what we can deliver internationally. We have international forums through which we argue for such issues to be addressed.

Coming back to this particular clause, which links to another point that the hon. Lady raised about unfair trading practices in the EU dossier currently under discussion, the purpose of this part of the Bill around collection and sharing of data, and this requirement in clause 14 for people to provide information, is linked to unfair trading practices. The purpose of subsection (4)(b) is to promote transparency and fairness around the price of goods, and it is about the terms and conditions that individual purchasers or processors might have for farmers. The purpose is to improve fairness for producers, so that they have better transparency and can make more informed choices about who they sell their goods to.

**Sandy Martin:** Clause 14(3) states:

“Each purpose specified must be in, or covered by, the list of purposes in subsection 4.”

If these amendments are not passed, is there not a danger that various players within the supply chain might wish to use the fact that these were not specified in subsection (4) to say that they would not give information to the Secretary of State in the pursuit of the purposes for which the Bill stands?

**George Eustice:** In the precise design we have, clauses 12 and 13—particularly clause 12—create quite a big power for the Secretary of State to require people to provide information. Therefore, we need clause 14 to place boundaries and scope on that. We have had criticism from Committees in the House of Lords and from hon. Members on this Committee, saying that there is too much free power for a Secretary of State—it is not defined or constrained enough. In clause 14, we are placing clear parameters on the purposes for which we will require data to be provided. That is right and proper, and what we are trying to achieve with clause 14. We do not want it to be an open-ended power.

**Sandy Martin:** Surely, you have reinforced what I am trying to say. You are placing parameters.

**The Chair:** No, I have not.

**Sandy Martin:** I am sorry. The Minister is placing parameters around what the Secretary of State may do. Those parameters do not include, in terms of employment, pay for persons, welfare for animals or reduction of food waste. There is a real danger that the Secretary of State will not be able to bring in the information he needs to achieve the purposes of the Bill.

10.45 am

**George Eustice:** Subsection (4)(f) provides for a purpose to collect data on food waste. That purpose is covered, but the other purposes the hon. Gentleman mentions are not covered. I will turn to animal welfare in a moment, but in terms of wages and conditions, as I pointed out, that is rightly picked up by regulations in other parts of our legislation, already enforced by the GLAA and HMRC to ensure that we adhere to those. On matters such as terms and conditions and pay, the object is to have the right regulation, which applies equally to everyone. It is not necessarily about just requiring people to publish the regulation and leaving them to their own devices. As I said, the purpose of subsection (4)(b) is to promote transparency in the supply chain.

I turn now to amendment 116 relating to animal welfare. I completely agree with the hon. Member for Stroud about the importance of animal welfare. I was very clear that it should be listed in clause 1 as a purpose for financial assistance. He says it should be recognised as a public good; it is. It is declared as a public good in the very first clause of the Bill. It is not appropriate, however, to have it in this particular clause for reasons that I will explain. If we want to deliver animal welfare outcomes, we can use a number of tools to approach that. We can raise the baseline of regulation and if we do so, we would do so using provisions such as those under the Animal Welfare Act 2006, as we did with CCTV in slaughterhouses. That should be legislation that applies equally to everyone.

The second approach that we can take is to introduce financial incentives to support farmers for adopting an approach to livestock husbandry that is better for the welfare of the animal. We make explicit provision for that in clause 1. It gives us the power to give grants to farmers to invest in new livestock housing that enables more enrichment of the sort the hon. Gentleman describes. It gives us the power to award financial incentives to farmers who sign up to holistic animal welfare accreditation

schemes, such as RSPCA Assured or others. It also gives us other powers to help support objectives around animal health and welfare.

The third option is to improve labelling, which I know a number of hon. Members have raised in the past. Things such as method of production labelling or method of slaughter labelling can be introduced, and there are often debates on these issues. Those are the three key areas. They are not necessary in this particular part of the Bill. We can—and do—deliver our animal welfare objectives in many other parts of the Bill. We do not need a requirement here for information on animal welfare to be disclosed, because it should be either a regulation that is enforced uniformly or an incentive scheme. I draw the hon. Gentleman's attention to clause 3, which links to any payments made to incentivise high animal welfare. Clause 3(2)(e) gives us the power to require people to keep records and subsection (2)(a) has the power to make provisions around information. In the context of the financial incentives that we intend to offer, we can already require the disclosure of information to support the enforcement of those schemes.

**Martin Whitfield:** On that point, does the Minister envisage that the regulation will facilitate the Secretary of State's collecting the information, or is he hoping it will just be volunteered, because it is being retained by the farmer?

**George Eustice:** In the context of any financial grant or incentive awarded to a farmer under the powers in clause 1, the regulations provided for in clause 3 could stipulate a legal requirement to provide certain information. If farmers enter such incentive schemes, there are already powers in clause 3 to require that information. As for animal welfare in the wider context, that is a regulatory issue that should apply equally to all.

I hope I have been able to reassure the hon. Member for Stroud about the importance I place on animal welfare, but we pick up those policy objectives elsewhere.

**Dr Drew:** I hear exactly what the Minister says, but in a sense he is arguing against himself. Why are we restating health and traceability in the clause? All I am saying is that it would be very neat to put, "health, traceability and welfare of creatures". Animal welfare is important to both health and traceability; it is the third leg of the stool. I do not understand why that cannot happen.

Welfare may be mentioned elsewhere, but so is animal health. This would reinforce in the legislation that this is a key element within the data collection process, which is what this bit of the Bill is about. More particularly, it is about the way we intend the new farming regime to make animal welfare an important part of how farmers should operate, in terms of animal health and traceability.

**George Eustice:** I can clarify precisely why there is a difference. It comes back to the purposes we envisage with these data transparency clauses. We are trying to tackle two issues. The first is fairness in the supply chain, with transparency of market data and terms and conditions. Secondly, we seek to support the roll-out of a new, much more innovative approach to livestock identification and traceability in the food chain.

The joint livestock information programme involves the farming industry, meat processors and DEFRA, to bring together what we currently have, which is a hotch-potch of different ID schemes for different species, coming from EU laws, and put that into a new single traceability database for animal welfare. That would give us the power to support that particular objective. Animal health and traceability are explicitly provided for because they support that.

**Dr Drew:** As my hon. Friend the Member for Bristol East said, animal welfare is a vital element in the reason why consumers should be made aware of lower standards when they buy foreign products. If we do not put that in legislation, we are effectively saying that we worry about health and traceability but the welfare of the individual animal is less important. So, we will continue to import animals that have been raised in the most inhumane ways.

Because this is a matter of data and information sharing, surely we should share that information with the consumer. I would like to ban such products outright, but that may be difficult with free trade agreements. At the very least, that information should be shared with consumers and I do not understand why the Minister is so reluctant.

**George Eustice:** It is because we have taken quite a large power to require the disclosure of information and we think it is important that we give people clarity and certainty about the purposes for which that will be used. Animal welfare is an incredibly important issue, which is why it is addressed in many other parts of the Bill—not least in clause 1, where it belongs.

To come to the hon. Gentleman's point, if we were to have, for instance, a scheme requiring labelling on method of production, that could be done under other legislation. We already have the Food Safety Act 1990, for instance, which provides powers regarding labelling of food. There are other powers in other pieces of legislation that would enable labelling to be addressed. We do not believe that it is required in this clause of the Bill.

We have a joint passion about the importance of animal welfare, so I hope I have been able to reassure the hon. Gentleman that it is addressed elsewhere in the Bill, and that it would not be appropriate to include it in this clause, for the reasons I have explained. I hope that, on that basis, he and the hon. Member for Bristol East will withdraw the amendment.

**Kerry McCarthy:** My amendment was a probing one, so I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 14 ordered to stand part of the Bill.*

*Clauses 15 and 16 ordered to stand part of the Bill.*

### Clause 17

#### DECLARATION RELATING TO EXCEPTIONAL MARKET CONDITIONS

**Dr Drew:** I beg to move amendment 46, in clause 17, page 12, line 35, leave out “may” and insert “must”.

*This amendment would require the Secretary of State to make and publish a declaration if the Secretary of State considers that there are exceptional market conditions in accordance with Clause 17.*

**The Chair:** With this it will be convenient to discuss the following:

Amendment 97, in clause 17, page 12, leave out lines 39 to 44 and insert—

(2) In this Part “exceptional market conditions” exist—

(a) where—

(i) there is a severe disturbance in agricultural markets or a serious threat of a severe disturbance in agricultural markets, and

(ii) the disturbance or threatened disturbance has, or is likely to have, a significant adverse effect on agricultural producers in England in terms of the prices achievable for one or more agricultural products, or

(b) if, on the day after exit day, the United Kingdom has not entered, or secured an agreement to enter, into a customs union with the EU.<sup>7</sup>

Amendment 117, in clause 17, page 12, line 40, leave out paragraph (a) and insert—

“(a) there is or has been a significant disturbance in agricultural markets or a serious threat of a significant disturbance in agricultural markets, or”.

*This amendment and Amendments 122 and 123 would allow a declaration of exceptional market conditions where there is, or there is a serious threat of, a significant disturbance in agricultural markets; and would allow a declaration to be made in respect of events in the past.*

Amendment 122, in clause 17, page 12, line 44, after “achievable for” insert

“or costs incurred in the production of”.

*See explanatory statement for Amendment 117.*

Amendment 123, in clause 17, page 13, line 2, after “are” insert “or have been”.

*See explanatory statement for Amendment 117.*

Government amendment 6.

**Dr Drew:** I shall be quick, because although I am moving the amendment, I think it is more important that I ask my hon. Friend the Member for Darlington to spend some time on it. It is important in relation to the ways in which the Bill could be improved. I ask the Minister to consider amendment 46, and then I am sure that my hon. Friend will have some other things to say.

The issue I am concerned about is the usual one about powers and duties. I make no apology for asking the Government once again to look at where they would consider toughening up the legislation. Unless we have some certainty about what the Minister must do, the Bill will just be a recipe for any subsequent Government—it will not be the Minister; it will be, understandably, his successor—to choose to cherry-pick what to do. We are again considering what duties the Government are prepared to put in place.

It is essential to define exceptional market conditions—that is what the clause is about. I am not sure that the Bill does so, and perhaps the Minister could enlighten me on that point. More specifically, it is a question of an obligation on a Minister to take action at the relevant time. We have already discussed this year's unusual climate change. My hon. Friend the Member for Bristol North West (Darren Jones) has obtained a debate on the impact of exceptional weather conditions this morning, and we should all be attending it, if we were not here enjoying ourselves on the Bill Committee. The Government must do a bit more joined-up thinking about it, and consider whether they are serious about it.



[Dr Drew]

We can see the impact of climate change, and the Government have carefully inserted a clause in the Bill about a declaration relating to exceptional market conditions. However, everyone wants to know when they would intervene to take those exceptional market conditions seriously. There is a power for them to do that, but it is a power that means the Government would sit back, rather as President Trump did until he got the message that things in California are rather more serious than he originally thought. He sits back and says, “Well, it’s nothing to do with me; it is up to the state to sort it out.” Now, of course, he is looking for emergency powers.

That is usually the way things happen. The pressure of the public and sometimes politicians means that Governments have to intervene and do what people want them to do. However, it should be a duty, not a power. Can the Minister give me some assurances on exactly when the Government understand they would have to intervene, when market conditions are severely or significantly disruptive? It would be helpful if he could do that.

This is our food industry. If people do not eat because of exceptional market conditions, they do not tend to see that as being acceptable. We must identify what the Government must do—not “may” do, but “must” do—in relation to these conditions. That is why we make no apologies for pushing this, and it is important that we see it at this stage. I hope that the Government will put at least one duty into the Bill, and there is no more important duty than to feed the population of this country. That should have the word “must” rather than “may”.

11 am

**Jenny Chapman:** I shall speak principally to amendment 97 and what it seeks to do. To an extent it is probing, but we are incredibly concerned about this. As my hon. Friend the Member for Stroud just pointed out, clause 17 talks about “exceptional market conditions”. We are trying to understand more precisely what the Government want us to understand by that. As paragraph (b) of amendment 97 states—this may be imminent—we would consider it an exceptional market condition

“if, on the day after exit day, the United Kingdom has not entered, or secured an agreement to enter, into a customs union with the EU.”

We are concerned about that. Exit day is at the end of March next year, about 150 days from now. That would be a significant threat to the livelihoods of farmers and others in the food and drink industry up and down the country.

We want to understand whether the Government agree that that is a significant threat and what, if anything, they intend to do to support producers through it, should it come about. The Minister may be able to say, “Actually the circumstances that would emerge in that case are covered by elements of the clause in the Bill,” but it would be good to hear him say that, so that we can at least be assured to that extent as we continue to follow the Government’s progress through these negotiations—I hesitate to use the word “progress”.

I am particularly concerned, when we are talking about a customs union, that we have no Members from Northern Ireland on this Committee, so that voice is missing. I understand that the Assembly is suspended at the moment, and I wish the Secretary of State for Northern Ireland well in her endeavours to re-establish the Assembly. It is a great pity that there is currently no access to the Assembly, particularly for the citizens of Northern Ireland, and the voices of that part of our country are limited as a consequence. That is a real problem, particularly when we consider farmers in Ulster. There are farmers along the border whose farms cross the border. It is a border of 300-odd miles, intersected by far too many roads to be able to have any meaningful customs checks.

We have all heard many times in the Brexit debates the concerns about border infrastructure and what it would mean for security and identity in Northern Ireland. That insecurity and concern is felt particularly by strong Unionist farmers I have met in Northern Ireland who tell me very clearly—as I am sure that they will have told the Minister, if he has been there, which I expect he has—that they want to be in a customs union. They have a very plain way of telling you this. I was shocked to hear how one Ulster farmer, a strong Unionist all his life, talked about it. He said that he would rather have a united Ireland than a border on the island of Ireland. That stuck with me, and we all need to keep it in mind, because it shows the strength of feeling in Northern Ireland.

I regret that we have no member of the Committee who can speak with first-hand knowledge of Northern Ireland, and that we have to rely on people like me. Although I have visited many times in recent years to talk about Brexit and its implications, it is a real missed opportunity that we do not have someone on the Committee. I am sure that the opportunity will be taken to hear those voices in later stages of the Bill.

There is growing concern that the Government’s understanding of the way that food gets in and out of our country is lacking. The Secretary of State for Exiting the European Union recently remarked that he did not realise how dependent we were on the Dover-Calais crossing, which was shocking to many people, including me. It was extraordinary to hear that at this late stage in the negotiations. If that lack of appreciation finds its way into the agreement, it could have catastrophic consequences for food producers in this country.

**Mr Goodwill:** The hon. Lady is absolutely right to identify some of the concerns, but is that not why, when we get a deal, which I am confident we will, we should all vote for it, rather than have more uncertainty?

**Jenny Chapman:** Nice try, but whatever the deal is, let us see it and judge it according to its merits. One of the tests that we will apply is the effect that it will have on manufacturers, food producers, communities and the devolved Administrations, and whether it respects the nations of our country and keeps our Union together. Those are the things that we will be thinking about, and we think that having a customs union is essential. We could have referred to a single market deal or any number of things, but we have chosen to be specific in the amendment. We want to understand what the Government expect to happen should we leave without



a deal and without being part of a customs union with our nearest neighbours at the end of March next year. We are deeply worried about that.

**Martin Whitfield:** Is it not the case that, because of the circumstances surrounding the Bill on the question of no deal or deal, and because the Bill represents scaffolding, a lot of people are seeing what they want to see in it, when there is actually very little to see? The sort of certainty that is proposed in these amendments would go a long way towards giving our farmers and rural communities confidence about what is expected and intended.

**Jenny Chapman:** That is a really important point. If I was a farmer, I would be incredibly worried by the Bill in general, but my anxiety would be heightened by this clause and by what I might anticipate happening, given the reports we are reading in the press. I do not think that any hon. Members present have any certainty about whether a deal will be reached, what a deal will look like if it is reached, whether it will be approved by Parliament, or whether it will be approved by the Cabinet, so to blithely assert that there will be a deal and that everything will be fine is not good enough.

We have one opportunity to get the Bill right. This clause could be the lifeboat for many people in the industry. It is important that we understand what the Government intend and what they would do, under the powers given to them through the clause, should we leave without a deal and without being in a customs union.

The National Audit Office report states that the Government are generally underprepared for a no-deal outcome. To be fair, DEFRA has done more than many Departments, but that is because it has had to, because so much of its activity is affected by Brexit. Because the Government are underprepared, there is now panic. A year ago, we anticipated having a deal in October, then it was last week, this week and probably next week. Where is the deal? The anxiety in Parliament is palpable, and it is starting to be felt in the country too. There is an emerging sense of panic, whether about transferring staff from valuable wildlife protection work in Natural England or about the need to stockpile food. We know that the industry has already rented out virtually all the available food storage in the country, and people are incredibly worried about that. Given the lack of clarity and information, their concern is understandable and valid.

The Government have a duty to ensure that there will be food in the shops in April. I know I will be accused of “Project Fear” mark II, mark III or whatever—I understand that, and I am being careful not to enter into that kind of thing—but we must be honest. I do not know whether hon. Members had a chance to read the Government’s technical notices, which were published this summer, but they make pretty grim reading. The Government now acknowledge and anticipate many of the concerns that were deemed to be part of “Project Fear”.

**Sandy Martin:** Does my hon. Friend agree that one of the points made in amendment 122 is that Brexit is likely to have a serious impact on the cost of production? It is not just about markets for produce; it is also about the cost of production. We already see some of those costs changing as a result of the decision to leave the European Union.

**Jenny Chapman:** My hon. Friend is right to highlight that this is about not just trade but many other things, including access to labour, certification, standards and future trade deals. People in this industry are worried about many unknowns. It would go some way to reassure them to know that the Government were mindful of these risks and have used the Bill to make some commitments about the measures they would put in place should those exceptional market conditions come about.

The Opposition have what we think is a helpful answer: to remain in a customs union with the European Union. I do not intend to enter into a long debate about that today—we could spend the rest of the day discussing the benefits or otherwise of a customs union, and I am sure we will do so in the Chamber when we talk about the legal advice later this afternoon. The Opposition have been incredibly clear about wanting to be in a customs union for many reasons. It would deal with many of the risks surrounding trade certification, access to markets and our ability to export as we do now—“friction-free” has become the standard phrase to describe it. That really matters to this sector. It would be good to hear the Minister acknowledge that, because many voices in the sector have been increasingly clear about that as understanding has grown and the debate has progressed. I anticipate that, as we approach exit day without clarity or anything concrete from the Government, the calls for remaining in a customs union will be amplified. The sector needs certainty. It needs to know what it is doing.

The NFU reported that its modelling shows that the removal of the beef tariff and the opening of the UK beef market to imports from around the world would result in a 45% fall in farmgate prices and a 30% fall in the price of sheep. That obviously has a huge impact on producers. Would it qualify as one of the exceptional market conditions in the Bill? What if there is some kind of barrier to trade with the EU of animals and animal products, if we fall out without a deal at the end of March?

11.15 am

The amendment seeks to ensure that Ministers have specific powers to take sensible action to address the exceptional market conditions resulting from a crisis caused by having no customs agreement with the EU after exit. The NFU has warned of “catastrophic” consequences—its word, not mine—for the industry if there is no deal. Exports to the EU of food and drink are worth just over £13 billion a year. No deal would mean that British goods were subject to exactly the same checks as those from China or the US.

The Government would not be able to do anything at all to keep exports flowing in the case of no deal. They may say, “We will allow EU products into our markets without checks,” but they will be able to do absolutely nothing to ensure that the EU did the same. It would be under no obligation to do so. The EU could introduce emergency legislation, but what if it does not? What would the Government do? Would that situation be covered by the clause? If it was, which measures would the Government seek to implement to support manufacturers, farmers and food producers in that situation? I have never heard an answer to that from a Minister.

I do not think they wish to confront these difficult questions, but we are getting really close and people need to know.

The Government's own technical notice has confirmed that the EU would require the UK to be a listed third country. That removes from us many of the established ways of operating that we enjoy and upon which our businesses are founded. The Government's own document on preparing for no deal states that they wish to "prioritise stability for citizens, consumers and business".

That is good; stability is very important as we get close to exit day. Ensuring stability is the least the Government should want to do, but they need to explain what they understand by stability, and how they wish to ensure that that stability is real. A promise of something in future—in three, five or 10 years' time—is not stability. The sector wants to know that two weeks into April, businesses will be able to trade and support themselves as they do now.

It is obvious that the Government acknowledge that leaving without a deal is a threat, but they need to say that that poses a risk to businesses. We argue that leaving the EU without being in a customs union is an exceptional market condition. I want to hear that from the Minister's mouth, to know that he too understands that that would be an exceptional market condition. What would he do to support our producers?

The technical notice on agriculture, published this summer, refers to the Bill. It says that the Government seek to provide stability for the sector through the Agriculture Bill. That is interesting, but given how difficult it is to predict exactly what the consequences of no deal would be—except to say that they would be catastrophic, as the National Farmers Union said—we need to include leaving the customs union as a specific disturbance.

There are many voices in the sector that say the same thing on the customs union. For example, the Farmers Union of Wales has said that the need for a customs union is "incontrovertible" and that common sense "must prevail." I hope that it does. I hope the Minister, who listens to farmers and their representatives, will hear what they are saying in this case. He needs to make these points to his Secretary of State, and his Secretary of State needs to ensure that these arguments are heard in Cabinet and form an important part of discussions around the deal. If we are not going to have a customs union and we leave with no deal, we do not get a transition either; we do not get anything. There is literally nothing in April, fewer than 200 days away.

The Minister needs to make that case very clearly at Cabinet level, because there will be other voices in Cabinet who do not want to hear it. He is a strong communicator and well able to make his case articulately and persuasively, and he will have to do so on this issue.

Another voice on this question is Stephen James, the former president of the NFU in Wales, who said that the "only sensible option" for negotiations was for the UK to remain in the customs union, at least until a free trade agreement could be reached. Another is Adam Bedford, head of the NFU in the north-east, who

pointed out that 75% of our agrifood exports went to the EU and that being in a customs union made trade easier, because as a group of nations we decided to drop our customs checks and charge the same duties on the group's external borders.

I think this is quite straightforward. We need to make a clear commitment that would satisfy our farmers' groups and go a long way toward resolving the issues we have in Northern Ireland. The Government would get themselves out of the fix they have got into around a backstop—if they committed to a permanent, long-term customs union, the issue of backstops could be laid to rest. The negotiations could proceed, a deal could be brought back and—who knows?—it might get the support of Parliament, which must be the Government's wish. The Prime Minister must wish that her deal secures parliamentary support, but without a customs union I would say it is difficult to see how that would happen.

Not doing that will prolong the uncertainty and, without a customs union, lead to all the problems that have been well articulated throughout the sector. I think they constitute an exceptional market condition that the Government need to understand and respond to. They need to explain how the Bill, which their own technical notice referred to as the source of that stability that it seeks to achieve, will make that stability real for farmers in the result of no deal. Unless we specify, as the amendment does, that exceptional market conditions exist if

"after exit day, the United Kingdom has not entered, or secured an agreement to enter, into a customs union with the EU",

I would be incredibly worried if I were working in that sector.

In amendments 117 and 123 we seek to change "severe" to "significant". That would mean that the bar is not set so high and that these provisions would be rarely used in practice. Those changes would ensure that a declaration could be made for events that have occurred in the past but were not obviously exceptional market conditions at the time. There are some things that we can anticipate; I would argue that not being in a customs union is not only something that we can anticipate, but something that the Government can decide. The Government could say today that they wish to be in a customs union and we could move forward. The paralysis that exists at the top of Government could be removed and we could move forward with much greater clarity and certainty.

It would help if the Minister explained and perhaps gave examples of the circumstances envisaged by the word "severe". Does he think the Government will use this power frequently? Does he think it will be once a year, once every five years or hardly ever? How does he envisage these powers being used? Again, as we have unfortunately seen throughout the Bill, that could be vague. Perhaps he would look back over the recent past and say what examples there are of situations where the power could have been used.

11.25 am

*The Chair adjourned the Committee without Question put (Standing Order No. 88).*

*Adjourned till this day at Two o'clock.*