AGRICULTURE BILL

AMENDMENT TO BE MOVED AT COMMITTEE STAGE

In clause 40, page 36, line 29	After “may” insert “following consultation with relevant stakeholders”

Effect

This amendment would impose a duty on the Secretary of State to consult relevant stakeholders when making regulations as specified.

Reason

Consultation provides for an additional layer of scrutiny by stakeholders. A requirement on the Secretary of State to consult will help to ensure openness and transparency of the Secretary of State’s actions. Imposing a duty to consult will ensure any draft statutory instrument is exposed to critical comment from stakeholders, which may improve an instrument and help to avoid future difficulties when it is progressing through Parliament.

AGRICULTURE BILL

AMENDMENT TO BE MOVED AT COMMITTEE STAGE

Clause 40, page 36, line 39 Leave out subsection (3)

Effect

This amendment would remove the powers to confer and delegate functions and to exercise discretion as set out in subsection (3).

Reason

It is recognised by the Carltona doctrine[1] that the system of departmental organisation and administration is based on the constitutional notion that the decision of a government official is constitutionally that of his Minister. A Minister alone is responsible to Parliament.

In the circumstances, the powers conferred by subsection (3) are unnecessary.

As a matter of good law-making, and in the interests of certainty, delegated powers should be strictly limited with reference to the individuals or organisations upon whom the powers might be conferred and the scope of those powers. It is expected that the Government will have a good idea of the situations in which the powers can be exercised, and the provisions can be drafted accordingly. Setting parameters ensures that the powers can only be used as was originally intended by Parliament and facilitates scrutiny and accountability. In the current clause, it is not clear why it is necessary for the Secretary of State to have these powers of conferral or delegation. It is not clear to whom it is intended that such functions would be conferred or delegated, or who would require to exercise a discretion and for what purpose. The provisions are therefore too vague to comply with the requirements of certainty. Subsection 3(c) would seem to attempt to grant unlimited scope for exercise of discretion.

If the Government considers these powers are required to allow conferral or delegation of functions to other individuals or bodies, or for functions to be conferred or delegated for a particular purpose, an explanation should be provided of the intended use of the powers. The relevant individuals/organisations and/or the particular circumstances for which the powers are required should be set out in detail in the Bill to ensure that the powers are necessary and appropriate and to ensure that the exercise of those powers may be properly scrutinised and those to whom power is given may be held to account.

Civil servants already have the necessary powers to undertake functions that a Minister could undertake. If it is intended that the provisions of clause 40(3) be used to confer or delegate functions to government officials, this would therefore appear unnecessary.

[1] *Carltona Ltd* v *Commissioners of Works* [1943] 2 All ER 560 (CA)