EXPLANATORY MEMORANDUM TO

THE COUNTRYSIDE STEWARDSHIP (ENGLAND) (AMENDMENT) REGULATIONS 2021

2021 No. 42

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument implements changes to the Countryside Stewardship grant scheme, including introducing new activities that are eligible for funding.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The first domestic round of the Countryside Stewardship grant scheme opened for applications on 11 February 2020 and operated under the Countryside Stewardship (England) Regulations 2020.

6.2 Changes are being introduced to the scheme from February 2021, including the introduction of new activities that are eligible for funding. This instrument amends the Countryside Stewardship (England) Regulations 2020 to implement these changes.

7. Policy background

What is being done and why?

7.1 Countryside Stewardship is an agri-environment, forestry and woodland scheme that currently operates in England. It provides funding for farmers, woodland owners and land managers to make environmental improvements through activities such as: conserving and restoring wildlife habitats; managing flood risk; creating and managing woodland; reducing water pollution and encouraging educational access by hosting school visits.

7.2 From 2015 to 2020, agreements were offered to successful applicants through the Rural Development Programme for England ("RDPE"), part of the European Union's Common Agricultural Policy ("CAP"). This year marks the beginning of the agricultural transition period in England, during which there will be a movement away from the CAP towards a domestic Environmental Land Management scheme.

7.3 In February 2020, a new round of Countryside Stewardship opened for applications, with the first agreements starting on 1 January 2021. This round was a standalone grant scheme that was Exchequer funded and governed entirely by domestic legislation. It was not part of the RDPE or the CAP and instead formed part of the agricultural transition towards Environmental Land Management in England.

7.4 New application rounds will open for Countryside Stewardship, the first in February 2021, and a number of changes will be introduced to the scheme over the course of these rounds, which are set out in more detail below. This instrument amends the existing Countryside Stewardship (England) Regulations 2020 to allow these changes to occur.

Changes being introduced

7.5 The United Kingdom has a legally binding target in the National Emissions Ceiling Directive to reduce ammonia emissions by 16% by 2030. Clean air is also a goal of Defra's 25 Year Environment Plan[1]. The Government's Clean Air Strategy[2] sets out specific actions for agriculture to achieve a 16% reduction in ammonia production as well as a 17% reduction in nitrogen deposition to areas of protected priority habitat in England.

7.6 From February 2021, improving air quality will become an objective of the Countryside Stewardship scheme, alongside its existing objectives. In order to help achieve this objective, two new capital funding activities will be introduced through this instrument to reduce ammonia emissions and existing funding activities may be applied for based on their air quality benefits.

7.7 Two new fencing specifications for deer gates will also be introduced to aid applicants in creating or managing woodland. These funding activities have been introduced in response to customer feedback and designed by the Forestry Commission to ensure that the intended environmental outcomes are delivered.

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf

[2]https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf

7.8 There are currently three activities relating to wood pasture available as part of the Countryside Stewardship scheme: creation of wood pasture, management of wood pasture and parkland and restoration of wood pasture and parkland.

7.9 There is strong demand for all three of these activities to be offered more widely in the uplands. Doing so would contribute to the delivery of the 25 Year Environment Plan. The robust vegetation structure of upland wood pasture also has benefits for water management by slowing the flow of water, filtering out sediment and helping to reduce soil erosion. In addition, many wood pastures in the uplands retain flower-rich grassland which is suppressed by sheep grazing. A shift to cattle grazing allows restoration of a flower-rich sward for pollinators.

7.10 A variety of factors contribute to the cost of managing cattle-grazed wood pasture in the uplands, including the need to manage deer, the cost of establishing trees in harsh climatic conditions and the steep and inaccessible nature of upland sites. Consequently, this instrument will introduce three new uplands wood pasture activities that mirror those currently offered, with a payment rate that reflects the cost of delivery in the uplands.

7.11 If a Countryside Stewardship agreement holder transfers management control of their land to another person during the lifetime of their agreement, for example by selling the land, the existing regulations allow the agreement to be transferred to the new land manager as long as certain conditions are met. These regulations amend those conditions so that an increased number of Countryside Stewardship grant agreements will be able to be transferred. The purpose of this is to improve value for money by ensuring the continued delivery of the long-term environmental benefits in an agreement.

7.12 The existing regulations allow the Secretary of State to charge a fee of up to £100 if an applicant or agreement holder wants to appeal a decision on their application or agreement. They also allow interest to be charged on a recovery if the repayment deadline has passed. Defra does not intend to charge a fee for appeals or to charge interest on recoveries, so these powers are being omitted to provide clarity to applicants.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 Defra does not intend to consolidate the legislation at this time.

10. Consultation outcome

10.1 A number of changes proposed for the Countryside Stewardship scheme were discussed with stakeholders at the Rural Payments Agency's Agri-Environment Stakeholder Working Group on 21 October 2020. These included creating additional funding activities to support woodland creation and management and improving air quality. Stakeholders were supportive of the proposals.

11. Guidance

11.1 The scheme manuals will provide guidance for applicants and detail the changes that have been introduced. Defra intends to publish the first of these on 9 February 2021, once this instrument has come into force.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is expected to be no, or no significant, impact on business.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that this instrument is to do with the giving of grants. It is expected that the majority of the grants will be claimed by small businesses, as they are currently, and the scheme has been designed to facilitate this.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the Countryside Stewardship grant scheme is subject to external monitoring and evaluation to check that the intended environmental outcomes are being delivered.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Victoria Prentis MP, Minister for Farming, Fisheries and Food, has made the following statement:

"A statutory review clause is not appropriate because this instrument concerns the giving of grants by a public authority."

15. Contact

15.1 Jenny Hewlett at Defra Telephone: 02078 955438 or email: jenny.hewlett@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Fiona James, Deputy Director for Common Agricultural Policy and Transition, at Defra can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Prentis MP, Minister for Farming, Fisheries and Food at Defra can confirm that this Explanatory Memorandum meets the required standard.