POLICY NOTE

THE AGRICULTURE (RETAINED EU LAW AND DATA) (SCOTLAND) ACT 2020 (COMMENCEMENT NO. 1) REGULATIONS 2020

SSI 2020/315 C. 27

The above instrument was made in exercise of the powers conferred by section 26(2) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. The instrument is not subject to any parliamentary procedure.

Purpose of the instrument.

The purpose of the instrument is to commence provisions in sections 1, 2, 3 and 4 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 ("the 2020 Act")[1]. The commenced provisions will enable Regulations to be brought forward to simplify or improve Common Agriculture Policy (CAP) rules, to ensure the operation of CAP legislation beyond 2020, and to modify financial provision related to the CAP. These provisions are being commenced ahead of the other provisions in the 2020 Act, as they enable Regulations to be made that need to come into force by 1 January 2021.

Policy Objectives

As a result of the UK decision to leave the EU, the EU CAP will cease to apply, but the existing CAP architecture and rules will be transferred into domestic law as retained EU law, via the EU (Withdrawal) Act 2018[2] and the Direct Payments to Farmers (Legislative Continuity) Act 2020[3].

It was agreed that, following EU Exit, there should be a transition period for Scottish agricultural policy from 2021 until around 2024, during which the existing CAP rules and regulations would be maintained with simplifications and improvements made (where possible). After this period, a longer term rural policy would be introduced.

The 2020 Act enables the Scottish Ministers to bring forward Regulations to make changes to retained EU law related to the CAP during this transition period. Specifically, the provisions being commenced in this instrument are sections 1, 2, 3, and 4, which will enable the Scottish Ministers to bring forward Regulations to:

- make simplifications and improvements to the operation of the CAP legislation;
- ensure the operation of CAP legislation beyond 2020; and
- modify financial provision related to the CAP.

These provisions are being commenced in advance of the other provisions in the 2020 Act, as there are Regulations that need to be made under them which need to be in force by 1 January 2021 to ensure the smooth continuity of support for farmers, crofters and land managers.

[1] https://www.legislation.gov.uk/asp/2020/17/contents/enacted
[2] https://www.legislation.gov.uk/ukpga/2018/16/contents
[3] https://www.legislation.gov.uk/ukpga/2020/2/contents

Consultation

The policy objectives of the 2020 Act were subject to parliamentary scrutiny as a part of the parliamentary process[4] for the 2020 Act. The Policy Memorandum[5] for the Bill that preceded the 2020 Act outlined the results of the public consultation exercise[6] conducted in relation to support for agriculture and the rural economy during a post Brexit transition ("Stability and Simplicity") held in 2018. As these Regulations bring into force provisions of the Act, no further consultation has been carried out in relation to this instrument.

Impact Assessments

Impact assessments on the overall policy objectives of the 2020 Act were conducted in 2019 and are available at the following links:

Business and Regulatory Impact Assessment (BRIA)
https://www.gov.scot/publications/agriculture-retained-eu-law-data-scotland-bill-business-regulatory-impact-assessment-bria/

Data Protection Impact Assessment (DPIA)
https://www.gov.scot/publications/agriculture-retained-eu-law-data-scotland-bill-data-protection-impact-assessment-dpia/

Equalities Impact Assessment (EQIA)
https://www.gov.scot/publications/agriculture-retained-eu-law-data-scotland-bill-equality-impact-assessment-eqia/

Fairer Scotland Duty (FSD)
https://www.gov.scot/publications/agriculture-retained-eu-law-data-scotland-bill-fairer-scotland-duty-fsd/

Strategic Environmental Assessment (SEA) pre-screening
https://www2.gov.scot/seag/publicsearch.aspx

Financial Effects

The financial effects on the Scottish Government, local government or on business are detailed in the BRIA and Financial Memorandum[7] prepared in respect of the Bill that preceded the 2020 Act.

Scottish Government
Agriculture and Rural Economy Directorate

October 2020

[4] https://beta.parliament.scot/bills/agriculture-retained-eu-law-and-data-scotland-bill
[5] https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/agriculture-retained-eu-law-and-data-scotland-bill/introduced/policy-memorandum-agriculture-retained-eu-law-and-data-scotland-bill.pdf
[6] https://consult.gov.scot/agriculture-and-rural-communities/economy-post-brexit-transition/
[7] https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/agriculture-retained-eu-law-and-data-scotland-bill/introduced/financial-memoradum-agriculture-retained-eu-law-and-data-scotland-bill.pdf