POLICY NOTE

THE COMPANIES ACT 2006 (SCOTTISH PUBLIC SECTOR COMPANIES TO BE AUDITED BY THE AUDITOR GENERAL FOR SCOTLAND) ORDER 2021

SSI 2021/XXX

The above instrument was made in exercise of the powers conferred by section 483(1) and (4) of the Companies Act 2006. The instrument is subject to the affirmative procedure.

Purpose of the instrument. To enable the accounts of Ferguson Marine (Port Glasgow) Holdings Limited ("Ferguson Marine"), a qualifying public sector company, to be audited by the Auditor General for Scotland, and to disapply the requirements of Part 16 of the Companies Act regarding the audit of accounts for a financial year, if Ferguson Marine's accounts are in that year to be audited by the Auditor General for Scotland.

Policy Objectives

Ferguson Marine (Port Glasgow) Holdings Limited is a qualifying company in accordance with the public sector audit requirements set out in the Public Finance and Accountability (Scotland) Act 2000.

Under section 1226 of the Companies Act 2006 the Auditor General for Scotland (AGS) is eligible for appointment as a statutory auditor. The purpose of the instrument is to enable the AGS to audit the accounts of Ferguson Marine.

In order to qualify for specification under section 483 of the Companies Act 2006 as a company subject to audit by the AGS, a company (and every group undertaking) must have its registered office in Scotland and:-
• Exercise in or as regards Scotland functions of a public nature none of which relate to reserved matters; and/or
• Be entirely or substantially funded by a body, the accounts of which are required to be audited by the AGS.

Ferguson Marine qualifies as such a company.

The requirements of Part 16 of the Companies Act regarding the audit of accounts are also to be disapplied for a financial year, if Ferguson Marine's accounts are in that year to be audited by the AGS. This will avoid a requirement being placed on Ferguson Marine to appoint external auditors in addition to its accounts being subject to audit by the AGS.

Consultation

Audit Scotland were consulted during the preparation of the instrument. Responses have confirmed that the AGS is willing to assume the auditing role and have helped assist with best timings for introduction.

Impact Assessments
No impact assessments were undertaken given the nature of this instrument.

Financial Effects

The Cabinet Secretary for Economy confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no material financial effects on the Scottish Government, local government or on business.

Scottish Government
Ferguson Marine Response Division

January 2021