POLICY NOTE

THE RURAL SUPPORT (IMPROVEMENT) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2024

SSI 2024/XXX

The Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) Regulations 2024 (the "2024 Regulations") are made in exercise of the powers conferred by section 2 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020[1].

Section 2(3) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 provides that "Regulations under this section are (if they have not been subject to the affirmative procedure) subject to the negative procedure."

The 2024 Regulations are subject to the affirmative procedure.

The 2024 Regulations will come into force on 1 January 2025.

Purpose of the instrument

The 2024 Regulations make modifications to improve the operation of the provisions of assimilated law relating to the Common Agricultural Policy ("CAP") by:

- introducing new cross compliance requirements as part of Good Agricultural Environmental Conditions ("GAEC") relating to maintenance of soil organic matter, and

- introducing a new eligibility requirement for bovine animals under the Scottish Suckler Beef Support Scheme ("SSBSS").

These changes are intended to contribute towards tackling the climate crisis. The improvements made by these changes address environmental matters of concern as part of the period of transition from existing CAP legacy schemes to the introduction of new schemes under the Agriculture and Rural Communities (Scotland) Act 2024 (the "ARC Act").

The changes contribute to the Scottish Government 'green' conditionality objective for 2025 for essential conditions to ensure climate, biodiversity and efficiency conditions for payments in terms of our published agriculture reform programme route map.

Policy Objectives

The 2024 Regulations improve the operation of the provisions of assimilated law comprising part of the "main CAP legislation" as defined in section 1(2) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 by creating new cross compliance requirements in relation to GAEC, and by adding a new condition for support eligibility of bovine animals under SSBSS. These help address concerns regarding tackling the climate crisis by addressing environmental matters of concern as part of our period of transition from our existing CAP

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legacy schemes to the introduction of our new schemes in terms of the ARC Act. These changes will contribute towards meeting the Scottish Government 'green' conditionality objective for 2025 for conditions to ensure climate, biodiversity and efficiency conditions for payments in terms of our published agriculture reform programme route map.

GAEC

Scotland has around 2 million hectares of peatland of which around three quarters (1.4 million hectares) are degraded through drainage, extraction, overgrazing, afforestation and development. The remaining quarter, roughly 0.5 million hectares, of peatland is in good condition due to either never being drained or being recently restored. Degraded peatlands are a source of greenhouse gas (GHG) emissions, currently accounting for around 15% of Scottish total annual net emissions. In near-natural condition, peatland emissions are close to zero, or they can act as a GHG sequestration mechanism, drawing CO_2 out of the atmosphere, adding to the existing carbon sink within the peatland soil. 'Wetlands' are a broader land category, which include peatlands, but also extend to cover a range of other waterlogged habitats such as coastal salt marshes (approximately 6,000 hectares in Scotland), wet woodlands (e.g. in river valleys and loch edges), springs, flushes and wet heath. Peatlands and wetlands in good condition are also key ecosystems highlighted within Scotland's Biodiversity Strategy and have an important role in water resource management in terms of both quality and quantity, acting as important water flow moderators mitigating flood risk and maintaining river flow during periods of drought. The new GAEC provisions made by the 2024 Regulations will help address environmental and climate concerns and will prevent peatlands and wetlands being subject to certain activities that may cause damage to the peatland vegetation and/or interfere with the hydrology of the peatland causing it to dry out resulting in the release of greenhouse gas emissions. The changes will also assist beneficiaries by starting the transition towards future schemes that will be established under the ARC Act.

The changes relate specifically to the GAEC standard concerning maintenance of soil organic matter, however, they are complimentary to other peatland policy initiatives that are ongoing or under development.

The changes will, subject to certain exceptions, require beneficiaries not to conduct a range of activities on or adjacent to peatlands or wetlands that are known to cause the negative environmental outcomes outlined above. Those activities include:

- reseeding,
- new drainage or maintenance of existing drainage systems that causes further drying out of the peatland or wetland,
- application of pesticides, fertilisers including manures, and soil conditioners,
- creating roads and tracks,
- planting trees,
- activities that cause damage to the vegetation cover exposing the soil, and
- specifically for wetlands, carrying out activities which disrupt connections between rivers/water courses and wetlands that will lead to the drying of the wetlands.

The existing GAEC requirements aims to maintain soil organic matter levels by restricting ploughing on rough grazing or semi-natural areas. Cultivating these areas without first ploughing the land can result in the same damaging effect as ploughing. To provide enhanced protection cultivating will be added to the existing GAEC requirements alongside ploughing

as a prohibited activity to maintain soil organic matter levels on rough grazing or semi-natural areas.

SSBSS

Calving interval is a key efficiency measurement for beef production. Longer calving intervals mean not only longer periods when a cow is incurring costs (e.g. feed, veterinary care) but also emitting greenhouse gases without contributing to beef production.

From 2025 onwards, the 2024 Regulations introduce a new condition incorporating a calving interval threshold of 410 days to the SSBSS. This condition is designed to help balance productivity and profitability with the opportunity to address climate impact of emissions.

The calving interval threshold may reduce in future years, but it will not reduce by more than 10 days in any given year. Details will be provided in advance of any future change to the calving interval threshold.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) Regulations 2024 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Statement required by the European Union (Withdrawal) Act 2018

The Minister for Agriculture and Connectivity has made the following statement under paragraph 16(2) and (3) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

"Regulation 2 of the Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) Regulations 2024 ("the instrument") amends paragraph 6 of Part 2 of the schedule of the Common Agricultural Policy (Cross-compliance) (Scotland) Regulations 2014 ("2014 Regulations"). Regulation 3 of the instrument also amends paragraphs 1 and 3 of Part 1 of schedule 3 of the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 ("2015 Regulations"). In my view there are good reasons for the amendments made by the instrument to the 2014 Regulations and 2015 Regulations, both of which were made under section 2(2) of the European Communities Act 1972. I have concluded that the making of these amendments is a reasonable course of action.

Paragraph 6 of Part 2 of the schedule of the 2014 Regulations sets out the standards for good agricultural and environmental condition in relation to maintenance of soil organic matter as part of cross compliance requirements, and the instrument introduces new prohibited activities to that paragraph with a view to preventing damage to peatlands and wetlands as a consequence of the undertaking of the prohibited activities.

Paragraph 3 of Part 1 of schedule 3 of the 2015 Regulations sets out the eligibility criteria for bovine animals for support under the Scottish Suckler Beef Support Scheme, and the instrument introduces a further new eligibility requirement relating to length of time between calf births.

I consider the amendments made by the instrument to both the 2014 Regulations and 2015 Regulations to be appropriate in order to contribute towards the reduction of carbon emissions that may otherwise result from activities that damage peatlands and wetlands, and as a result of calving inefficiency in the beef farming sector."

EU alignment

The 2024 Regulations will align with recent changes to EU law, insofar as possible and meaningful. The measures will ensure broad alignment to EU CAP objectives. The new EU CAP will support European agriculture to contribute to the ambitions contained in the European Green Deal. This will emphasise actions in pursuit of achieving environmental and climate ambitions whilst contributing to the Green Deal targets. The 2024 Regulations will similarly contribute to ambitions to seek to tackle the climate crisis by addressing environmental matters of concern. These measures will not make it more difficult for Scotland to accede to the EU as an independent state**.**

Consultation

We conducted a consultation in relation to the Agriculture (Retained EU Law and Data) (Scotland) Bill and the 2024 Regulations will be used to deliver on the stated objective of the Bill "to enable the continued operation of current CAP schemes and policies, but also to allow them to be progressively improved and simplified".

Consultations were held previously on the current CAP schemes, the Stability and Simplicity commitment, the 2020 Act, and the ARC Act.

There has been and will continue to be regular informal consultation with ARIOB and a range of stakeholders such as the Food & Agriculture Stakeholders' Taskforce (FAST) as well as other representative organisations.

Also the Scottish Government has created the Agricultural Reform Programme Design Authority to govern the business and digital design requirements that will deliver the new agricultural support framework to be delivered from 2025 onwards and the changes to be implemented in terms of the Regulations. The Design Authority will determine that relevant stakeholders have been engaged, while developing and exercising control with the appropriate policies and standards. The Design Authority will provide transparency to stakeholders and will ensure that they will be at the heart of how business processes and digital services are adapted or designed afresh. The Scottish Government will engage with them, understand their circumstances and seek to introduce adapted or new services that meet their needs in the most cost-effective manner.

The Scottish Government made a commitment to co-design changes to CAP schemes and new schemes and will continue to engage with stakeholders through mechanisms including ARIOB, wider Agriculture Reform Programme and during the passage of secondary legislation made under the ARC Act.

In particular:

SSBSS:
On the proposed reform to the Scottish Suckler Beef Support Scheme, officials coordinated the establishment of a stakeholder group to support policy development between September and November 2023. Membership of the Group included representatives from the Scottish beef

industry, government policy, advisory bodies, and farmers. This group included representation from the Scottish Beef Association, Scottish Crofting Federation, NFU Scotland and others. Consultation has also been undertaken with the ARIOB.

GAEC:
The new GAEC requirements for peatlands and wetlands are additions to the well-established Cross Compliance regime and have been developed in conjunction with an internal stakeholder group including NatureScot and SEPA. The requirements have been presented to ARIOB and with separate follow-up discussions with NFUS and SCF.

Impact Assessments

The 2024 Regulations aim to improve the operation of the provisions of the main CAP legislation as defined in section 1(2) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. The proposal is for those current schemes operated under that body of law to continue until such time as they are replaced by new schemes to be introduced under the ARC Act.

The CAP was formally approved by the European Commission and was developed in conjunction with stakeholders, robustly consulted on and fully impact assessed.

The 2024 Regulations have been subject to a Strategic Environmental Assessment Pre Screening report.

The Equality, Fairer Scotland Duty and Island and Communities impact assessments have also been prepared for the 2024 Regulations for publication in addition to the BRIA and CRWIA. The conclusions of these assessments are that no amendments to the policy proposals for the 2024 Regulations are necessary.

Financial Effects

The Minister for Agriculture and Connectivity, Jim Fairlie, has approved the BRIA for the 2024 Regulations.

Scottish Government
Agriculture and Rural Economy Directorate

October 2024