POLICY NOTE

THE AGRICULTURE (RETAINED EU LAW AND DATA) (SCOTLAND) ACT 2020 (COMMENCEMENT NO. 2) REGULATIONS 2020

SSI 2020/373 (C. 31)

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 6 to 12 including the schedule introduced by section 12 and Part 2 (sections 13 to 20) 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 modify Common Agricultural Policy (CAP) legislation on public intervention and private storage aid, aid for fruit and vegetable producer organisations, the EU food promotion scheme (the power is limited to revocation), marketing standards and carcass classification. The commenced provisions will also enable the collection and processing of data included in Part 2 of the Act including the requirement to provide information for Agri-food supply chains, the purposes for which information may be required and processed, limitations on the processing of the required information and enforcement of information requirements. These provisions being commenced follow on from The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (Commencement No. 1) Regulations 2020 and will ensure that all provisions in the Act will be commenced and 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 6 to 12 including the schedule introduced by section 12, and sections 13 to 20 which will enable the Scottish Ministers to bring forward Regulations to:

[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

- modify CAP legislation on public intervention and private storage aid
- simplify or improve CAP legislation on aid for fruit and vegetable producer organisations
- revoke the EU Food Promotion Scheme
- modify marketing standards and carcass classification
- collect and process information from Agri-food supply chains

Section 12 introduces a schedule which makes specific modifications to the CMO Regulation (Regulation (EU) No 1308/2013), in consequence of sections 9 and 11.

The provisions in sections 6 to 12 are being commenced and need to be in force by 1 Jan 2021 to ensure alignment with the rest of the UK who are taking similar powers through the UK Agriculture Bill. The provisions in sections 13 to 20 are required to be in place by 1 Dec 2020 to ensure they are in place for the start of the data collection period.

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

[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/

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

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[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