EXPLANATORY MEMORANDUM TO

THE COUNTRYSIDE STEWARDSHIP (ENGLAND) REGULATIONS 2020

2020 No. 41

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 The purpose of this instrument is to allow the Countryside Stewardship grant scheme to open for applications in February 2020. The scheme will provide funding for farmers, woodland owners, foresters 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 from agriculture and encouraging educational access by hosting school visits.

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 Countryside Stewardship grant scheme currently operates under Regulation (EU) 1305/2013 ("the Rural Development Regulation"). The Rural Development Regulation sets out the requirements for Pillar 2 of the Common Agricultural Policy ("CAP") during the 2014 to 2020 programming period, which is delivered as the Rural Development Programme for England ("RDPE") in England. Withdrawal from the European Union ("EU") means that the United Kingdom will not be part of the next CAP programming period.

6.2 The Rural Development Regulation cannot be used for new Countryside Stewardship grant agreements with a start date after 2020 because the legislation only applies for the duration of the current CAP programming period.

6.3 The Rural Development Regulation will, however, continue to apply to existing Countryside Stewardship and other agri-environment and forestry agreements which started before the end of 2020.

6.4 New Countryside Stewardship grant agreements will instead be governed at a domestic level by this instrument made under section 98 of the Environment Act 1995 ("the Act"). The Act allows grants to be made for any activity which is conducive to the conservation or enhancement of the natural beauty or amenity of the countryside (including its flora and fauna and geological and physiographical features) or of any features of archaeological interest there and for the promotion of the enjoyment of the countryside by the public. Future scheme years may be governed by instruments made under the Agriculture Bill, which was recently introduced on 16 January 2020.[1]

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 as part of the RDPE under the EU's CAP.

7.2 The current RDPE programming period runs from 2014 to 2020. After this time Defra will not be able to open new application windows for the scheme or enter into new grant agreements with beneficiaries under the existing EU CAP legislation.

7.3 The year 2021 will be the beginning of the agricultural transition period in England, during which there will be a movement away from the EU's CAP towards a domestic Environmental Land Management ("ELM") scheme. There will be a gap between the final application window for the current Countryside Stewardship scheme in 2020 and the national roll out of the ELM scheme expected in 2024. ELM pilot schemes are expected to run from 2021 but these will not operate on a large enough scale to offer funding to current beneficiaries of the Countryside Stewardship scheme and beneficiaries of earlier agri-environment and forestry schemes whose agreements will expire before the national roll out of the ELM scheme.

7.4 This instrument enables a new application round for Countryside Stewardship to open in 2020, with the first agreements starting in 2021. The new round will be a standalone grant scheme that will be Exchequer funded and governed entirely by domestic legislation. It will not be part of the RDPE or the EU's CAP and will instead form part of the agricultural transition away from the CAP towards ELM in England.

7.5 The scheme will ensure that the environmental benefits delivered under current agri-environment and forestry agreements are maintained or increased, helping to deliver the promises set out in the government's 25 Year Environment Plan.[2] The scheme will provide stability for land managers during a time of transition. It will be open to new applicants but will also allow land managers with agri-environment or forestry

[1] https://services.parliament.uk/Bills/2019-20/agriculture.html

[2] "A Green Future: Our 25 Year Plan to Improve the Environment https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf

agreements expiring in 2020 to apply for a new one, giving continued access to a significant income stream.

7.6 The new domestic scheme will be a simplified version of the current EU scheme designed to encourage more applicants; increase delivery of environmental benefits and decrease the administrative burden on applicants, agreement holders and delivery bodies. This will provide greater value for money.

7.7 Agreement holders will be able to terminate their agreements early if they are offered a place in the ELM scheme or in an ELM pilot.

Grants

7.8 The new domestic scheme will continue to provide funding for farmers, woodland owners, foresters 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 from agriculture and encouraging educational access by hosting school visits.

7.9 The Rural Payments Agency will administer the scheme and advice will be provided by Natural England and the Forestry Commission. The scheme will be competitive and applications offering the greatest environmental benefits and value for money will be offered an agreement. These will last for either 2, 5, 10 or 20 years depending on the specific activities applied for and their complexity.

7.10 Agreement holders will receive funding for each year of their agreement, providing that they continue to meet its requirements. Some agreements will also provide one off payments for specific capital activities, for example installing sheep netting to protect environmental features from livestock.

7.11 This instrument will also allow a new round of the Countryside Stewardship Facilitation Fund to open for applications in 2020, with the first agreements starting in 2021. This will provide funding for people or organisations who help groups of land managers to work together to improve the natural environment at a landscape rather than single-farm scale or to achieve greater improvements than individual holdings could achieve on their own.

Simplifications

7.12 Changes will be made to the current scheme based on the feedback received from stakeholders and consultation responses. The aim is to simplify the application and payment processes to make them less time consuming and burdensome for applicants and agreement holders and to review the current enforcement regime so that it focusses on the delivery of environmental benefits, is more proportionate and in line with existing government grant schemes. Changes will include:

- Increasing the number of activities that can be applied for online.
- Focussing on the achievement of environmental outcomes at inspections rather than on the land manager providing supporting paperwork.
- Where applicable, issuing a warning where it is found that agreement holders have not fully met the terms of their agreement. In some cases, providing them with advice so they are able to deliver the environmental benefits, rather than applying an immediate recovery or penalty.

7.13 Payments will continue to be recovered from beneficiaries who commit a major breach of their agreement and, where fraud is suspected, action will be taken to protect Exchequer funds.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom ("UK") from the EU because it provides for the simplification and continuation of the Countryside Stewardship grant scheme in England. The scheme is currently delivered as part of the 2014 to 2020 RDPE under the EU's CAP. Withdrawal from the EU means that the UK will not be part of the 2021 to 2027 CAP programming period so the scheme will instead be domestically funded and form a part of England's agricultural transition period away from the CAP towards a domestic ELM scheme.

9. Consolidation

9.1 This instrument does not amend another instrument and therefore consolidation is not applicable.

10. Consultation outcome

10.1 There is no statutory requirement to consult on this instrument.

10.2 A public consultation: "Health and harmony: the future for food, farming and the environment in a Green Brexit"[3] ran from 27 February 2018 to 8 May 2018. In total 43,356 responses were received, as well as 3 petitions with 127,183 signatures. In addition, 17 regional events and 7 policy roundtables were held, reaching over 1,250 people.

10.3 Participants were asked for their views on ways to improve the current Countryside Stewardship grant scheme and increase its appeal to farmers and land managers. Key themes that emerged were: simplification of the scheme and its application process; improvement of financial aspects; focus on environmental impact; review of current enforcement and regulation and; scheme improvements to target specific farms, local areas and regions. The full consultation summary can be found here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741461/future-farming-consult-sum-resp.pdf

10.4 In response, Defra published a policy statement on 14 September 2018.[4] This stated that Countryside Stewardship would continue to be available during the agricultural transition period and that Defra would look to simplify the application process further.

10.5 The scheme has been discussed with the Agri-environment Stakeholder Working Group, whose members include the National Farmers Union, Countryside Land Alliance, Royal Society for the Protection of Birds, National Park Authorities, Farming and Wildlife Advisory Group, Tenant Farmers Association, National Trust and the English Organic Forum.

---

[3] https://www.gov.uk/government/consultations/the-future-for-food-farming-and-the-environment

[4] https://www.gov.uk/government/publications/the-future-for-food-farming-and-the-environment-policy-statement-2018/health-and-harmony-the-future-for-food-farming-and-the-environment-in-a-green-brexit-policy-statement

11. Guidance

11.1 Manuals, which include guidance for applicants, will detail the grants available under the scheme, the application process and the eligibility criteria will be available on gov.uk and as hard copies. The Government intends to publish the manuals on 11 February 2020, 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 are no additional costs to businesses. This instrument maintains the status quo by allowing farmers and land managers to have continued access to the Countryside Stewardship scheme. Any direct costs currently incurred by business are entirely voluntary because there is no obligation for land managers to be part of the Countryside Stewardship grant scheme.

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 makes provision for 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, for example, by enabling applications for the most popular activities to be made online and tailored advice to support applications being provided by Natural England and the Forestry Commission.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the grant scheme launched under it will be 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, George Eustice MP, Minister of State for Agriculture, Fisheries and Food has made the following statement:

"A statutory review clause is not appropriate because this instrument makes provisions for 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 Elen Shepard and Fiona James, Deputy Directors for CAP, at Defra can confirm that this Explanatory Memorandum meets the required standard.

15.3 George Eustice MP, Minister for Agriculture, Fisheries and Food at Defra can confirm that this Explanatory Memorandum meets the required standard.