PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

AGRICULTURE BILL

Tenth Sitting

Tuesday 13 November 2018

(Afternoon)

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Saturday 17 November 2018

The Committee consisted of the following Members:

Chairs: † Sir Roger Gale, Phil Wilson

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

Kenneth Fox, Anwen Rees, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 13 November 2018

(Afternoon)

[Sir Roger Gale *in the Chair*]

Agriculture Bill

Clause 17

Declaration relating to exceptional market conditions

Amendment proposed (this day): 46, in clause 17, page 12, line 35, leave out "may" and insert "must". —*(Dr Drew.)*

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.

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing 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."

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.

Jenny Chapman (Darlington) (Lab): It is a pleasure to be back in Committee this afternoon. I look forward to hearing the hon. Member for North Dorset's account of his lunch; he is not here—he is probably finishing his cheese and biscuits.

When you adjourned the Committee this morning at 25 minutes past 11, Sir Roger, I was about to speak to amendment 122. To give colleagues their bearings, we are on page 12 of the Bill and dealing with clause 17. The amendment would insert just a few words about exceptional market conditions. What we are asking for is difficult to explain without reading out a whole subsection of the clause, so please bear with me. Clause 17(2) states:

"In this Part 'exceptional market conditions' exist where—

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

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."

All we want to do is to include, in addition to the reference to an impact on the prices achievable, a reference to the costs incurred in the production of such products, because the issue is obviously not just the prices that can be obtained for them, but how much the costs of producing them may be affected.

Mr Robert Goodwill (Scarborough and Whitby) (Con): When the hon. Lady talks about events that may have a severe impact on British agriculture, could she by any chance be referring to the points made by the shadow Chancellor of the Exchequer yesterday, when he talked about the collective ownership of land? Surely that is a policy that, when enacted by Stalin, killed millions of people in the Soviet Union.

Jenny Chapman: I think that if that were the policy, it would indeed count as an exceptional market condition, and I expect that the Government might want to intervene in some way.

Let me move on. As drafted, the power to act applies only if there is an impact on prices, but obviously there could be a situation in the sector that resulted in excessive additional costs for farmers but did not necessarily have an impact on the price of the product. Examples would be the costs of taking emergency action, such as cleansing and disinfecting, or input costs such as those for fodder. If the clause included our wording, that would enable the Secretary of State to act, or would just make it clearer that he could act when there was an effect on not only the prices achievable but the costs incurred.

Widening the scope, subtly but importantly, beyond just the impact on agricultural product prices would make the measure more flexible and reflective of the nature of exceptional conditions. In an enabling Bill, it is better to have powers with the full scope to deal with the unexpected. For now, that concludes my remarks on this group of amendments.

The Chair: Amendment proposed, 97, in clause 17, page 12, leave out lines 39 to 44 and insert the words on the amendment paper. The question is that the amendment be made.

The Minister for Agriculture, Fisheries and Food (George Eustice): Apologies, Sir Roger: there is quite a large number of amendments in this group, and I am just finding my way to amendment 46. This is another attempt to replace the word "may" with "must". Again, the argument is that the use of the word "may" is wrong. The Agriculture Act 1947 has not been referred to at all today, and I know that the hon. Member for Stroud likes it a great deal, so let me try this quotation:

"Where…it appears to the appropriate Minister expedient so to do, or if it appears to him otherwise expedient so to do in the public interest, he may by order fix or vary any such price".

Even provisions in the 1947 Act, in this case relating to deficiency payments or a price support mechanism, use "may".

The important thing to note about all these sorts of powers is that, by definition, there is a wide element of discretion. We are talking about dealing with crisis scenarios. The aim is not to intervene routinely all the time but to intervene expeditiously and in a fleet-of-foot way when a crisis needs to be addressed. The wording we have used in the clause and in many other areas in this part of the Bill is largely borrowed from what currently sits in EU legislation. The European Union also has discretionary crisis powers for exceptional circumstances, and its wording and approach are similar to what we have here, and, indeed, what we have here is similar to what we had in the 1947 Act.

Amendment 97 would add an additional definition of "exceptional market conditions": if, on the day the United Kingdom leaves the EU, it is not in a customs union, that, of itself, should be an exceptional market condition. The hon. Member for Darlington comprehensively set out her views on these matters. I do not want to drift too far into the debate about customs unions, because we will have hours and hours of fun in the months ahead debating the agreement that comes back before Parliament.

However, we do not have to be in a customs union with the EU to avert a so-called exceptional market circumstance. We have been clear that we want a comprehensive free trade agreement and, crucially, a customs agreement—although not a customs union. We also seek a transition period. We are clear, as a Government, about what we seek in this negotiation, which is in its closing stages.

Jenny Chapman: Can the Minister explain what a customs agreement is?

George Eustice: Yes, I can. If the hon. Lady reads the proposal that came out of Chequers, she will see that a customs agreement is one that allows us to strike trade deals with the rest of the world and in which we would collect and process, on behalf of the European Union, the duty due on goods destined for the EU.

Jenny Chapman: Will the Minister give way?

George Eustice: I will not, because, as I said, I want to deal with the substance of the clause.

The Government are clear about our approach to getting in place a new free trade agreement and a partnership. However, there are several other flaws with the amendment. First, we have to bear in mind that the impacts of a no-deal Brexit will vary from sector to sector; it is not possible to determine exactly what they will be. For instance, we know that the sheep and barley sectors export quite a lot of their goods to the European Union. However, we are net importers in virtually every other sector, so although there may be an impact on sheep, there would almost certainly not be on beef, because there will be less import competition.

I do not think it is wise to put this proviso into the Bill. The reality is that, if the terms on which we left the European Union—be that with no deal or any other circumstance that led to restrictions on trade—led to a severe disturbance in the agricultural market, and if that disturbance threatened to have a significant impact on agricultural producers, the power is already there to act. We do not need to artificially bring a current debate around the customs union into a Bill that is built to last for the long term.

Dr David Drew (Stroud) (Lab/Co-op): One little snippet I learned last week is that the milk that makes Baileys Irish Cream goes backwards and forwards seven times across the Irish border. If there is not some sort of union—or agreement, as the Minister calls it—that will be catastrophic. Given that the backstop is the thing stopping us getting any sort of agreement, would he care to speculate on how he would overcome the downside of those movements not taking place?

George Eustice: The issue in all those circumstances is less about the customs union and more about border inspection posts. That is why we have outlined in our approach a commitment to a common rulebook on those areas that require a border inspection, so as to reduce or even eliminate the need for border checks, and then an agreement on equivalence in other areas of legislation. So the border issue is less about customs.

Let me give another example. Scotch whisky is currently our most successful export, and yet it is always sold as a bonded product in an individual national market, because you have different alcohol duties in national markets, even within a single market. We already have examples of some of our most successful exporting sectors having no problem at all dealing with variable tax rates within a market.

Mr Philip Dunne (Ludlow) (Con): Is the Minister able to confirm what I learned last week? Scotch whisky sales to China amount to £35 million, but pork exports to China, which were opened up by this Government in 2016, I believe, amounted to twice that last year—£70 million in one year.

George Eustice: My hon. Friend is absolutely correct. In the agri-food sector, as in most other sectors, our trade with the rest of the world is growing far faster than our trade with the European Union.

Martin Whitfield (East Lothian) (Lab): It is also the case that Scotch whisky is created and bottled within Scotland and travels as a single product. The issue with Baileys is that it passes to and fro during its production.

George Eustice: That is the case with a number of other things that we import from other countries, including Iceland, which we import a lot of fish products from. We have ways of dealing with these issues.

As I said, the approach that we have adopted with the common rule book and the customs agreement will address those issues.

Jenny Chapman: Will the Minister give way?

George Eustice: I will not give way. With these interventions, a number of Members are giving the impression that they would rather be in the main Chamber taking part in the EU debate than in a debate about future farming policy.

[George Eustice]

The purpose of this amendment is to define not being in a customs union as being a crisis in and of itself. That is absolutely wrong, because we can have a highly successful partnership and trade agreement that does not require us to be in a customs union with the European Union. Many nations in this world are not in a customs union with the European Union.

Jenny Chapman: Some of the contributions have been helpful in giving the lie to the idea that you cannot trade successfully and extensively with countries in other parts of the world while in a customs union, but that is not the point I wanted to make. The Minister says that not being in a customs union is not a crisis, but can he name any border anywhere on the planet where the kind of frictionless trade on which our industry depends is achieved without being in a customs union?

George Eustice: There are many successful economies in the world that are not in a customs union with the European Union.

I come back to my point: if as a consequence of the agreement—or indeed of there being no agreement—with the European Union, there are market disturbances that have an impact on agricultural producers, the power is there to act. There is no need to try to define additional powers in the way that this amendment does.

Amendments 117 and 123 seek to downgrade the test from a severe market disturbance to a significant market disturbance. It is wrong to lower the threshold in that way, for reasons I want to explain. We had evidence from one of the academics that suggested we needed something akin to the old deficiency payments system in that famous 1947 Act. The world has moved considerably since that point, and in many sectors we are seeing the development of viable futures markets to help farmers manage risk. In some countries—notably the US, in places such as Chicago—they put in place legislation to deliver the transparency needed to get a functioning futures market that enables farmers to defend themselves against price fluctuations.

We also have some interesting projects being developed in the UK. We are world leaders in issues such as agricultural insurance. There are some interesting projects on forming mutual funds—effectively, mutualised risk insurance models—that help farmers to insure their margin and protect a given quantity of milk, for instance, at a given price. Moving these powers away from just intervening where there is catastrophic risk, and away from a "severe" to some sort of "significant" disturbance, is the quickest way to snuff out the development of those private futures markets and risk management models.

2.15 pm

Different farm enterprises will have different appetites for risk. A farmer running a highly geared business of a very intensive nature with a lot of debt will often be working on quite fine margins and will not be able to withstand price fluctuations, so he will want to go into the market to insure that price and to protect his margin in that way. A different farmer, with no debt and lots of assets behind him, might take the view that he can ride the rough with the smooth and that he does not need to access such products. It will be different from enterprise to enterprise. All the people we have talked to—actuaries and experts in the insurance field—tell me that the quickest way to kill the development of these new, embryonic, market-based options to help farmers manage risk would be if the Government were always there to step in, because then nobody would take these matters up.

Dr Drew: The Minister quoted the US a minute or two ago. I have some experience of the way in which the US operates its agricultural policy. Whenever there is any challenge to US farmers, it brings the Farm Bill out and openly subsidises its farmers—it is a straight subsidy. That is one of the problems I have with a free trade deal with the US: it is not a level playing field if we get rid of direct payments. I ask the Minister again: how do we defend against exceptional market conditions in this country when another country has already decided that it is going to defend its farmers by taking action through subsidising them?

George Eustice: We are adopting an approach to agriculture policy that is all around investing in farmers to help them reduce their costs to improve their profitability and to reward them for the work they do for the farmed environment. Part four, starting with clause 17, which we are debating now, is all about intervention powers in exceptional circumstances. We have deliberately not defined what those are because there should be a strong element of discretion here, and the Government have to be able to move, decide and act in an expeditious way to tackle a crisis.

The hon. Member for Darlington mentioned this morning what sort of circumstances these powers might be used in. Bearing in mind that they have largely been borrowed from existing EU provisions, we know when the EU has used powers of this sort. For instance, it was possible when we had the dairy crisis in 2015 and prices slumped for a long period during the latter part of that crisis, for the EU to fall back on these exceptional intervention powers to make grants and payments available to farmers to reduce their production. That is the kind of example where it would be absolutely appropriate to use these powers. However, there are other times when we have short-term fluctuations in the market, and when it would not be appropriate to use the powers.

Dr Drew: The Minister is being very patient with me, but I want to get this on the record: if another country, which we may have a trading arrangement with, chooses to subsidise its farmers in extremis because of a particular circumstance, which may be—dare I say it—an act of God, or the market may just be in a difficult position, would we use this particular power to support our farmers?

George Eustice: If that crisis in a third country led to a market disturbance here that had an impact on our producers, then yes, the power is there to do so. There is wide discretion in how this power could be used. In practice, the reality here is that when we have a crisis, we know what will happen. The Minister of the day will have representations from Back-Bench MPs who have met their farmers and he will have to make a judgment about whether this warrants declaring that exceptional market circumstance and taking action thereafter to address it.

This is a wide discretionary power, but I am certain Parliament will be plugged in to advocating that we should declare this exceptional market circumstance and act. It is right we enable it to be a flexible power that can be used in emerging crises that we cannot yet predict.

Dr Drew: I am sorry to intervene once again, but this issue is a minefield, because if a group of my farmers come to me, and I then go to the Government and say, "Well, this is an exceptional circumstance", and the Government say, "No, it's not", but the United States has treated it as an exceptional circumstance, that will surely lead to all manner of legal actions against the Government. Clearly, farmers will defend their rights and their incomes when they feel another country that is trading with us is getting an unfair advantage. Is he not opening a can of worms?

George Eustice: No, I do not think we are. We are largely replicating what already exists. It is already the case that if there was a crisis in the US, and the US intervened but the European Union chose not to, there would be some disparity—

Dr Drew: Well there you are.

George Eustice: We should deal with the situation in our market. The test we should apply before acting is whether there is a severe market disturbance that affects our agricultural producers. We should not be worrying about what other countries happen to be doing.

Simon Hoare (North Dorset) (Con): May I explore this point, because the shadow Minister is right that it is incredibly important? If an agricultural commodity was, in effect, being dumped into UK markets—analogous to the steel dumping from China—would that be a severe market disturbance and would it trigger some level of support, on the proviso that it was not possible to do anything about the dumping because a free trade agreement allowed it to take place?

George Eustice: In all international trade law, there are provisions on dumping—it is literally referred to as "dumping"—that enable us to restrict imports from other countries where under-priced, under-valued produce was being dumped in our market. That can therefore be dealt with elsewhere.

Sandy Martin (Ipswich) (Lab): Would the Minister characterise all exports from a country that subsidises its agricultural production as "dumping"?

George Eustice: No, because we export and have some subsidies for our farmers. We have a range of different approaches that we can take to—*[Interruption.]* We are moving away from subsidies. We will support farmers in a different and better way. We will reward them for what they do for the environment.

I return to clause 17, not clause 1, which we debated earlier. Amendment 122 would broaden the scope of this exceptional market conditions power to enable the Secretary of State also to consider the costs incurred in production. This is neither necessary nor wise. We want this power to be aimed at markets, as it is now, and applied where there is a market disturbance, not necessarily where there is an increase in the cost of production.

The point about agricultural input costs is that there is a strong link between the main input costs, and the cost of oil, movements in exchange rates and weather events, and that also has an impact on output values. Typically, if the cost of animal feed rises, the value of the animal also rises, either because exchange rates, the price of oil or a weather event has driven it in that direction. That linkage is a natural hedge against the cost of inputs.

Sandy Martin: Will the Minister accept that the costs of labour and the costs associated with the exchange rate may well become much heavier for British farmers, especially those in horticulture or fruit and vegetables, than in the EU as a result of Brexit and that therefore our fruit and vegetable production might well be undermined by changes resulting from our leaving the EU?

George Eustice: I do not accept that. We learned from the exchange rate mechanism crisis in this country that floating exchange rates work, and work for our economy. The ERM caused a deep recession in this country, and it was only by leaving it and allowing our currency to float and find its correct value that we saw that boom. We know that the existence of the single currency eurozone is throttling growth in countries such as Italy and Greece and causing massive unemployment, particularly youth unemployment. We know, too, that, since the referendum result, sterling has eased back against the euro, which has led to the biggest boost in farm incomes for more than a decade. In the two years since the referendum decision, farmers have benefited from the pound's slightly softer rate against the euro.

On the amendments, I believe that the issues have already been addressed or that they seek to constrain or fetter the discretion in the power, so I hope that the Opposition spokespersons will not press them.

Dr Drew: This has been an illuminating discussion. The Minister has done well with a bad set of cases. Farm systems throughout the world are subsidised; they might be subsidised in different ways, but they are subsidised. In the normal course of events, that is not a particular problem—we can deal with it, partly because we are in the EU and so have a bulwark. The difficulty is that the clause puts an enormous responsibility on the Secretary of State—I would not want it if I were Secretary of State—to decide whether something is an exceptional market circumstance. I would want to know with my Cabinet colleagues that I had the power to insist on action.

The clause will make it difficult for a Minister to make the right decision, because farmers, understandably, will say, "You have to support us—the Americans support their farmers," but here it is at the Minister's discretion. That has always been our problem, and it is why I will press the amendment to a vote. I think my hon. Friend the Member for Darlington will do likewise with her amendment.

This is the crunch point of the Bill that we are asking the Government to consider. We do not want to fetter a future Administration, but we would want that Administration to understand their responsibilities, and that can be more clearly spelt out in terms of a duty—not a power, but a duty—so that if exceptional market circumstances were affecting the operation of agriculture in this country, the Secretary of State, or whoever was

[Dr Drew]

making the decision in government, had to respond, because of how the legislation had been framed. That is why I will press the amendment to a vote. I want to make it clear that the Bill is deficient in that regard.

We have heard many other interesting things that we will read back over with the benefit of hindsight. The Minister needs a few more examples to give us certainty that what is going on is coherent. At the moment, this seems a woolly set of arguments. We are protecting British farmers. We are also protecting British landowners, who might also be affected, as we can sadly see in California at the moment. I referred earlier to President Trump. He was hardly on the front foot. In a sense, the amendment would help the Secretary of State because he or she would know they had to act and that it was the Government's responsibility. We can argue about what exceptional circumstances are, but the action should be clear, and that is why I will press the amendment to a vote. I think that my hon. Friend the Member for Darlington will be so moved as well.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 9]

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, rh Mr Robert	Tracey, Craig

Question accordingly negatived.

2.30 pm

The Chair: As you know, the Chairman never makes mistakes, but on this occasion I did. Because the debate on this group started when I was a young man, or before lunch, I proposed the question on amendment 46 before lunch, but when Jenny Chapman sat down, I also proposed the question on amendment 97. If you wish to press it, you may; otherwise, withdraw it.

Amendment proposed: 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."—*(Jenny Chapman.)*

The Committee divided: Ayes 8, Noes 10.

Division No. 10]

AYES

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

NOES

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

Question accordingly negatived.

Amendment made: 6, in clause 17, page 13, line 14, leave out "decisions" and insert "conditions"

The text of the Bill should have referred to "conditions" (not "decisions"). This amendment corrects that drafting error.—(George Eustice.)

Clause 17, as amended, ordered to stand part of the Bill.

Clause 18 ordered to stand part of the Bill.

Clause 19

MODIFICATION IN CONNECTION WITH EXCEPTIONAL MARKET CONDITIONS AND FOR GENERAL PURPOSES

Amendment made: 7, in clause 19, page 14, line 38, at end insert "(unless section29(4A) applies)"—*(George Eustice.)*

See the explanatory statement for amendment 2.

Clause 19, as amended, ordered to stand part of the Bill.

Clause 20

MARKETING STANDARDS AND CARCASS CLASSIFICATION

Dr Drew: I beg to move amendment 47, in clause 20, page 15, line 18, leave out "may" and insert "must".

This amendment would require the Secretary of State to make regulations for marketing standards, such as labelling, packaging, classification in Clause 20.

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

Amendment 82, in clause 20, page 16, line 2, at end insert—

"(2A) Regulations under this section may not amend or repeal any part of retained EU law (within the meaning of section 6 of the European Union (Withdrawal) Act 2018) relating to—

(a) the protection of the environment, or

(b) consumer rights."

Amendment 83, in clause 20, page 16, line 17, after "section" insert—

"may only be made following a public consultation and".

This amendment would ensure that there are checks and balances on the use of Ministerial powers and that Ministers may not make regulations that deviate from retained EU law without consultation with industry experts.

Dr Drew: I shall be very quick, because this is the same argument as I used earlier—we make no apology for bringing it back. Clause 20 may not seem to be the most important in the Bill, but the success of any farming operation nowadays depends on marketing. The measure will take effect in a number of different ways. Far too much discretion is allowed to the Secretary of State. These important responsibilities should be encompassed within duties not powers, which is why we make no apology for trying to make it a duty.

Amendment 47 is simple. We do not understand why the Minister has been reticent throughout the Bill to include duties so that successive Governments will know their responsibilities. This is a monumental clause that entails all manner of different requirements on the Minister: classifying different types of animal and plant variety, and how they are presented in terms of the way in which they are sold. Traceability is the issue that consumers feel most strongly about following the difficulties we went through with BSE and the cockle pickers. They want to know that what they are buying is produced in the manner best for animal welfare and that it is safe. They want to know where it comes from, and that the people who produced it have been paid fairly and are looked after.

This clause is important because it has all sorts of ramifications. We ask the Minister to consider when he will include duties if not in clause 20. This is about consumer protection as much as it is about the protection given to producers. My hon. Friend the Member for Darlington is going to follow up with other issues that are specified, relating to where we would be with our withdrawal from the EU, but this amendment is plain and simple. We are asking the Minister to put at least one duty in the Bill. That is crucial and would enable consumers to know the Minister is doing something because he has to do it for their benefit, and not doing something just because he wants to. I hope he considers clause 20 important and that he listens to us.

Jenny Chapman: I will speak to amendments 82 and 83. As my hon. Friend the Member for Stroud said, this argument is to some extent a rehash of the arguments we made earlier when we insisted that the Government should deprive themselves of the ability to amend regulations on the protection of the environment or consumer rights, which are so exceptionally important and valuable to the country that ideally they should not be watered down, dispensed with or altered by Ministers without the use of primary legislation—it should not be done by regulation.

In amendment 82, we seek to safeguard any part of retained EU law relating to the protection of the environment or consumer rights. Clause 20 allows the Secretary of State to amend regulations relating to marketing standards, including the power to amend or revoke standards set out in retained EU legislation. That is quite some power. Current EU legislation pertaining to marketing standards will become retained EU legislation in section 6 of the withdrawal Act. The Secretary of State obviously understands that this is a significant power because even the Government have said that they recognise that they will need to use the affirmative procedure. However, he wants to be able to change the legislation whenever he sees fit.

The Government ought to be aware of just how extensive that power is, and that Parliament will want to be involved and concerned about how the power will be exercised in future. It is welcome that the Government accept the need for the affirmative procedure, but we ask that they accept safeguards in the Bill so that we can be confident that, as a consequence, environmental protections and consumer rights cannot be watered down—or at least that it will be difficult to do so.

We have not debated those important issues as much as others such as support for farmers. We do not want these important measures to be diminished in any way through lack of insufficient debate during the progress of the Bill. The measures were the subject of considerable concern on the Floor of the House during debates on the withdrawal Act. Committee members may remember that many amendments were tabled along the lines of the ones we are discussing. There was great frustration and suspicion that future Governments would be able, through regulation, to make changes to these important safeguards, which have been copper-bottomed up until now because they have been part of EU law, much to the irritation of some Members.

I can see the argument that Members will be pleased when such safeguards can be changed by this Parliament, but that needs to be done in the right way. It is no good saying that things are protected just because power resides in Westminster with the UK Government or in a devolved Administration.

Sandy Martin: Is not the nub of the issue that the changes and decisions will not be made in this place but in Whitehall?

Jenny Chapman: A procedure would take place in Parliament but we have all sat on those Committees and seen just how thorough the examination of regulations can be.

The protection of the environment and consumers is very important. We would argue that, if anyone wants to change those important rules and the law of this country, they should introduce a Bill. We can then scrutinise it properly, with votes on the Floor of the House and the involvement of both Houses. Let us have the warranted scrutiny because these incredibly important issues affect how our country perceives itself and is perceived overseas, and the protection of the environment. The protections warrant the hard work that would need to be undertaken by Ministers, which is what people put their hands up for when they voted to leave—they wanted the ability to make their laws properly, as they saw it. To do that by regulation, through whatever procedure, is not what the public had in mind when they voted in 2016.

I am afraid that warm words from the Minister will not do this time, nor will assurances that Parliament can be involved when future regulations are proposed. We are very concerned. Subject to what the Minister says, we might want to test the opinion of the Committee on these amendments.

George Eustice: It is important to note that amendments 47 and 82 are to some extent antagonistic. On amendment 47, as the shadow Minister said, we have debated the issue of "may" or "must" on many clauses. I simply reiterate that having that power conveyed through the term "may" is how comparable legislation is drafted and is the approach we take. In addition, in

[George Eustice]

this instance, there is another reason why "may" is absolutely the appropriate word to use rather than "must".

The hon. Member for Stroud should read the clause in the context of the fact that all existing EU marketing standards will be brought across through the European Union (Withdrawal) Act 2018 and placed on a UK statutory footing. It is therefore not the case that, in the absence of immediate action by the Secretary of State, there will be no marketing standards. In the absence of any action under clause 20, the position would be that retained EU law on marketing standards endures and remains after we leave the EU as it was when we were in it. Paradoxically, if there were a requirement that he "must" introduce regulations in all areas, the Government might be forced to change retained EU law that they were perfectly content with and not in a hurry to change.

2.45 pm

Amendment 82 almost seeks to do the reverse. It says that retained EU law should not be changed at all when it affects the protection of the environment or consumer rights. Retained EU law will be our starting point—that is what will come across—but what if the European Union itself were to decide that it could improve, for example, its marketing standards or transparency for consumers? Are we seriously saying that we would say, "No. We believe that the position that pertained in the EU in March 2019 was the best forever more, and that no changes or improvement can ever be made at any point in future"?

2.45 pm

It is wrong to regard amending or repealing retained EU law as watering down standards. As we leave the European Union, we must increase our confidence in our ability to judge such matters and take the steps necessary to protect consumers. The EU rulebook has not stood still. New challenges and issues will present themselves. We may want to change some measures relating to marketing standards and carcase classification, for example. It is wrong to put a lock on the retained EU law that we bring across. It is right that we retain the option to improve it or to repeal it and replace it with something better. We must not assume that all change is bad. Often, change is a good thing.

Jenny Chapman: Let me reassure the Minister. I am not saying that we should keep things as they are and never, ever change anything. I just think that, if he intends to change these things, he ought to introduce an environment Bill or a consumer protection Bill so that we can decide where the country is going, and not just leave it to the Secretary of State.

George Eustice: Of course, at the moment it is just left to the European Union, and we have no input at all. The hon. Lady will note that the set of regulations set out in clause 20 will be subject to the affirmative procedure. We recognise that these are important issues and that retained EU law may be replaced—there is the option to do that—so we have made them subject to the affirmative procedure. Parliament will have a role.

Amendment 83 is about the duty to consult, which we have covered on many occasions. I say again that DEFRA loves consultations. We have consultations on all sorts of matters. I can give the hon. Lady an undertaking that, before making any changes under clause 20, there will indeed be a consultation—not only because we always consult on matters of this sort anyway, but for another reason: as I explained, on issues of food standards, and food safety in particular, there is already a statutory requirement to consult. It is currently contained in article 9 of EU regulation 178/2002, which requires consultations on changes to food law. That EU regulation will come across in the retained EU law. In addition to my normal argument, there is an even stronger argument, which is that there is already a statutory requirement for changes in many of these areas, because they relate to food standards.

Having addressed hon. Members' concerns and explained that retained EU law will be the starting point, and that we need not be in a hurry to change these things if we do not want to, I hope that the amendment will be withdrawn.

The Chair: Order. I am looking at you, Ms Chapman, in case you want to speak before Mr Drew winds up. I was not able to allow you to speak last time because he had wound up the debate.

Jenny Chapman: I am grateful, Sir Roger. We are all learning as we go. The teamwork that you see on the Opposition Front Bench is seamless, but it requires us to get up in the right order.

I accept what the Minister said. His undertaking on having a consultation is welcome, and I look forward to holding him to it. I remain concerned about the subject of amendment 82. I hear what he says, but we are at a turning point, and we must to start as we mean to go on. The point we are making to the Government is that we want these things to be done properly and as transparently as possible, with as much involvement of MPs as we can manage, because that is how we involve wider society in our deliberations. These are matters of intense importance and I would like to test the Committee's opinion on amendment 82.

Dr Drew: We have had a number of votes on "must" and "may" so I will simplify this by withdrawing amendment 47, but we are happy to push amendment 82 to the vote.

Amendment, by leave, withdrawn.

Dr Drew: I beg to move amendment 118, in clause 20, page 15, line 30, at end insert—

"(da) the indication on any labelling or packaging of a product of any allergen that the product is known to, or might reasonably be expected to, contain."

This amendment would explicitly provide for labelling regulations to cover the presence of allergens in products.

The Chair: With this it will be convenient to discuss amendment

New clause 15—*Mandatory labelling of animal products as to farming method—*

'(1) The Secretary of State shall make regulations requiring meat, meat products, milk, dairy products and egg products (including those produced intensively indoors) to be labelled as to the method of farming.

(2) The labelling required under subsection (1) shall be placed on the front outer surface of the packaging and shall be in easily visible and clearly legible type.

(3) Regulations under subsection (1) shall (among other things) specify—

(a) the labelling term to be used for each product, and

(b) the conditions that must be met for the use of each labelling term.

(4) Regulations under subsection (1) may exclude from the labelling requirement products containing meat, eggs, milk or dairy products where the total proportion by weight of one or more of these items in the product is less than fifteen per cent.

(5) Regulations under this section are subject to affirmative resolution procedure."

This new clause would strengthen Clause 20 to require the Secretary of State to make labelling regulations that require meat, milk and dairy products, and egg products, including those which have been produced intensively, to be labelled as to farming method. Eggs are not included as legislation already requires eggs to be labelled as to farming method.

Dr Drew: This is something different, and again we are here to help the Government. Everyone will be aware of the allergen issues that have sadly affected a number of families, some of whom have lost loved ones. This is an opportunity that the Government should take, because we can insert in the Bill a provision that will at least put into law what many of us feel should already be in law, but has not yet reached the statute book. This amendment would insert a new short phrase

"the indication on any labelling or packaging of a product of any allergen that the product is known to, or might reasonably be expected to, contain."

We are all aware of two specific cases, and the subject was debated through an urgent question put by my hon. Friend the Member for Great Grimsby (Melanie Onn) on 9 October. It is interesting that a Government Member, the hon. Member for Nuneaton (Mr Jones), stated in response

"These are tragic cases, and it is clear that the law needs to be updated. Will my hon. Friend tell us how quickly he expects the law to be changed in this regard? Will they also say more about what the Government are doing to provide guidance to retailers, to ensure that this type of tragedy does not happen again?"—[*Official Report*, 9 October 2018; Vol. 647, c. 127W.]

Here is the opportunity. By making this simple amendment, we could make sure that products containing allergens are properly labelled, and that if someone does not label a product properly or takes a risk with it, they will be held responsible according to the law. Sadly, at the moment they are not.

The two recent cases are but the tip of the iceberg. I am allergic to corn—as a vegetarian, that is not much fun, because corn is one of the staple replacements. I get terrible tummy aches, or stomach problems, if that is proper parliamentary language. I am also allergic to penicillin and I know that. Sadly, some labelling not very clear, and although you can go online and find out, these things should be known. It is like anything: the consumer should be aware and learn through mistakes to some extent, but for some people that is a tragic line to take.

Martin Whitfield: Do we not live in a time when the make-up—the ingredients—of products changes so rapidly that relying on previous knowledge of whether a product is safe is not good enough? People need to check virtually every time a product is purchased.

Dr Drew: I agree. Perhaps we just know a lot more about allergens nowadays and people are more willing to be overt in coming forward to say what should happen. This is a simple amendment that gives the Government the opportunity. The Government, through the Minister, may want to say there is a different way of doing it, but here we have an Agriculture Bill that is about food production.

I will be interested to hear what my hon. Friend the Member for Bristol East has to say about her new clause, but clause 20 is a place where we could put a measure that will be immensely important to people who have allergies, so they know that they are being protected. We have various assurances from the Food Standards Agency that it is able to pursue cases; it is just not able to pursue cases because of the gap in the law, which should lead to criminal proceedings when someone been wilfully negligent.

Again, we are having to learn. In a post-Brexit situation—if we get to that situation—the British Government must have fool-proof security in how they deal with food standards and food safety. Given the a huge call on the Government to do this, I hope they will respond positively. If the Government will not remedy the problem at this stage, it would be interesting to know when they will act. Having stated that they intend to address a legislative gap, they are obliged to do so. Clearly, we cannot do this via a specific bit of legislation because we are waiting for Godot. You have to grab the opportunity when it comes around.

I hope the Minister will consider amendment 118 to be helpful. It will save lives, while also telling people who have lesser conditions but who want to know, if they are allergic to nuts or whatever, that a product has been properly labelled. If food is not properly labelled, the law should take its full effect.

Kerry McCarthy (Bristol East) (Lab): I endorse what my hon. Friend says about amendment 118. There are so many calls now for better labelling of food and more information that we run the risk of getting to the point where the information is in such tiny print that it becomes meaningless, particularly for people who, like me, have reached the age where their eyesight is not as good as it used to be. It is important that consumers get as much information as possible.

New clause 15 would strengthen the Bill by requiring the Secretary of State to make labelling regulations that require meat, milk, dairy and egg products, including those that have been produced intensively, to be labelled as to farming methods. Eggs are not included in the legislation because they are already labelled. Surveys show that eight out of 10 consumers in the UK would like to know how farm animals are reared.

The Government have a role to play in ensuring higher animal welfare. We talked about that in the context of public money for public goods and the definition of higher animal welfare that will come out in 2020, and on that basis farmers will be rewarded, but the market also has a role to play. Consumers only shop around for the higher welfare products if they know what higher welfare is and is not. That includes how meat and dairy products are being reared.

Sandy Martin: Does my hon. Friend agree with me that the clearness of labelling on eggs has resulted in a massive increase in the number of eggs from higher

[Sandy Martin]

welfare sources, rather than from caged hens, and that that is a good indication of how effective this sort of legislation can be?

3 pm

Kerry McCarthy: I agree entirely with my hon. Friend. The EU introduced a law in 2004 that required eggs and egg packs to be labelled as to farming methods. That was the result of consumer demand. It did not ban anything, but it gave consumers the information they needed to shop in the way that they wanted to shop. It led to a substantial shift away from cage eggs and 50% of UK egg production is now free range, but in other respects information on method of production is not available. Unless food is organic, it is quite difficult for higher welfare farmers to get the information across, so that shoppers will be prepared to pay a premium. There are some voluntary and assurance schemes, but it is all a bit of a muddle.

Mr Goodwill: Of course we are all keen to ensure that animal welfare standards are maintained and indeed improved. On eggs, the public easily understand the difference between a caged bird and a bird that has had access to the outside, but it is much more difficult for milk production. Can the hon. Lady explain how, for example, cows that are housed in winter for good welfare reasons would be characterised in her way of describing type of production?

Kerry McCarthy: I have spoken to dairy farmers and organisations such as the Pasture-Fed Livestock Association about the number of days animals would have to be outside grazing to meet the criteria. Nobody is suggesting that they would have to be outdoors year round, round the clock, no matter the weather. That is something that could be addressed in the guidance. The problem with milk is that, at the moment, most milk is pooled together, so it is impossible in most cases to distinguish the source of the milk when it comes to be marketed, so consumers are in the dark—unless it is organic of course.

Mr Goodwill: I understand the point the hon. Lady is trying to make, but would this provision not just hand the market on a plate to the New Zealanders, who can keep their cows outside for very long periods, and in that way freeze out British farmers who, because of the weather we have in winter, have to house their livestock for the best of reasons?

Kerry McCarthy: That depends on the criteria set. I have heard 120 days mentioned as a possible benchmark.

The problem is not just that the information is not being made available; one of the main reasons I tabled the amendment is that there is quite a lot of misleading marketing that gives consumers the impression that goods are higher welfare when they are not. A pork product from a factory-farmed pig may carry a label that says something like "farm fresh" or "all natural". Packaging can carry images of green fields or woodlands. I was praising Tesco this morning for its work on food waste and modern slavery, but there was an issue, either earlier this year or last year, where Tesco meat and fresh produce had been labelled with the names of British-sounding farms, such as Boswell Farms beef steaks and Woodside Farms sausages, and it transpired that not only did those farms not exist, but in some cases the produce had been imported. That is certainly misleading the public, and I might use stronger language to describe that behaviour.

Simon Hoare: I have concerns about an arbitrary number of days being set. Broadly, farmers bring stock in and out as the weather permits. If there is an arbitrary number of days, it is the target that dictates the welfare, not the requirements of the animal. There is a tendency in the narrative of veganism to focus, perfectly properly, on animal welfare. Would the hon. Lady agree that, in that drive for transparency, many consumers would be very interested to know the health of the soil in which their vegetables were grown and how much insecticide and pesticide was used on them during production?

Kerry McCarthy: I have no idea why the hon. Gentleman is bringing vegans into the debate, as they do not eat any of this produce and, therefore, I would imagine, are not particularly concerned with where it comes from. The Environment, Food and Rural Affairs Committee, chaired by one of his hon. Friends who is a dairy farmer, recommended twice in 2018

"that the Government introduce mandatory method of production labelling"

to support the existing market for higher welfare products and to encourage more producers to move into that higher value market.

I met various members of the National Farmers Union in Gloucestershire during the mini recess. Most were higher welfare beef and dairy farmers who struggled to get a decent price and to get recognition of the fact that they put more care into producing their products. They are keen to support this proposal, so the idea that it is some sort of vegan crusade is a bit tedious, to be honest, but also wide of the mark.

Simon Hoare: I was not intending to be tedious; perhaps my tedium was unintentional. I was trying to tease out the hon. Lady's answer, which I presume be "yes", on whether clear and relevant information about the type of food production is of use to consumers. That was the point I was driving at. I was slightly concerned to hear the hon. Lady say that because vegans do not eat meat, they have no interest in the conditions in which animals are raised. I would have thought that would unite everybody in this country, whether they eat those animals or not.

Kerry McCarthy: Of course vegans are interested in that, but they are not the consumers who are trying to decide between one pack of sausages and another—unless they are Linda McCartney vegetarian sausages, for example.

I think that the hon. Gentleman is trying to take this whole thing off on a tangent. During the referendum campaign, the Government blamed the European Union for tying their hands, making them unable to move further on production labelling. The Farm Produce (Labelling Requirements) Bill was introduced by the hon. Member for St Albans (Mrs Main)—I remember it well. Making progress on production labelling was put forward as one of the reasons why we should leave the European Union, and that Bill was supported by a number of Brexit-supporting Tory MPs.

At the beginning of this year, the Secretary of State announced at the Oxford farming conference that the Government were considering extending mandatory labelling, and when that issue was highlighted in the "Health and Harmony" Command Paper, it received very positive feedback. Respondents to the question, "Should government set further standards to ensure greater consistency and understanding of welfare information at the point of purchase?" were overwhelmingly in favour: 72% either said "Yes" or "Yes, as long as it does not present an unreasonable burden to farmers." As I said, we need to have a discussion about what producers need to do if they are to be deemed higher welfare, pasture fed, and so on. No matter what sort of scheme we have, some hurdle will have to be met, but setting those rules is obviously a matter for the Government.

Colin Clark (Gordon) (Con): The hon. Lady is making a powerful point, and in many ways, I sympathise with her. As I have said to the Committee, I am an organic and a conventional farmer, and once upon a time, I had interests in a vegan food company, which, strangely enough, made sausages and bacon out of soya, which I never quite understood. However, I am a bit concerned. My cousins are organic dairy farmers, and their cows spend quite a lot of time inside, because they are in the north of Scotland, so obviously the weather is pretty cold. Lambs spend most of their time outside, because farmers cannot really farm sheep inside a building; they tend to die, although they die outside as well, as it is a pretty harsh climate. Many Members have constituencies where sheep are kept in the hills.

The United Kingdom almost certainly has the highest food standards in Europe; we definitely have the highest standards in the whole of Europe for pigs, for example. I am concerned about trying to differentiate by saying that one thing is a significantly higher standard and another is a lower standard, and therefore is unhealthy, not good for people, or bad for farming. I am concerned that the vast majority of consumers, who spend only 10% to 15% of their income on food, are going to be told that a £2 chicken is an unnatural and unhealthy thing to eat. Chicken is the main source of protein for the majority of people on lower incomes.

Kerry McCarthy: The hon. Gentleman might want to make a speech after I have finished, rather than an intervention. Nobody is proposing anything like the traffic light system that was suggested for food containing lots of sugar, which I know the Government have not backed. Nothing will be labelled "bad", but when farmers have put in more effort and spent more money, they want to get a higher price. That has happened with eggs, and the market has responded. As I said, eight out of 10 people want to know how their food is produced, so this is about rewarding the good, rather than badging the bad.

Colin Clark: What is the difference between organic dairy cows that spend some of their time inside and some outside, and conventional dairy cows? Why is that a higher standard?

Kerry McCarthy: If people want to choose to buy organic, they can do so. They can do that at the moment. There is not going to be any judgment as to whether organic is better; it is a personal choice. I thought the Conservatives were all in favour of personal choice.

On the non-meat varieties of bacon and sausages, we do not object to the taste of things; we object to the fact that animals are killed to make them. If they are made from plant-based sources, all well and good and we can all have a nice bacon sandwich without worrying about the little pigs and other creatures. I hope that explains to the hon. Gentleman why we might want to have a veggie-burger occasionally, if he struggles with the concept.

Mr Goodwill: On that point, does the hon. Lady think we should follow the lead of France, which, following an initiative by French MP Jean-Baptiste Moreau, has banned misleading words such as "sausage" and "steak" unless they are attached to produce actually containing meat?

Kerry McCarthy: No, I do not. I am aware of that move, but I do not think that people are remotely misled. Nobody is going to buy a vegetarian sausage thinking that it has pork in it. It is the same with soya milk and almond milk—everyone knows perfectly well that they have nothing to do with dairy cows. We are underestimating the intelligence of the British consumer if we think that they are going to be misled by things like that.

Simon Hoare: Can I share with the hon. Lady my absolute speechlessness when a set—if that is what you call them—of vegetarian sausages arrived on a lunch plate that I had ordered? The menu only said "Glamorgan sausages"; it did not say that they were vegetarian, so one can be misled through the use of the word "sausage." I think that the French are on to something here.

Kerry McCarthy: Perhaps that says more about the hon. Gentleman's ability to read a menu.

Tonia Antoniazzi (Gower) (Lab): It is an interesting but futile debate to talk about vegans in this way. The hon. Member for North Dorset talks about Glamorgan sausages. Given his Welsh heritage, I would have thought he would have known better.

Kerry McCarthy: I seem to be here to provide light entertainment, basically by giving the lads over there the chance to do a little bit of vegan bashing in the afternoon.

Martin Whitfield: In no way should my hon. Friend's amendment offer anybody light entertainment. It simply offers to give the information to those people who are purchasing the produce so that they can make a decision, as she has rightly expressed in relation to eggs, which has been so successful. The amendment does not define how many days cows are kept or otherwise; it simply provides a vehicle for giving customers the information they need to make a choice.

Kerry McCarthy: I thank my hon. Friend for bringing the debate back to a more serious note. Basically, consumers are being misled. They would like more information, and farmers would like to give them more information so that when they have put more effort into producing their produce, they can be rewarded for that. That is all the new clause is about.

George Eustice: This group contains two important amendments that have touched on some interesting issues, on which I will update the Committee. The first

[George Eustice]

is amendment 118, tabled by the shadow Minister, which relates to an incredibly important issue. As he pointed out, the problem of allergens leading to deaths has been in the news most recently with the tragic story of 15-year-old Natasha Ednan-Laperouse, who died due to an allergy to sesame in a baguette that she bought from Pret a Manger. This is an important area and we are going to look closely at the review of food law, particularly for the labelling of allergens. We intend to publish our proposals around the turn of the year, to update colleagues further.

It is important to say that there has been a growth in food allergies in recent decades. Nobody is quite sure why that is, but it is real. If we look at the number of people who have allergies, particularly to nuts and sesame, we see that it has grown considerably in the past 20 to 30 years. Another change is that chains such as Pret a Manger, and many others, are increasingly making their sandwiches on-site, which is a relatively new model. That has happened in the past 15 to 20 years. The combination of the growth in the prevalence of allergies and the growth in the practice of preparing sandwiches on-site means that there is a gap in the law. A simple, small derogation that was intended to be used by small family bakers, for instance, so that they did not have to label foods being produced, is now being used on a much larger scale, which had not been envisaged at the time.

3.15 pm

We are looking at this, but I do not think that this particular amendment is required. The hon. Member for Stroud said that he would be happy for me to explain how we would deal with this. The current requirements on allergen labelling are contained in the food information regulations—Regulation 1169/2011. That sets out our current rules, including the derogation that exists for non-prepacked foods. We can use our general food law to amend those requirements and any such derogation in future, so we already have the powers under our food labelling law to address this issue. On that basis, although the hon. Gentleman has highlighted a critical issue, I hope that he will not press his amendment.

Sandy Martin: It is welcome to know that you already have the powers to make those amendments. Can you tell us when you are going to do so?

The Chair: Order. That is about the third time, and the hon. Gentleman is not the only person to have done so this afternoon. We really must work in the third person, please.

George Eustice: As I said a moment ago, we are currently reviewing this. We intend to publish the results and our thoughts on how the law should be changed in this area early in the new year. We can make the amendments we need through secondary legislation. Obviously, because there is now a food safety issue, given the problem with allergies, once we have decided what is necessary we intend to move quite quickly.

New clause 15 relates to another important area. The Government have already signalled that we are keen to look at this issue further. Before addressing method of production labelling, I draw the attention of the hon. Member for Bristol East to subsection (2)(d) and (g) of clause 20. Paragraph (d) refers to

"the presentation, labelling, packaging, rules to be applied in relation to packaging centres, marking, years of harvesting",

and so on, and paragraph (g) stipulates

"the type of farming and production method".

Taken together, those two provisions already give us the powers we need to do all the things the hon. Lady is seeking to achieve with her new clause. Although this is an important area, and one that we want to look at, I do not think that this specific new clause is necessary. I hope that it is a probing amendment, given that the Bill already covers this in subsection (2)(d) and (g).

However, I would like to touch on the substance of the issue. The debate that we have had, with its many interventions—as I said, the hon. Lady is here to lighten the mood of the Committee—highlights how important this is, but also how complex. There are lots of descriptors: we have "grass-fed", which is not necessarily the same as "pasture-fed"; we have "pasture-fed systems"; we have "outdoor-bred" pigs or "outdoor-reared" pigs; there is "organic" and "free-range"—and often those terms mean different things. It is quite an undertaking to try to define all those in one bound. Probably the more likely thing would be to pick something, such as "pasture-fed livestock", just as we have done for free-range eggs, where we can draw the criteria and roll out these types of descriptors on labels as we are ready to do so effectively, rather than bite off more than we can chew. The regulations would enable us to do that, so we could bring in schemes as we were ready to roll them out.

Another slight complication is the nervousness I have always had about going too far down the line on method of production labelling, because there could be unintended consequences. For example, at the moment there is a substantial market for outdoor-reared bacon, because people look for that on the packet. They are less inclined to do so if they are buying a pork pie, for instance. Some manufacturers of pork pies might buy from high-welfare farms parts of the carcase that are not used for bacon and that are maybe outdoor bred, but they might also buy pigs from other, more commercial producers.

We have to be careful that, by having onerous labelling requirements for some of those sectors where people are less inclined to seek out the descriptor, we do not create an unintended barrier to high-welfare producers accessing the market for parts of the carcase that they would not necessarily market on the high-welfare brand. I am attracted to moving in that direction, but there are complexities and difficulties around the definitions and potential unintended consequences. I hope that the hon. Member for Bristol East will agree that the intentions behind her new clause are already reflected in subsection (2)(d) and (g) of clause 20.

Dr Drew: I am partly assuaged by what the Minister has said. I hope he will commit to ensuring that there is an overt process by which the statutory instrument comes forward, so that we can allay the fears of those who clearly now have worries. That is why it is so urgent, and why we have provided an opportunity to make this amendment. People literally do not know what to eat because of their particular allergens. The Minister says that nobody knows quite why this has taken off in the way it has. I suspect that it is because we have become more susceptible to particular foodstuffs. Maybe it is because we know a lot more about why people have difficulties when they eat certain substances. It is right and proper that we give them the protection they deserve.

I will not push my amendment to a vote, but I will hold the Minister to account on this. We seem to have a very busy end of the year, and all manner of things will be coming forward. My hon. Friend the Member for Darlington might wish to take a slightly different course of action; I think the Minister has given certain assurances, but we will not let go of this, because people's lives are threatened. We feel that, at the very least, it is important for people to know that what they eat is safe and will not affect them adversely. I know from various correspondence that Government Members feel the sam.

I hope that the Minister has heard what I have said and will act on it, and that he will bring the SI forward as a matter of extreme urgency. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 82, in clause 20, page 16, line 2, at end insert—

"(2A) Regulations under this section may not amend or repeal any part of retained EU law (within the meaning of section 6 of the European Union (Withdrawal) Act 2018) relating to—

(a) the protection of the environment, or

(b) consumer rights."—*(Jenny Chapman.)*

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 11]

AYES

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

NOES

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

Question accordingly negatived.

Clause 20 ordered to stand part of the Bill.

Clause 21

Power to reproduce modifications under section 20 for wine sector

Amendment made: 8, in clause 21, page 16, line 24, at end insert "(unless section 29(4A) applies)".—*(George Eustice.)*

See the Explanatory Statement for Amendment 2.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22

Producer and interbranch organisations etc: application for recognition

Deidre Brock (Edinburgh North and Leith) (SNP): I beg to move amendment 56, in clause 22, page 16, line 30, leave out "to the Secretary of State".

See explanatory statement for Amendment 59.

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

Amendment 57, in clause 22, page 17, line 5, leave out "to the Secretary of State".

Amendment 58, in clause 22, page 17, line 13, leave out "to the Secretary of State".

Amendment 59, in clause 22, page 17, line 31, at end insert—

'( ) An application under subsection (1), (3) or (5) is to be made to and determined by—

(a) the appropriate authority for the part of the United Kingdom in which the applicant has its registered office or principal place of business, or

(b) where the applicant is made up of producers, producer organisations or, as the case may be, businesses operating in more than one part of the United Kingdom, the appropriate authority for any of those parts."

This amendment would require organisations of agricultural producers, associations of recognised producer organisations, and organisations of agricultural businesses to apply for recognition to the appropriate authority in the country of the UK where the applicant is principally based.

Amendment 60, in clause 22, page 17, line 38, leave out "The Secretary of State" and insert

"The appropriate authority to which an application is made under this section".

Amendment 61, in clause 22, page 18, line 5, at end insert—

""appropriate authority" means—

(a) in relation to England, Wales or Northern Ireland, the Secretary of State,

(b) in relation to Scotland, the Scottish Ministers;".

Amendment 62, in clause 23, page 18, line 30, leave out "the Secretary of State" and insert "an appropriate authority (within the meaning given in section 22(11))".

This amendment would require the delegation of functions to require permission from the appropriate authority (as set out in amendment 61).

Amendment 63, in clause 24, page 18, line 37, leave out "the Secretary of State" and insert "an appropriate authority (within the meaning given in section 22(11))".

This amendment would allow regulations to give the power to delegate functions to an appropriate authority (as set out in amendment 61)

Amendment 64, in clause 24, page 19, line 5, at end insert—

'( ) Regulations under section 22 or 23 containing provision that extends to Scotland may be made only with the consent of the Scottish Ministers."

This amendment would ensure that regulations under section 22 or 23 containing provision that extend to Scotland may be made only with the consent of Scottish Ministers.

New clause 5—*Quality schemes for agricultural products and foodstuffs—*

'(1) Subsection (2) applies to any function of the Secretary of State under—

(a) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ("the EU Regulation"),

(b) the delegated and implementing Regulations,

(c) any regulations made by the Secretary of State under the EU Regulation, and

(d) any regulations made under section 2(2) of the European Communities Act 1972 relating to the enforcement of the EU Regulation or the delegated and implementing Regulations.

(2) The Secretary of State may exercise the function only with the consent of the Scottish Ministers.

(3) In subsection (1), the "delegated and implementing Regulations" means—

(a) Commission Delegated Regulation (EU) No 664/2014 supplementing the EU Regulation with regard to the establishment of Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules,

(b) Commission Delegated Regulation (EU) No 665/2014 supplementing the EU Regulation with regard to conditions of use of the quality term "mountain product", and

(c) Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of the EU Regulation.

(4) The references in subsection (1) to the EU Regulation and the delegated and implementing Regulations are to those instruments—

(a) as they have effect in domestic law by virtue of the European Union (Withdrawal) Act 2018, and

(b) as amended from time to time whether by virtue of that Act or otherwise."

This clause relates to the replacement of current EU Geographical Indicators in future UK legislation. It requires that the exercise of relevant functions conferred on the Secretary of State in this area including in relation to its enforcement, should be subject to the consent of Scottish Ministers.

Deidre Brock: I still consider the lack of focus on food production a fundamental flaw of the Bill. It is a serious omission at a time when food security has become a major concern. Farmers already have a very clear interest in protecting the environment, and the sensible approach to supporting those endeavours would surely be along the lines of the work that the Soil Association is already doing in Scotland with the support of the Scottish Government: education and exampling to encourage more productive but environmentally friendly farming. I urge hon. Members to look at Future Farming Scotland, Farming with Nature and the Rural Innovation Support Service—three excellent programmes from the Soil Association to improve farming in Scotland that are far more effective than asking farmers to fill in more forms to show environmental progress.

It would be easier for larger enterprises to do that form-filling and comply with the rules for gaining that cash than it would be for small farms, and potentially easier for grouse moors and stalking estates to access funding than for small family-run farms producing foods for local markets. That offsets any possible benefits of so-called public goods. As food miles grow, the environmental benefits surely diminish, and, similarly, as the air miles and road miles of shooting enthusiasts grow, any environmental benefit from proper management of shooting estates and grouse moors vanishes, and perhaps even turns negative.

Mr Goodwill: I represent a very large moorland area on the north Yorkshire moors. Does the hon. Lady not agree that the management by keepers and shooting estates maintains the delicate environment for the benefit not only of the sheep and grouse that graze, but of the people who enjoy those areas?

Deidre Brock: Management is certainly an important aspect, but as the air and road miles of shooting enthusiasts increase, so the environmental benefit of the proper management of shooting estates and grouse moors vanishes and can even turn negative.

I would argue that smaller enterprises providing produce for local consumption start from a more environmentally friendly base, and it makes sense to encourage them rather than larger interests. With respect to the Bill and agriculture in general, we in the Scottish National party see farms and land management as vital to rural communities, as well as being primary producers—that is especially true of crofters. The community cohesion function becomes even more important as communities become more remote. Hon. Members from across some areas of England and Wales will of course have examples to offer, but Scotland is a very different place, particularly when one heads into the Highlands, into the far north, or on to the islands, where farming is by no means an easy living and where there is a different culture and calendar to farming, and markedly different outcomes. Scotland is different and requires a different framework in which to operate.

I quote the evidence given by the National Farmers Union Scotland to the Scottish Affairs Committee recently. It said that

"significant elements of the Agriculture Bill are clearly about policy and policy delivery in England, and they would give us significant cause for concern if they were to be applied in Scotland. Quite simply, Scotland's agricultural landscape is very different from that of England and much of the rest of the United Kingdom. That is why we must have agricultural policy delivered in a devolved capacity. There is clearly a trajectory within DEFRA England's policy thinking that it wants to phase out direct support payments over a seven-year period and replace them with a public support for public goods approach, and that is clear within the Bill. Now, if you took that very distinct and very clear 'first and fast' approach in Scotland….that would be extremely detrimental, in many senses, to huge tracts of Scottish agriculture."

Simon Hoare: The unique beauty of Scotland is clear for everybody to see and a precious resource within the United Kingdom, but I fail to understand how the hon. Lady can argue that that uniqueness means that Scotland needs bespoke policies and devolution, while, at the same time, her party wishes to adhere to the common agricultural policy and the common fisheries policy by remaining a part of the European Union, given that there is no opportunity for bespoke policies within the EU.

Deidre Brock: All four Administrations of the UK take very different approaches to CAP implementation, and there has been no impact on, say, the internal market as a result. I would have thought the hon. Member would be clear on the SNP's policy regarding the CFP. It is not our proposal to continue with the CFP as it is. We have long called for its reform. That is on the record and has been the case for years. The damage to Scotland would be immense, because 85% of Scotland's farmland is less favoured area land. Scotland needs a different framework from England.

3.30 pm

The most sensible solution is to hand over the responsibility and cash to Holyrood and let it work it out. Powers in areas already devolved should not be

re-reserved. As the influence of Brussels wanes—potentially—so Edinburgh's should become more prominent.

Martin Whitfield: Just for clarity, NFU Scotland has indicated it feels there is a lot of politicking going on between the Scottish Government and the Westminster Government over the Bill.

Deidre Brock: There are significant areas of dispute between the two Governments; it is not politicking. We are hearing from NFU Scotland that there are issues it would like to see pursued by both Governments—I am quite prepared to acknowledge that it is both Governments—and I will be raising some of those points later.

Chris Davies (Brecon and Radnorshire) (Con): The hon. Lady's description of Scotland could have been mistaken for a description of Wales—only Wales is a bit more beautiful perhaps. Is it not important for Scotland to align itself with Wales and support the Bill?

Deidre Brock: It has been said before that Wales has a different approach to the Bill. Of course, it is up to the Welsh Labour Government to choose to have a schedule inserted, but Wales voted to leave, and that puts a different spin on the Welsh Government's approach.

Colin Clark: The hon. Lady is making a powerful speech, but she spoke about evidence from NFU Scotland, and its evidence is that it wants to see Scotland involved in the Bill. It says the engine is running and that it wants to get on board. In its position statement the other day, it said it would like to see Scotland involved in new clause 3, which we have already debated. Does she not agree that NFU Scotland has been absolutely clear that it would appreciate the Scottish Government either getting on board with the Bill or legislating in Holyrood? It has clearly said the engine is running on the Bill. Does she agree that the Scottish Government should get on board?

Deidre Brock: No, I do not in this instance. The hon. Gentleman is one of those who tried to table an amendment to schedule 3 last week. That demonstrates the vulnerability of inserting a schedule into the Bill. It would potentially allow a Member who is not even a member of the Government to alter something and control the Welsh Government's ability to make payments to whoever they wish under that schedule. It is quite amusing, therefore, that he makes that contribution.

Jenny Chapman: I am trying to understand this. As I understand it, the Welsh Government put forward a schedule that one could call a power grab—they have helped themselves to some quite nice powers here—and the Government accepted it. I cannot see any attempt to amend the schedule getting anywhere, so I am not sure what lies behind the hon. Lady's reluctance to submit a schedule.

Deidre Brock: We do not need a schedule inserted into the Bill. We do not need anyone to legislate for us on devolved matters. We have been producing our own legislation in such areas since 1999, when there was devolution to the Scottish Parliament. In terms of rushing into making legislation, I would have thought the hon. Lady would share my concerns about the views expressed by the Delegated Powers and Regulatory Reform Committee in the House of Lords on the Bill. It clearly demonstrates what happens when we rush into making legislation. The Scottish Government knows that it does not legally have to do it. They would much rather take their time, consult all the necessary organisations within the sector and arrive at stability and simplicity, which is of course the name of our document.

Ben Lake (Ceredigion) (PC): My hon. Friend is making a very important point, which is perhaps best illustrated by the fact that the Welsh Government themselves have concerns about the schedule that they are trying to address, which they must do through this Committee, over which they have no direct control.

Deidre Brock: That is a perfect point and well illustrates my point, so I thank the hon. Gentleman for his remarks.

I have already commented, in my reference to the hon. Member for Brecon and Radnorshire, on the difficulties with thinking that a schedule to a Westminster Bill will protect devolved interests. The amendment I referred to came not from the Welsh Government or the UK Government, but from three Back-Bench MPs, so relying on a schedule for absolute protection is trusting to luck.

Although the Bill extends to Scotland in great part, it does little that would support Scottish agriculture. I will seek to amend and improve it where I can—much of it so far has been subject to the English votes for English laws process, meaning that I am unable to vote on it—but there is no amendment that will make it completely fit for purpose for Scotland. That will be a running issue in Scottish farming and for all the support mechanisms devolved to Holyrood. The flexibility of the EU support mechanisms gave some room for manoeuvre to allow support for Scotland's farmers, but that is missing in the Bill, and I expect that Members representing parts of England are also a little concerned about that apparent rigidity. It will not come as any surprise that the Scottish National party would far rather all responsibility and power for managing Scottish agriculture rest in Scotland, but we are here and I will be looking to improve the Bill where I can. We will be back for the rest.

I turn to clause 22 and new clause 5 and amendments 56 to 64. The clause strays into devolved territory and could do with a bit of tidying up, just to save DEFRA Ministers having to deal with Scottish issues down the line, which would be tiresome for them. Amendments 56 to 64 would amend clause 22 to require that applications for recognition of producer organisations be made to the appropriate Administration. In other words, an organisation operating in Scotland would make its pitch to the Scottish Government, rather than leaving DEFRA to deal with it. That would save work for DEFRA officials and Ministers, but also has the virtue of respecting the devolution settlement.

Simon Hoare: This is a slightly philosophical point, which I think all members of the Committee, with the exception of the hon. Lady and the hon. Member for Ceredigion, will get. It would be a travesty to suggest that Ministers of the Crown or indeed this Westminster Parliament would find dealing with anything in Scotland tiresome or a nuisance. We are unionist parties that believe in the strength of the United Kingdom. The

[Simon Hoare]

hon. Lady can make her point, but we will not be flippant with her nationalism, and she should not be flippant with our unionism.

The Chair: Order. That is a debating point; it has nothing to do with the amendment before us.

Deidre Brock: Thank you, Sir Roger.

Passing the amendments would kill two birds with one stone, relieving UK Ministers of a burden and going some way to show that the devolution settlement can be respected in legislation passed here, which I would argue is a fairly important point.

Under new clause 5, protected geographical indicators would continue to have the input of Scottish Ministers. There is currently no provision in the Bill for PGIs, but they are vital for Scottish goods. In the evidence sessions on the Bill and in evidence to the Scottish Affairs Committee, on which I sit, we have heard time and again about the importance of PGIs, for a whole rack of goods, including those from various parts of England and Wales, and I think—I would have to double-check—Northern Ireland. A while back, a Minister suggested that PGIs could be bargained away to get a trade deal, which is a real worry for producers and exporters. The proposed new clause would ensure that Scottish Ministers get a say in any new scheme for PGIs, in order to protect Scotland's unique place in the market.

While I am in full flow, I will address the Government's amendments. I have concerns about amendments 9 and 11, in that they seem to dilute the purpose of a producer organisation and invite disparate entities to form one. That might also encroach on devolved areas, and I ask the Minister not to press it for those reasons.

Martin Whitfield: On that point—before we leave the question of recognised producer organisations—the Government's wording certainly seems loose. Does the hon. Lady envisage a producer organisation that could cross the boundaries of Scotland, England, Wales and Northern Ireland?

Deidre Brock: That is certainly possible, and my proposal would allow for that possibility. Amendment 10 is odd; it is not clear why there should be no legal form defined for an entity in legislation. I hope the Minister can clarify.

Dr Drew: I will be brief because it is important to hear from the Minister. This is one of the real issues with the Bill. We have no schedule for Scotland; we do have a schedule for Northern Ireland, and I visited there last week to get some clarity on what they think it implies for Northern Ireland's participation in the Act. Officials were clear that they see the schedule as a political decision-making requirement. As there is no Government in Belfast at the moment, they feel it inappropriate to support the Bill as it stands. They feel strongly that the current direct payment system will remain in place—they want their £300 million, by the way, Minister.

The Bill is very interesting, but, effectively, it is a Bill only for England and Wales. It is not a Bill for Scotland or Northern Ireland, yet these things are under the aegis of a Bill for the United Kingdom. It is a funny Bill, with two parts of the United Kingdom not participating in it.

Now, it might be a case of the officials misunderstanding. Clearly, we could move to direct rule, and the Government would then have to take decisions. I thought I had better check with the Democratic Unionist party spokesperson on agriculture. He reaffirmed that the DUP does not support the movement towards an environmental approach and it will, in due course, vote against it. The DUP believes that direct payment should stay in place as the only way for farmers in Northern Ireland to be secure. Having also visited the Republic, I am not sure that it will move, even though the CAP is up for redesign at the moment. There are indications that it will move towards environmental payments, but it is not there yet.

The hon. Member for Edinburgh North and Leith's point is interesting, to put it mildly. I am unclear where the Bill stands as a United Kingdom Bill. To me, it is very unclear. The devolution settlement means that, effectively, Scotland and Northern Ireland can do their own things, because agriculture is a devolved matter. If it were not a devolved matter, we would be discussing the agriculture policy of the United Kingdom. However, we cannot and we will not, and we might get a nasty shock when we come to final votes on the legislation.

There may be some interesting alliances, because I do not think we have understood the degree of the problem. I will make some more points on this when we reach schedule 4. I am laying down what I think is a very big dilemma. We have assumed that when this Bill becomes the Agriculture Act it will carry the four countries. I do not think it will. It will not carry Scotland, and it is increasingly evident that Northern Ireland will not be carried. I would welcome the Minister's response to that. How does he intend to overcome that huge hurdle?

3.45 pm

Jenny Chapman: I will not say very much; I just want to echo some of my hon. Friend's points. I was involved with the withdrawal Act, and today I have been reading the latest common frameworks document, which was released earlier today. A lot of it is about agriculture and the progress that has been made on agreeing frameworks for the UK after we leave the EU. It says:

"Further detail on the specific arrangements that are subject to ongoing discussion in relation to agricultural support is available online."

Unfortunately, the detail is not in that document, so I have not had a chance to look at it. It is important for the Minister to indicate where the Government are at with this to inform how we proceed on these issues.

I have a few more questions about that. Our deliberations about devolution issues took place on the Floor of the House, so many hon. Members here might have taken part in them. Devolution is very contentious and important, and every now and again it is used to make points not directly related to the issues under consideration. I have a few questions about how the amendments might work and what the Minister thinks of them, because I have some concerns about them.

The Labour party is fairly relaxed about the approach set out in amendment 59. We can see the logic behind it, but we would like to ask the Minister and the hon. Member for Edinburgh North and Leith how they see it

fitting with the ongoing negotiations about the establishment of common UK frameworks. That is the document that I have just referred to. Where are we? This is a moving thing, and the Minister is asking us to make decisions about a process that is still incomplete.

Amendment 60 works in conjunction with amendment 59, and seeks to remove the role of the Secretary of State and replace him with

"the appropriate authority to which an application is made under this section."

I assume that it is consequential, given that amendment 59 seeks to redesign the process by which an application is made. Again, we are reasonably relaxed about that.

Amendments 60 and 61 seek to ensure that Scottish Ministers have the ability to grant consent to applications made to become a recognised producer organisation. What effect do the Minister and the hon. Member for Edinburgh North and Leith see that having in practice? How would it actually work? The Labour party is not stuck on this; we do not mind it. In truth, and I hope the hon. Lady does not take this the wrong way—I say this as a neutral observer representing a town in the north-east—these amendments look a little like politicking, rather than serving a true purpose. Can she assure me about what impact the amendments would have on the capacity of Scottish Ministers to process applications?

Amendment 64 is unfortunately a bit problematic, as it goes further than the devolution settlement currently allows. I am not trying to be provocative. I do not want to get into somebody else's fight. The sticking point, if I have understood the amendment correctly, is that it seeks to ensure that the consent of Scottish Ministers is required for all regulations under sections 22 and 23, which extend to Scotland. As I understand it currently, the devolution settlement from the Scotland Act 2016 says that Westminster will not normally legislate in areas where the Scottish Parliament has competence. Admittedly, the Government have not shown great respect for that principle with the passage of the European Union (Withdrawal) Act 2018 and, as noted previously, this is not an area where the Scottish Parliament or Scottish Ministers currently exercise competence. If that is correct, the amendment would go further than the devolution settlement does at the moment.

The word "veto" has been overused in these debates in the past, but given the contentious relationship—if I can put it that way—between the UK Government and the Scottish Government at the moment, I am raising a concern and would be interested to hear what others feel about this. Were amendment 64 to be agreed, the Scottish Government could refuse to grant consent for provisions that relate to Scotland, which would be in the vast majority, given that the amendment covers the UK as a whole. Then we could be in a constitutional deadlock, which is not something that anybody wants to see. This process is all about avoiding that.

Officials in the Scottish Parliament are quite clear that they are committed to not diverging in ways that would cut across future frameworks and they agree that this is a necessary approach to take. I do not want to see anything that we might agree here interfering with other processes. The important people in all this are the Scottish farmers and producers, and I cannot help thinking that they would be looking at this and wondering where they stand.

I would like the hon. Member for Edinburgh North and Leith to clarify whether this amendment is seen as consequential to the others that she has tabled, as this is not an area where the Scottish Parliament or the Scottish Government have jurisdiction, and therefore consent would not currently be required when regulations are made. I am not trying to be provocative or to insert myself in the middle of an argument between the Government and the Scottish Government, but we need to be mindful of the potential impact that any row might have on the lack of support for producers in Scotland, because they need to come first.

Martin Whitfield: *rose—*

The Chair: Order. I will call the hon. Gentleman in a moment. Before we go too far down this road, I am wrestling with what is and is not in order in connection with this group of amendments. The hon. Gentleman leading for the Opposition indicated he wanted the Minister to illustrate whether this embraced the four corners of the United Kingdom. That is not strictly in the context of these amendments. The hon. Member for Edinburgh North and Leith went a bit further down the same route.

Clause 34 covers the extent of the Bill. That is probably the appropriate moment to raise this issue and for the Minister to respond. If the Minister could forget that he heard a lot of what was said in the last 10 minutes or so, that might facilitate the response. The last thing the Chair ever wants to do is curtail debate, particularly about important subjects. This is an important issue, and I understand that. However, I do not think this is the right place for this particular line of discussion. If we could stick to the amendments before us, we might all make a little more progress.

Martin Whitfield: On a point of order, Sir Roger. I would like an indication from you, following your determination, about the references in the amendment to the removal of the Secretary of State and the insertion of Scottish Ministers. Part of what I struggle with is whether that would extend Scottish Ministers' powers to have an effect on England, Wales and Northern Ireland.

The Chair: That is a very fair point, and I have been struggling with that as well, trying to decide how far we allow the debate to go down that road. I ask colleagues to exercise a degree of restraint, because there will be an opportunity to discuss the extent of the Bill later, on clause 34.

Mr Goodwill: During the comments by hon. Member for Edinburgh North and Leith at the start of this short debate, the point was quite rightly made that nobody here is representing Northern Ireland, so I rise to speak as a member of the Select Committee on Northern Ireland Affairs. She asked if there were cases of protected geographical status in Northern Ireland, which indeed there are: Lough Neagh eels, Irish whisky, Comber early potatoes and Armagh Bramley apples. Indeed, there is also an all-Ireland protected status—there is no reason why that should not continue after we have left the European Union—for salmon.

My point is that, although we have no Government active in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs—DAERA, Northern Ireland's equivalent of DEFRA—is engaged in a

[Mr Goodwill]

consultation on these issues. It is grappling with the challenges that need to be faced, whereas the Scottish Government seem to be pretending that this will not happen and are not engaging with it at the level they should be.

Martin Whitfield: Aware of your earlier comments, Sir Roger, I shall be relatively brief. I rise merely by way of seeking an indication, or an answer to my question, from the Minister, or indeed the hon. Member for Edinburgh North and Leith, who moved the amendment, if they find chance to do so. I reiterate what NFU Scotland asked for, which is that the Governments on both sides of the border should sit down, discuss this and sort it out. That is what should happen. It is not a case for politicking. As my hon. Friend the Member for Darlington said, stuck in the middle is a very important industry in Scotland, England, Wales and Northern Ireland. The agricultural industry is desperate for certainty and understanding, and needs it sooner rather than later.

On the amendments, will the Minister confirm the evidence that he gave to the Scottish Affairs Committee? Some elements clearly affect the devolved settlement. With the greatest respect, more attention should have been paid to the consequences of that earlier.

I am concerned about the question of recognised producer organisations that cross the borders of the four nations. Yes, the amendment takes account of that, but there is the question of what happens if there is an argument about certification. If one side says yes and the other says no, who will take precedence?

The other point I want to make is about Government amendment 10. What sort of legal entity does the Minister envisage? Is it, or might it be, a collection of simple individuals? In that case, the Government might it challenging to find a legal entity to pass down those rights.

George Eustice: Following your steer, Sir Roger, I will reserve wider discussion of the scope of the Bill, or parts of it, for a later debate.

Amendments 56 to 64 are all linked, and many are the same. In essence, they would all delete references to the Secretary of State and instead insert "relevant authority". I appreciate that behind this whole group of amendments is a belief, put forward by the hon. Member for Edinburgh North and Leith, that this is a devolved and not a reserved matter. I want to explain to her why we are very clear that that interpretation is incorrect and potentially based on a misunderstanding.

We have to look at the context of the clause, where we are recognising producer organisations. What are we recognising, and why are we recognising them? In this context, it is for one purpose only, which links to clause 23, which we will come to: we are recognising producer and inter-branch organisations in order to make them exempt from elements of competition law. It is incontrovertibly the fact that competition law is a reserved matter. That is absolutely the case. Clause 23 points to schedule 2 to the Bill, which amends schedule 3 to the Competition Act 1998 in a way that is advantageous to organisations that are recognised under the provisions of clause 22. Clauses 22 and 23 are fully reserved because they relate directly to competition law.

Some of the misunderstanding arises because of the possibility for joint ventures, or groups of farms or bodies coming together, to qualify for grant aid from the Scottish Government, if they put in the right legislation in future. Under clause 1(1), the UK Government for English farmers, or the Welsh Government for Welsh farmers, will be able to give a grant to a co-operative group of people who have come together. They have the power to do so. However, the power to recognise a producer organisation in this context for the purpose of exempting it from competition law must be done UK-wide because it is a reserved matter.

4 pm

New clause 5 introduces a new area of debate around geographical indicators. Again, this is incontrovertibly a reserved area. Decisions about geographical indicator designations are reserved. Currently, under the existing system, the Department for Environment, Food and Rural Affairs already processes and assesses all applications, whether for Armagh Bramley apples or any of the Scottish designations, such as Scotch beef. DEFRA is responsible for processing those applications and assessing them. DEFRA currently makes a recommendation to the EU, which by and large will rubber-stamp the application, based on DEFRA's judgment.

It is already the case that DEFRA, on behalf of the UK, leads in the GI process within our membership of the EU. As we leave the EU, it will be absolutely right that the UK Government should perform that function of recognising and designating a geographical indicator. None of this prevents the devolved Administrations from having a role in supporting and giving advice to companies that want to make an application for a GI. However, we believe beyond doubt that it is a UK Government responsibility.

Martin Whitfield: Could that work not be done within Wales or Scotland for the UK Government to rubber-stamp, much as the Minister has indicated the European Union do at the moment?

George Eustice: That is broadly what would happen, and it is quite possible that the Scottish Government, Northern Ireland Administration and Welsh Government will already sometimes be involved in giving advice or supporting individuals who want to bring forward those designations. However, the assessment and designation of them has to be done by the UK.

I hope that, having been given this clear explanation as to why clauses 22 and 23 are reserved, the hon. Member for Edinburgh North and Leith will accept that there has perhaps been a misunderstanding about the difference between the ability to award grants and the process of recognition for the purposes of an exemption from competition law, which is reserved, and will withdraw her amendment.

Deidre Brock: I am sorry to disappoint the Minister but I will be calling for a vote. We believe part 6 and clauses 22 to 24 in particular require the Scottish Parliament's consent as they are for a devolved purpose, namely the promotion of an effective agricultural market. The fact that in order to do this it is necessary to exempt producer organisations from the Competition Act 1998 regime does not mean that the provisions relate to

competition law. Their purpose is not to regulate anti-competitive agreements, which is the precise element that is reserved. I am afraid we have to disagree with the Minister on that.

I understand that new clause 5 will be voted on later, but I want to tackle one thing. I did not realise that some of these things will be discussed when we look at new clause 34 later.

The Chair: Clause 34.

Deidre Brock: Sorry, clause 34. I will leave the hon. Member for Darlington to speak to that. The hon. Member for East Lothian attempted to suggest, perhaps inadvertently, that the Scottish Government is relaxed about what happens to farmers in Scotland later on. The Scottish Government were the first in the UK to come out with a consultation paper "Stability and Simplicity" to provide some certainty for their farmers. We are very clear that things can continue as they are after 29 March and there is no need for the schedule in the Bill that some have called for.

Martin Whitfield: That is not what I was suggesting. I was merely pointing out that NFU Scotland feels that both Governments are politicking on the Bill.

Deidre Brock: Perhaps I misunderstood his intention, so I appreciate his correction. Sir Roger, I feel that the amendments in my name stand or fall together. If I pressed amendment 56 to a vote as the lead amendment, is it right that the rest of the amendments would follow that?

The Chair: The system is fairly clear. We deal with the lead amendment, which is amendment 56. It is up to the hon. Lady, in discussion with the Chair, whether she moves any of the other amendments. I advise her that if amendment 56 falls, most of the others will fall. However, I noticed while she was speaking that the hon. Member for Darlington indicated an interest in amendment 59. I am unclear whether the hon. Member for Edinburgh North and Leith or anyone else wishes to move that amendment, but that is separate from the other sequence. Let us take the amendment that has been moved first, and perhaps the hon. Lady can have a quick think about what she would like to do after that. Does she wish to press amendment 56 to a vote?

Deidre Brock: Yes.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 12]

AYES

Brock, Deidre	Lake, Ben

NOES

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

Question accordingly negatived.

The Chair: By virtue of the arcane process we follow there is a sequence and the hon. Member for Edinburgh North and Leith is not in it at the moment, because we must move on to Government amendments 9, 10 and 11. After that, I will return to the hon. Lady if she decides she wants to move any of her other amendments.

George Eustice: I beg to move amendment 9, in clause 22, page 16, line 33, leave out "a single agricultural sector" and insert "one or more agricultural sectors".

This amendment changes one of the conditions for applying to become a recognised producer organisation so that the condition is met if each member of the organisation is an agricultural producer operating in any one or more of the agricultural sectors listed in Part 2 of Schedule 1 to the Bill (rather than each member being required to operate in the same sector).

The Chair: With this it will be convenient to discuss Government amendments 10 and 11.

George Eustice: All three amendments relate to trying to reduce some of the burdens that existing producer organisations have mentioned to us, and restrictions that they regard as unnecessary. Some of the EU rules on which we modelled the initial clauses, for instance, require all producers to be from a single agricultural sector, when actually we think there may be circumstances where groups of producers want to come together that span more than one sector. We think that is an unnecessary restriction that does not achieve anything.

In amendment 10, we propose to delete paragraph (d) from clause 22(2) in its entirety, so that a body corporate with legal personality is not necessary; we believe that to recognise a producer organisation there may be other models, including joint venture arrangements, that may stop short of being a body corporate. Again, we do not believe that that requirement is necessary; some might choose to do it but we think there should not be a requirement on them, and that they could convene themselves in other ways. Amendment 11 is linked to amendment 9 and also removes the reference to a "single agricultural sector" to allow there to be members from more than one sector.

On the EU fruit and veg regime in particular, we have had issues with Angus Growers in Scotland and with other producers in England too. Although fruit and veg producers welcome the grant support that they get through the fruit and veg producer organisation regime, many of them tell us that there are lots of problems with it. We frequently end up in litigation with the European Union because of poor or imprecise drafting or requirements that serve little purpose. The feedback from the people who have to deal with the schemes is that we should take the opportunity to sort it out, declutter it and make sure we have an equivalent scheme to offer them the support that they want, but with some of the frustrations removed. That is one part of what the Government amendments seek to achieve.

Martin Whitfield: Referring to my earlier point, does the Minister envisage the recognised producer organisations being made up of people from different legal entities? If so, how will he ensure the appropriate payment with regard to some bodies that will not be pursuable and some that will?

George Eustice: There are lots of other conditions. Subsection (2)(e) requires that the constitution of the organisation meets certain requirements. There are other

[George Eustice]

such provisions as well, so we do not have to define them as a body corporate in law in order to have express conditions that mean they would all be jointly and severally liable were something to go wrong.

Dr Drew: My hon. Friend the Member for East Lothian has covered one of the points that I was going to raise. Can the Minister give us some examples of the actual changes that mean that he sees the amendment as necessary? I think I understood the original way in which it was placed in the clause, but what representations has he received, apart from the one he mentions? Are we changing the legislation because of one piece of representation or have others come up with cogent points for a necessary change?

George Eustice: I can tell the hon. Gentleman about that. I have had experience of the EU scheme in the past and there have been instances where, for instance, some growers have said to me that they would like to come together for a purpose other than just marketing, and they would like the freedom to be able to do that. That is quite restricted in the new scheme. On the amendments, the representations came from Co-operatives UK. After we published the Bill the co-ops told us that some of the provisions were unnecessarily restrictive and might stop some of their members from being able to have a recognised body for the purposes of clause 23, so we responded to those representations, which made salient points, and we were happy to acknowledge them and table the amendments.

Amendment 9 agreed to.

Amendment made: 10, in clause 22, page 16, line 39, leave out paragraph (d).—*(George Eustice.)*

This amendment removes the condition for applying to become a recognised producer organisation relating to the legal form of the organisation.

The Chair: In sequence, amendment 57 is effectively the same as 56, 58 and 60, so I am not minded to call those. However, once we have disposed of amendment 11, which will be the next item on the agenda, if the hon. Member for Edinburgh North and Leith wishes to move either 59 or 61, which are different, I am prepared to allow that. So we will proceed on that basis.

Amendment made: 11, in clause 22, page 17, line 9, leave out "a single agricultural sector" and insert

"one or more agricultural sectors".—*(George Eustice.)*

This amendment changes one of the conditions for applying to become a recognised association of producer organisations so that the condition is met if each member of the association is a recognised producer organisation operating in any one or more of the agricultural sectors listed in Part 2 of Schedule 1 to the Bill (rather than each member being required to operate in the same sector).

Amendment proposed: 59, in clause 22, page 17, line 31, at end insert—

"( ) An application under subsection (1), (3) or (5) is to be made to and determined by—

(a) the appropriate authority for the part of the United Kingdom in which the applicant has its registered office or principal place of business, or

(b) where the applicant is made up of producers, producer organisations or, as the case may be, businesses operating in more than one part of the United Kingdom, the appropriate authority for any of those parts."—*(Deidre Brock.)*

This amendment would require organisations of agricultural producers, associations of recognised producer organisations, and organisations of agricultural businesses to apply for recognition to the appropriate authority in the country of the UK where the applicant is principally based.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 13]

AYES

Brock, Deidre	Lake, Ben

NOES

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

Question accordingly negatived.

Clause 22, as amended, ordered to stand part of the Bill.

Schedule 1

AGRICULTURAL PRODUCTS: SECTORS

Amendment made: 18, in schedule 1, page 27, line 18, at end insert "(unless section 29(4A) applies)". —*(George Eustice.)*

See the Explanatory Statement for Amendment 2.

Schedule 1, as amended, agreed to.

4.15 pm

The Chair: This will be the last bite of the cherry, but if the hon. Member for Edinburgh North and Leith wishes to move amendment 62 I will allow her to do so. I do not think it is going to add greatly to the scheme of things.

Clause 23

RECOGNISED ORGANISATIONS: COMPETITION EXEMPTIONS AND FURTHER PROVISION

Amendment proposed: 62, in clause 23, page 18, line 30, leave out "the Secretary of State" and insert

"an appropriate authority (within the meaning given in section 22(11))".—*(Deidre Brock.)*

This amendment would require the delegation of functions to require permission from the appropriate authority (as set out in amendment 61).

The Committee divided: Ayes 2, Noes 10.

Division No. 14]

AYES

Brock, Deidre	Lake, Ben

NOES

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

Question accordingly negatived.

Clause 23 ordered to stand part of the Bill.

Schedule 2

RECOGNISED ORGANISATIONS: COMPETITION EXCLUSIONS

Question proposed, That the schedule be the Second schedule to the Bill.

Dr Drew: We are getting there, slowly, Sir Roger. I want to pick up the point made by the Minister on clause 22 about how organisations will be identified. I am a Co-operative MP; I put that on the record. The Co-operative movement has been somewhat wary of this part of the Bill—whether it is clause 22 or, in this case, schedule 2, on which I have the opportunity to make these points.

I welcome the amendments that the Minister has moved, at least recognising that the Co-operative movement has been unhappy to be labelled as purely part of the competition arrangements, given that co-operation is a key part of the agricultural sector. Many farmers and farm organisations are, by their nature, co-operative: whether it is NFU Mutual, equipment changes or buying feed or pesticides, they tend to act in a co-operative organisation. I am raising the issue under schedule 2 to put on the record that there is still some unease. The Minister has recognised that, given the amendments that he tabled to clause 22. He has explained why he changed the wording, and I am very happy with that.

The issue is about the impact assessment on the Co-operative movement, given that the producer organisations, the associations of producer organisations and the inter-branch organisations—all lovingly acronymed —are by nature not just competitive organisations. They are also co-operative organisations. The Co-operative movement has felt that there has been increasing uncertainty and regulatory risk. Having agreed to the amendments that the Minister brought forward to clause 22, I am asking him also to say something in our discussion about schedule 2. That clearly relates to clause 23, given that one follows from the other.

Established co-operatives fear that they might find themselves outside the new settlement. They are likely to manage most of the uncertainty well, but they want to know that the Government have heard what they have been saying. In a sense, they want the Government to mount a robust defence of where co-operation comes within agriculture.

The biggest risk is where established co-operatives feel uncertainty about how the Competition and Markets Authority might interpret the joint selling arrangements. That is an important issue for those who want to protect co-operatives, one of whom is myself. At the very least, the additional challenge they might be faced with will put a cost obligation on them, increasing the transactional costs of collaboration. They want reassurance from the Minister about how they should handle the situation.

Will co-operatives be subject to those types of challenges, if the legislation is passed as it is currently drafted? Will it at least make farmers less inclined to co-operate, given that the nature of the Bill is to look at different ways in which environmentally-inclined changes could lead to new ways of working? This is a very old way of working, but it may be given an enhanced status if and when the Minister can clarify whether co-operation would be a key element of how the Competition and Markets Authority would see the matter. The co-operatives did look at various amendments. The Government have listened, and the co-operatives are happy with what they have done through amendments 9 and 11 to clause 22. However, they want further reassurance, as the same logic applies to schedule 2.

This is a probing amendment, but it is important because the message the Minister gives will reassure or cause further doubt in the minds of those who wish to look at new forms of business organisations in terms of how they do their agricultural trade. Will the Government at least look again at the issue and ensure that what they have done with clause 22 will apply to schedule 2? If the Minister can assure me that the Government will do that, I will certainly not press the amendment, but we may have to revisit it on Report if the Government have not done what they should to ensure that the CMA can incorporate co-operation as well as pure competition.

Again, that is part of the current common agricultural policy arrangements and its interpretation of economic efficiency within the acquis. We want to know that it will be rolled over into British legislation and particularly how it will be rolled over into schedule 2.

George Eustice: I can give the hon. Gentleman that assurance. We have been in discussion with Co-operatives UK, which raised the issue about eligibility and the fact that the requirements for a corporate body and to have all members from one sector could affect some co-operative working. We listened to that and addressed it.

I do not think that there is a spill-over of that problem—for want of a better term—in schedule 2, because that schedule is essentially all the technical clauses needed to disapply what competition lawyers call "the chapter 1 prohibition". In essence, schedule 2 determines and sets out in some detail the process by which producer organisations can come together to collaborate and co-operate in a range of areas and co-ordinate their activities in a way that would otherwise be considered a breach of competition law.

In particular, paragraph 9(1A) of schedule 3 to the Competition Act 1998 lists activities such as planning production, optimising production costs, concentrating supply, placing products on the markets and negotiating supply contracts. Schedule 2 gives licence to a recognised producer organisation to do all those things and to disapply those elements of the 1998 Act.

Simon Hoare: Would the Minister clarify a concern of mine? He has referred to sub-paragraph (1A), but I refer him to sub-paragraph (1C)(a), which says that condition B is that:

"in the case of a PO, none of the producers concerned are members of any other PO as regards the products covered by the activities".

If someone had six dairy farms, one of which sold 55% of its produce through Arla, but they wanted to create a more local co-operative and the sixth Arla-related farm wanted to be part of it, would that bring the whole house down or would there be some scope and flexibility, perhaps based on percentages? That absolute restriction may need a bit of refinement.

George Eustice: My understanding is that that is effectively an anti-avoidance provision to stop people from being members of several co-operatives and having a genuinely dominant market position that goes above and beyond what is envisaged by producer organisations.

[George Eustice]

Under the current EU scheme, one producer organisation can have a market share of up to 33%, but if there were overlapping producer organisations, it could create market distortion. My understanding is that the provision seeks to address that.

In conclusion, I am a huge supporter of bio groups, co-operative working and collaborative working. We all know that one of the challenges we face in the agricultural industry, as we think about the future, is that it is sometimes a fragmented sector and sometimes does not have the clout it needs in the market or the ability to do joint collective buying to get those costs down. We want to facilitate collaborative working; this part of the Bill and the particular schedule that the shadow Minister has raised go some way to addressing that.

4.30 pm

Dr Drew: The Minister makes an interesting point. I thank the hon. Member for North Dorset for getting my little grey cells working. Let us take Arla, for example—a co-operative that operates across a number of countries and that is not likely to fall foul of the CAP by being seen as a monopoly with more than 33%.

I do not have the current figures for the percentage of the milk supply that Arla processes, but if the Competition and Markets Authority took it as a purely national organisation and it fell foul of that 33%, could this new legislation mean that it ended up having to be broken up? I will need some assurance from the Minister before we go any further, because that is a good example of a co-operative that everyone would support, but which could now be in a disadvantageous situation if we take this as a national definition of its market control. Will the Minister clarify?

George Eustice: There is already national competition law set out in the Competition Act 1998, enforced by the Competition and Markets Authority. In the past, for instance, that famously led to the break-up of Milk Marque, which led to the situation we have today. There have been instances of that in the past under existing national provisions on competition law. I know the hon. Gentleman said he might come back to this on Report; I am happy to give an undertaking to look at this issue further and explain in further detail exactly what each of those clauses delivers. The clause that my hon. Friend the Member for North Dorset mentioned is an anti-avoidance clause—*[Interruption.]*

Dr Drew: It must be something we said—he has just left.

George Eustice: Yes. My understanding is that we have addressed the issues he has raised about the schedule, which are linked to the concerns that Co-operatives UK raised, through our earlier amendments.

Schedule 2 agreed to.

Clause 24

REGULATIONS UNDER SECTIONS 22 AND 23

Amendment made: 12, in clause 24, page 19, line 7, after "unless" insert "section 29(4A) applies or"—*(George Eustice.)*

See the Explanatory Statement for Amendment 2.

Clause 24, as amended, ordered to stand part of the Bill.

Clause 25

FAIR DEALING OBLIGATIONS OF FIRST PURCHASERS OF AGRICULTURAL PRODUCTS

Dr Drew: I beg to move amendment 48, in clause 25, page 19, line 21, leave out "may" and insert "must".

This amendment would require the Secretary of State to make regulations for fair dealing obligations in Clause 25.

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

Amendment 93, in clause 25, page 19, line 22, leave out "the first".

This amendment would extend the fair contractual dealing provisions of Clause 25 to all purchasers of agricultural products through the supply chain.

Amendment 112, in clause 25, page 19, line 22, after second "of" insert "all".

This amendment would ensure that powers to introduce sector-specific codes are not confined to certain sectors (i.e. not only those where voluntary codes have been unable to significantly improve contractual relationships) but to all sectors.

Amendment 65, in clause 25, page 19, line 23, at end insert—

"( ) Regulations under this section containing provision that extends to Scotland may be made only with the consent of the Scottish Ministers."

This amendment would require that regulations containing provisions that extend to Scotland may be made only with the consent of Scottish Ministers

Amendment 94, in clause 25, page 19, line 24, leave out "the first".

This amendment would extend the fair contractual dealing provisions of Clause 25 to all purchasers of agricultural products through the supply chain.

Amendment 66, in clause 25, page 20, line 24, at end insert—

"( ) Before making regulations under this section, the Secretary of State must consult persons—

(a) who are representative of—

(i) producers of, or

(ii) first purchasers of,

the agricultural products to which the regulations will apply, or

(b) who may otherwise be affected by the regulations."

This amendment would ensure that before making regulations the Secretary of State be required to consult with representatives of the producers and first purchasers.

Amendment 95, in clause 25, page 20, line 28, leave out "first".

Amendment 111, in clause 25, page 20, leave out line 30 and insert—

"'producer' includes—

(a) an individual producer within or outside the United Kingdom,

(b) an entity within or outside the United Kingdom which sells agricultural products after they have been aggregated from more than one producer, and

(c) a business within or outside the United Kingdom operating a packhouse;".

Dr Drew: We are making some progress. I blame the hon. Member for North Dorset; he has been holding us up, but now that he has gone we are racing through. These are quite important amendments. I will not labour the point on "must" and "may"—I think the Minister

will be keen on that—but I do want to talk particularly about amendments 93 to 95, which stand in my name and those of my hon. Friends. I know that my hon. Friend the Member for Bristol East also has amendment 111 in this group, so we will take a little bit of time going through this, because it is quite important.

Amendments 93 to 95 would remove the requirement restricting new statutory codes to first purchasers at the farm gate, addressing unfair dealings along the whole supply chain—beyond first purchasers—to ensure that that regulation applies to all stages of the supply chain not currently covered by the Groceries Code Adjudicator. I must say that we feel the Bill has been somewhat hurried here. We have made the point of who we did not hear evidence from, one of whom was the Groceries Code Adjudicator, whose powers we feel very strongly have been somewhat hamstrung by the Bill. We either value the Groceries Code Adjudicator's work or we see it as fairly irrelevant.

This matters because it has been a bone of contention that producers can only ever take action through the Groceries Code Adjudicator relating to certain parts of the food chain, principally improprieties at the retail stage. I understand that the farming organisations have always wanted to extend those powers—powers, not duties—so that they can take action against intermediaries in the food chain. This is important, and we want clarity on this at the very least.

There is this thing about whether they are able to derive evidence of harm. The Government have noted that smaller suppliers—including the majority of farmers—growing our food, both in the UK and overseas, are vulnerable to abusive treatment by their buyers; that is why we have a Groceries Code Adjudicator in the first place. That behaviour can involve: paying invoices late, which is the classic one; changing orders at the last minute; cancelling orders, because we all have examples in our constituencies of particular producers feeling that they have been hung out to dry by the way in which certain buyers are able to manipulate the market; and charging suppliers unexplained fees to keep their food on the shelves.

We know that food supply chains are complex, with behaviour in one part of the chain obviously having an impact in another. Again, we want clarity here, because we think that this part of the Bill could be improved; we are trying to help the Government, not damn them. Limiting the clause's focus to the relationship between a farmer and their immediate buyer sadly misses out what happens in the intermediary parts of the food chain. It will be interesting to know whether the Government see this as a role for the Groceries Code Adjudicator, or whether they are unhappy about it.

There was widespread support for putting the Groceries Code Adjudicator in place; it was a cross-party arrangement. It took longer than some of us would have liked, given that we started talking about it when I was last a Member, but eventually it came to fruition. The sad thing is that there is still a belief that the Groceries Code Adjudicator's powers are too limited and that it is too constrained in where it might want to intervene to right wrongs. On these three amendments, we are asking the Government at least to be clear about what they see as the role of the Groceries Code Adjudicator in relation to the Bill.

At the crux of this are the circumstances in which the body might need to appropriate precise costs and take a more forensic approach when indirect suppliers request adjudication on a case in which unfair dealing had been perpetrated by other parts of the supply chain. It is about looking at whether we can improve the powers of the Groceries Code Adjudicator, and at the very least we want clarity on how the Bill will either do that or not. Again, we may want to revisit this on Report if we do not feel confident that the Government have listened and acted.

Regulations are about how this will be implemented in relation to the supply chain—of course, this is largely about statutory instruments—but the Government need to say something in the Bill about their priorities, and their willingness to listen and act on what many of our producers have identified as a serious issue. In terms of primary legislation, it is important not to leave out what those trading relationships are and could become if there was a more level playing field.

The enforcing body, which presumably is the Groceries Code Adjudicator, needs not only the powers to act but the resources. From talking to producers and from my knowledge of the Groceries Code Adjudicator, I know that cases are often not pursued because there are not the resources to do it. These are terribly complicated issues. Again, it is not something that the law has ever embraced, because it is so complicated. We set up the Groceries Code Adjudicator to get away from that particular legal quagmire.

It is worth noting that the EU, blighted as it might be, is currently passing a law that would set up an enforcement authority. At the very time that we are leaving the EU—supposedly—it now recognises that it has to take additional powers to deal with these unfair trading practices along the whole of the agriculture supply chain, from the farmer to the retailer. That received support from Conservative and Labour MEPs.

This is an important issue, which we make no apology for bringing up at this time in order to look at where we are in terms of the powers invested in the Groceries Code Adjudicator, whether those powers should be increased on the face of the Bill—something we could do here—and whether that would deal with some of the intermediary abuses that, at the moment, are not within the aegis of the Groceries Code Adjudicator. I look forward to the Minister's response.

Kerry McCarthy: I hope to be fairly brief. I will address amendment 111 first, because it links directly to amendments 93 and 94. In the event that amendments 93 and 94 are unsuccessful, and therefore the fair dealing measures in the Bill cover only the relationship between a farmer and the first buyer, amendment 111 has been tabled to address a potential unintended consequence of imposing these obligations on first purchasers, namely that producers who act as aggregators for their neighbours could potentially be classified as purchasers.

It is common practice here and overseas that if one producer has the infrastructure, skills or time, they may collate the produce on behalf of local farmers. A farmer with a big barn or storage facility may aggregate apples in a packhouse for neighbouring growers in his or her part of Kent or East Anglia. A bean grower in Kenya may do the same for neighbouring farmers. Amendment 111

[Kerry McCarthy]

ensures that those aggregators will still be classed as producers, and that they are then within the scope of protection.

Amendment 112 is about the sector-specific statutory codes. We have been told that they will initially be introduced in sectors where voluntary codes have been unable to significantly improve contractual relationships. I know that in evidence it was suggested that dairy would be the first sector to have the code applied, because it is seen that the current arrangements are not working that well. There is concern that certain sectors will have priority and that the Government will never get around to actually bringing other sectors into the scope of the statutory codes, for example for the fruit and veg sector. There would then be powers to support fair purchasing in the dairy sector, but not other sectors. Amendment 112 is simply about ensuring that the codes are not confined to certain sectors but apply to all sectors. I have lengthy notes on the rest of it, but I think I will leave it at that.

4.45 pm

Deidre Brock: I wish to speak to amendments 65 and 66.

The Chair: Order. May I say to all Members that, if you wish to be called, it helps if you make it very clear by rising?

Deidre Brock: Thank you, Sir Roger.

I am minded to support the other Opposition amendments in this group, barring amendment 111, mainly because I am not entirely clear what its purpose is and I am a bit concerned that it could encroach on devolved responsibilities. Amendment 65 seeks only to ensure that the devolution settlement is respected. It would ensure that Scottish Ministers are able to exercise their powers under the devolution settlement. Agriculture is devolved, as the Secretary of State said in his most recent letter to the Scottish Government, and that should be respected.

Amendment 66 would ensure that those who are directly affected by the regulations are consulted. The Minister has made clear his liking for consultations and has said how much he values the input of those affected, so I am sure he will welcome the chance to put that into the Bill.

George Eustice: I shall begin by touching on amendment 48. Since the shadow Minister has not sought to remake an argument we have had many times, I will refrain from quoting from the Agriculture Act 1947 on this occasion.

I turn to the more substantive collection of amendments—93, 94 and 95—which seek to broaden the measure and to remove the requirement for it to apply to the first purchaser of agricultural produce. I understand the shadow Minister's point, but I want to explain why we have adopted this approach. As he is aware, the Groceries Code Adjudicator enforces the groceries code for the 10 largest supermarkets—those with the largest turnover—and is funded by a levy on those retailers. It has been successful because it is focused on the key task of improving the relationship between the very sizeable retailers and their suppliers, which are often far smaller.

However, for a couple of years now people have raised concerns about the fact that some farmers do not directly supply the supermarkets. Indeed, although in sectors such as fruit and veg it is quite common for an individual farmer or grower to supply a supermarket, in other sectors—notably beef, lamb and dairy—farmers supply processors and abattoirs instead; they do not supply their produce directly to the supermarket. The point has been made that they do not benefit from the protection of the groceries code and the Groceries Code Adjudicator.

Anecdotally, there are sometimes problems with processors finding it easier to pass costs and breaches of the code on to the farmers than to have a difficult conversation with the retailer and tell it that it is in breach of the code, or to report it to the Groceries Code Adjudicator. For that reason, we said, "Let's also address the problem at the other end of the scale." The problem we are trying to address in the Agriculture Bill is that primary producers—farmers—are price takers and are often not sure what they will be paid until their animal has gone through the slaughter line. They can then end up with all sorts of costs that they did not expect and penalties that they could not have predicted. We therefore tried to address that unfairness by keeping the focus of these provisions on the first purchasers.

Sandy Martin: Does the Minister accept that large companies are extremely good at creating wholly-owned subsidiaries, often for fairly spurious purposes, such as avoiding taxes or legislation? If this measure is restricted to first purchasers, it is entirely possible that completely new and unnecessary organisations will be created to be the first purchaser simply to avoid the regulations that would otherwise apply to everybody along the food chain.

George Eustice: The only way that a processor could do that would be if they literally became a farmer. Setting up a sham subsidiary company that buys from the farmer and sells to a middle man would still be caught by these provisions, because the vehicle company would still be required to abide by the terms that are set out through these regulations. We thought about this hard and our conclusion was that if the challenge is the fact that farmers are too often price takers, are too fragmented and do not have sufficient clout in the supply chain, let us have a very targeted, focused approach to ensuring that we address that unfairness.

The problem with broadening the provision to anyone in the supply chain, so it could be a haulage company transporting lettuces or someone who has bought something and sold it on, is that it is broadened to many more relationships. Then it becomes difficult to justify all the requirements and purposes set out, because they are very much designed for farm businesses.

Mr Goodwill: We have heard about the case where milk crosses the Irish border on a number of occasions—it was almost like trying to hit a moving target. That is why these amendments are not really practical.

George Eustice: My hon. Friend makes a good point. We should remain focused on the challenge we are trying to address: why do farmers not get a fair price for

the food they produce? Why do they end up too often being price takers and why do they need public support and subsidies in order to break even? The answer is often in the way the supply chain works to their disadvantage. Let us tackle the causes of that disadvantage and have an Agriculture Bill that is specifically targeted at agriculture.

Martin Whitfield: With regard to agricultural products, where does the Minister envisage timber to be covered?

George Eustice: Amendment 112, tabled by the hon. Member for Bristol East, sought to state "all agricultural products" rather than "agricultural products". However, we believe that we have already addressed that through part 2 of schedule 1, which we will come to. That lists agricultural sectors relevant to the producer organisation and fair dealing provisions. It is pretty exhaustive, and for the hon. Lady it has the term "other plants" at the end, which will capture everything that might be of interest to her particular diet. *[Interruption.]* Timber is another issue, but part 3 of schedule 1 creates the power to add to that.

We based the list on the contours of EU law and tried to have quite an exhaustive list. Timber is not on that list at the moment but there would be nothing to stop us from adding it, although we would have to consider whether it is appropriate to do so. We are predominantly looking at farmers and their relationship with processors. We have a particular problem with the dairy, beef and sheep industries, and that is the primary purpose here.

Martin Whitfield: The process in the timber industry is quite complex and crosses a number of bodies. Will the Minister look at that sooner rather than later?

George Eustice: The regulations that we can make under part 3 of schedule 1 give us the power to add additional things. Although I am Agriculture Minister, I do not cover forestry and timber, so I will need to discuss that with my ministerial colleagues. It is certainly an option and the provision is there to enable us to add products.

Chris Davies: There are concerns on this side of the House—as well as on the Opposition Benches—about the forestry and timber industry. I doubly emphasise the need for the Minister to look at that.

George Eustice: I feel that this will be one of those unexpected issues that returns on Report. I will undertake in the meantime to talk to my ministerial colleagues responsible for the forestry industry.

Amendment 65 is a similar provision to that which we discussed in an earlier debate on producer organisations. It seeks to ensure that we could make measures in that area only with the consent of Scottish Ministers. We have adopted that approach because it is a competition matter that deals with the ability to have contractual changes linked directly to competition law—that is why it is a reserved matter. We are not doing anything new in that regard. The current Groceries Code Adjudicator is a UK-wide body; it operates UK-wide and the legislation that underpins it is UK-wide. The EU milk package is an example of a contractual fair-dealing provision under EU law. It applies UK-wide and can only be switched on and implemented on a UK basis. It is therefore a well-established fact that such issues, which pertain directly to competition law, are a reserved matter to be handled by the UK Government. That is why we do not accept that the provisions are necessary or acceptable.

Deidre Brock: I thank the Minister for his explanation but the Scottish Government do not agree with his interpretation of that; nor do I. We think that it requires the Scottish Parliament's consent because it is for devolved purposes, namely the regulation of unfair contractual terms in commercial contracts by agricultural producers in Scotland. It does not relate to the competition law reservation, which is specifically directed at the regulation of anti-competitive agreements.

George Eustice: Although it might do so in a different way, it relates to competition law and is not an exemption from the chapter 1 requirements that we discussed earlier. The hon. Lady has not complained about the Groceries Code Adjudicator, which is administered on a UK basis and operates UK-wide; nor has she raised huge concerns about the way that the EU has always approached those matters, which is that they are a UK-wide competency and that switching on elements of the milk package is a UK decision and can be done only on a UK-wide basis. I hope that I have addressed the issues raised by the hon. Member for Edinburgh North and Leith about the role of Scotland in this reserved matter, and reassured the shadow Minister and the hon. Member for Bristol East that their amendments are unnecessary since they are provided for in part 2 of schedule 1.

Dr Drew: I hear what the Minister says and he will be pleased to learn that I will not press amendment 48 to a Division, but I am very concerned that the Bill has not been as clearly and cleverly scrutinised as it could have been because we were not able to meet a number of the organisations. I would have liked to ask the Groceries Code Adjudicator how the Bill could have made the authority more effective, but we did not get that chance. I do not know why she did not come; perhaps we were not as enticing as we might have been, or perhaps she did not get the push from Government.

It is important: this part of the Bill is about competition, fairness and accountability, yet we are in the dark, hoping that some of it will be carried through. The Minister has kindly given way on timber and we might see that somewhere in a schedule on Report, when he has talked to his colleagues. We are somewhat less than impressed by the Bill, and we need to nail down the legislation, in that we have producers believing that the Groceries Code Adjudicator is not able to function as effectively as she could, yet when we get the opportunity with some legislation to allow her additional powers those powers are not forthcoming.

5 pm

We will not press amendment 48 to a vote, but we will certainly press amendment 93. I beg leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 93, in clause 25, page 19, line 22, leave out "the first".—*(Dr Drew.)*

This amendment would extend the fair contractual dealing provisions of Clause 25 to all purchasers of agricultural products through the supply chain.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 15]

AYES

Brock, Deidre	McCarthy, Kerry
Debbonaire, Thangam	Martin, Sandy
Drew, Dr David	
Lake, Ben	Whitfield, Martin

NOES

Davies, Chris	Harrison, Trudy
Dunne, Mr Philip	Huddleston, Nigel
Eustice, George	Stewart, Iain
Goodwill, rh Mr Robert	Tracey, Craig

Question accordingly negatived.

The Chair: We move on to amendment 86.

Deidre Brock: I wish to speak to amendments 65 and 66.

The Chair: We have finished that section. I am terribly sorry. The hon. Lady has to be on the ball.

Deidre Brock: Forgive me. I rose earlier, so I thought that I would be called.

The Chair: No. I am sorry. We have taken the vote on the lead amendment. Well, to be more exact, we have taken a vote on another amendment.

Dr Drew: We will revisit it. The hon. Lady need not worry.

Deidre Brock: Can we revisit it?

The Chair: You can.

Dr Drew: I beg to move amendment 86, in clause 25, page 20, line 9, at end insert—

"(aa) for the identity of any person who has made a complaint relating to alleged non-compliance to be held in confidence and not disclosed during any investigation into their complaint;".

This amendment would provide for the confidentiality of persons who raise complaints under the fair dealing obligations provided by Clause 25.

The Chair: With this it will be convenient to discuss amendment 87, in clause 25, page 20, line 9, at end insert—

"(aa) for an investigation to be launched where there are reasonable grounds to suspect that there is non-compliance;".

This amendment would provide for investigations to be undertaken under the fair dealing obligations provided by Clause 25 where there are reasonable suspicions, but no complaint has been made.

Dr Drew: I hope not to delay us that much longer, because I think we are past the bewitching hour and we keep losing members—at this rate, the Whips are going to have to find someone non-existent to pair with—but it is important that we dwell on the issue for a few minutes.

Again, this amendment may not be that crucial to the Bill in the great import of things, but a number of organisations feel quite strongly about where this part of clause 25 is taking us. It is all about fair dealing and the obligations of the first purchaser of agricultural products. We have argued that that should not necessarily reside with the first purchaser, but should be across the food chain.

Amendment 86, which has the support of a number of non-governmental organisations, is about maintaining the confidentiality of complainants. That is vital, because they would not necessarily pursue a complaint without that confidentiality; evidence from the Groceries Code Adjudicator's review highlighted that as an ongoing issue. The imbalances of power in many grocery supply chains create a climate of fear in which small suppliers are unwilling to speak out for fear of commercial reprisals. This reticence is understandable, because once a supplier is blacklisted regarding their ability to supply a particular food chain, that tends to become total and ongoing. Smaller players often rely on a single buyer for large proportions of their business—sometimes it is 100%. Even when a regulator is in place, suppliers still have concerns about coming forward. There is a need to ensure that there no single supplier is exposed to possible retribution by a more powerful mid-tier supplier and retailer.

Following an investigation, the new body should make relevant recommendations to deter poor practice, including penalising mid-chain suppliers or retailers found guilty of breaching the code. It is important to be clear that the confidentiality provided by this amendment is different from anonymity. We recognise that if the party bringing the complaint wants compensation regarding their specific case, they will of course need to be identified. It is not as though that confidentiality can be kept in place indefinitely, particularly where monetary compensation is required. The principle of the confidentiality of the identity of the complainants being waived only with their express consent is critical in ensuring that producers feel confident coming forward. That is exactly how the Groceries Code Adjudicator works, so we want to extend it along the food chain.

Amendment 87 would allow the enforcement body to undertake investigations without specific complaints, and again this is where we want to boost the power of the Groceries Code Adjudicator. An effective enforcement body must be able to hold the trust of suppliers and keep any evidence confidential until there might be some monetary arrangement, which would require going on the record. To achieve this, an enforcement body should also have the power to investigate potential transgressions under its own initiative, rather than require the submission of compelling evidence before it acts. My understanding is that that is what the Groceries Code Adjudicator has herself asked for. It would be surprised if she has not, because it completes her powers and responsibilities. The spotlight is taken away from suppliers and potential complainants, so it is on the Groceries Code Adjudicator herself to take those complaints forward. Without this clause we may see the enforcement body unable to identify issues that are either specific to one chain or one problematic behaviour

activity, but where no single producer has been able to complain, directly for fear of delisting—that is a more appropriate term, I accept.

As I explained about amendment 86, there is a climate of fear. Therefore, we feel that proactive action by the regulator is vital. We want the Government to look seriously at this and use this legislation to enhance the powers of the Groceries Code Adjudicator, something that a number of us across the House have called for. We are seeking to use this legislation to do that because our producers feel that too often the Groceries Code Adjudicator is constrained by her inability to work across the food chain and to guarantee confidentiality and, when there is monetary consideration concerned, that this has been through due process.

I hope the Minister will give us the opportunity to consider how he can ensure that confidentiality is guaranteed, but also guarantee the enhanced powers of the Groceries Code Adjudicator. Again, this may not be the most important part of the Bill, but for producers who feel that they have fallen foul of the process and have, as my hon. Friend the Member for Ipswich said, felt bullied, intimidated or delisted from selling their products in the right and fair manner, we should use the Bill to put that right.

George Eustice: The amendments are linked to a common sentiment that we hear from farmers. There is no doubt that a number of people will say that they fear reprisals, consequences of being delisted or losing business if they were to complain. That has been recognised for some time. That is why we made changes early on to the remit of the Groceries Code Adjudicator, to enable her to receive complaints anonymously and pursue investigations when she had reasonable cause to believe there was a problem with a particular supermarket, and indeed to allow a trade body such as the National Farmers Union to pass on intelligence about the conduct of a particular supermarket that could inform an investigation. Even within the GCA, which is predominantly a complaints body, we have found the scope for anonymous whistleblowing and for third-party organisations to pass on concerns.

I draw the hon. Gentleman's attention to subsection (5)(a) and (b). The specific issues he raises can be addressed through regulations. Subsection (5)(a) makes provision for regulations

"for complaints relating to alleged non-compliance to be referred to a specified person".

And, crucially, subsection (5)(b) states

"as to how those complaints are to be investigated and how an allegation of non-compliance is to be determined".

It is absolutely within the powers set out in subsection (5) for us to introduce regulations that would guarantee anonymity and enable complaints from third-party organisations, when they can hand on intelligence or create the scope for a regulator to investigate, when there is reasonable cause to believe there is a problem. I hope the hon. Gentleman will recognise that we think the particular issue that he seeks to address in amendment 86 is already provided for in subsection (5)(a) and (b).

Finally, although we hear a lot about this, Christine Tacon from the Groceries Code Adjudicator says that one of the most powerful things that can be done is for people working for processors and dealing with supermarkets to have assertiveness training, because we can put in place all the right regulations and have all the abilities in the world for people to report things anonymously, but there is a point at which people have to take responsibility and be willing to say to a supermarket buyer, "You know I cannot agree to that, because it is a breach of the code and what you are asking me to do is in breach of the law." She said that when the GCA has placed people from those organisations' sales teams on to assertiveness training, they have learnt how to use the code themselves without having to always run to her for an intervention.

Dr Drew: I find this quaintly interesting, because my experience of the milk trade is that they lack anything but assertiveness. There are more four-letter words in their way of trying to do business than could be heard on a football pitch on a Sunday morning. Sadly, it is not just about assertiveness, but fairness and the way in which this can be taken up by the Groceries Code Adjudicator. That is why a number of organisations—as always, at the top there is a whole series of different bodies—feel strongly that this needs additional powers to be vested in the Groceries Code Adjudicator. I hope the Minister has listened to that and will act on it.

5.15 pm

George Eustice: As I said, the GCA already has the powers to receive complaints anonymously and to investigate, where she has reason to suspect a breach of the code. That is already in place.

My point is not that this is not a legitimate issue—of course, as I said, the regulations can provide for anonymity—but that at some time we need people to have the confidence and courage to say, "I will not agree with that. It is against the code—you know it's against the statutory code—and you shouldn't be asking me to do it." For such things to work properly, we need the farmers and sellers also to hold people to what is a legal requirement. They can play their part and, where they are willing to do so, that can make all the difference.

Amendment 87 is similar—it is about being able to launch investigations when there are reasonable grounds to suspect non-compliance, rather than when there is a complaint. Again, we believe that we can provide for that. It is important to note that whatever is set out as a legal requirement in clause 25(3) will be a legal requirement whether or not there is a complaint. Subsection (5) deals predominantly with complaints and how they are handled, we do not envisage the body as simply a complaints-handling one; we see it as an enforcement body that will enforce all the legal requirements introduced under the Bill, specifically clause 25. It will not only handle complaints and pass them on.

Chris Davies: Conservative Members, too, have concerns about the powers of the Groceries Code Adjudicator. Farmers and suppliers tell me regularly that the GCA's teeth are not sharp enough. Will the Minister reassure me, as he has the Opposition, that there are provisions not only in the Bill but in other places where the powers are strong enough, and that if we need to increase the powers there is a mechanism to do so?

George Eustice: The clause provides quite strong powers, including those to impose penalties for non-compliance on the first purchaser of agricultural products. If such a first purchaser happens to be a major retailer—

[George Eustice]

perhaps one not currently covered by the groceries code, because it is below a certain threshold—it will be covered by the Bill. By addressing the problem from both ends of the telescope, we have a workable solution that means we can really deliver for the interests of farmers while not losing the successes of the Groceries Code Adjudicator model.

Having given that reassurance that the issues raised by the hon. Member for Stroud in amendments 86 and 87 can already be addressed through regulations under subsection (5), I hope that he will accept it and withdraw his amendments.

Dr Drew: I thought that the intervention made by the hon. Member for Brecon and Radnorshire was apposite. We are improving the legislative framework, including toughening up the powers of the Groceries Code Adjudicator, and specifically—in my amendments—we could ensure that people feel confident that there is a confidential arrangement between them and the Groceries Code Adjudicator so that they may pursue their actions.

As much as I like the Minister and hear what he says, this is how we improve legislation—we want to put something very important in the Bill. We know why so many producers do not choose to pursue a course of action against someone who has treated them unfairly: they are frightened. We will press the amendment to a vote—though we might not win—and the Minister is hearing from his own Back Benchers that this needs to be revisited on Report. We want to ensure that the Groceries Code Adjudicator can exercise all her powers, including along the food chain—because at the moment it seems to be very much a one-way street, which is why she is less effective than she could be. Also, producers feel that they are often let down, because they are not able to carry through regarding the unfair practices that they face.

This little amendment—it is very small—would dramatically change the power relationship. I hope the Minister will accept in good faith that we are pressing it to a vote so that he can reflect on it when it comes back on Report and strengthen this bit of the Bill.

Chris Davies: I thank the hon. Gentleman for his praise—as praise indeed it was—but, unlike him, I am happy with the Minister's response and I shall be voting with the Government.

Dr Drew: Sadly—I thought we might have enticed the hon. Gentleman over to this side. It could have made all the difference, and the Government would have, in due course, thought that it was great that Back Benchers spoke for themselves and voted accordingly. One always has these hopes that might be dashed at a later stage. We will press the amendment to a vote, but we hope the Government will understand that we are willing and able to see how this can be improved on Report.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 16]

AYES

Brock, Deidre	McCarthy, Kerry
Debbonaire, Thangam	Martin, Sandy
Drew, Dr David	
Lake, Ben	Whitfield, Martin

NOES

Davies, Chris	Harrison, Trudy
Dunne, Mr Philip	Huddleston, Nigel
Eustice, George	Stewart, Iain
Goodwill, rh Mr Robert	Tracey, Craig

Question accordingly negatived.

Amendment made: 13, in clause 25, page 20, line 24, at end insert "(unless section 29(4A) applies)".—*(George Eustice.)*

See the Explanatory Statement for Amendment 2.

Clause 25, as amended, ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Iain Stewart.)*

5.23 pm

Adjourned till Thursday 15 November at half-past Eleven o'clock.

Written evidence reported to the House

AB 19(a) NFU Scotland (supplementary)

AB 41(a) Sustain (further written evidence)

AB 47 Cornwall Council

AB 48 Dr Stuart Calimport

AB 49 Joss Hibbs

AB 50 Dr Nigel Maxted

AB 51 Mrs K C Haslam

AB 52 Bristol Veterinary School at the University of Bristol

AB 53 Walkers are Welcome CIC

AB 54 Tenant Farmers Association (Supplementary evidence)

AB 55 Soil Association

AB 56 Claudine Russell

AB 57 Philip Morton

AB 58 Nature Friendly Farming Network

AB 59 Sunderland City Council

AB 60 NFU Cymru

AB 61 Cornwall Countryside Access Forum (CCAF)

AB 62 Climate Friendly Bradford on Avon

AB 63 Friends of the Earth

AB 64 Co-operatives UK