POLICY NOTE

THE PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003 (TREATMENT OF SOUTH OF SCOTLAND ENTERPRISE AS SPECIFIED AUTHORITY) ORDER 2019

SSI 2019/184

1. The above instrument was made in exercise of the powers conferred by section 3(3) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 ("the 2003 Act").

2. The instrument is subject to affirmative procedure.

The instrument will enable the appointments of members to South of Scotland Enterprise to be regulated by the Commissioner for Ethical Standards in Public Life.

Policy Objectives

3. The South of Scotland Enterprise Bill is currently being considered by the Scottish Parliament and passed Stage 1 on 26 March 2019. The highest level policy aim behind the Bill is to establish a public body, South of Scotland Enterprise, to take a fresh approach to addressing the enterprise and skills needs of the south of Scotland and drive inclusive growth in the region. The Bill therefore makes provision for the creation of South of Scotland Enterprise and for the appointments of members to be regulated by the Commissioner for Ethical Standards in Public Life under the 2003 Act.

4. It is proposed that South of Scotland Enterprise will take on its functions from 1 April 2020. In order for this timetable to be met, a section 3(3) order under the 2003 Act will be required so that South of Scotland Enterprise will be treated as a regulated body ahead of the Bill being passed by Parliament and coming into force.

5. Following the precedent being set by a number of other new public bodies, this order is being laid following the conclusion of the Stage 1 debate. This is to allow the appointment of members to begin so that the Chair will be in place in Summer 2019 and can be involved in the recruitment of the Chief Executive. The remaining members will then be recruited and will be in place in early Spring 2020. Advice from Audit Scotland is that the leadership of merged and new bodies is in place 6 months ahead of the new body taking on its full functions. The timing of this order is in accordance with that advice. It is important for the appointments process to be as rigorous and transparent as possible and the involvement of the Commissioner for Ethical Standards in Public Life is desirable in achieving this.

Consultation

6. "Consultation on a new Enterprise Agency for the South of Scotland" ran online between March and June 2018, and was supplemented by 26 engagement events across the south of Scotland. There were a total of 268 responses to the online consultation. Responses to the consultation exercise were generally positive, with 87% of respondents agreeing with the Scottish Government's outlined ambition for the South of Scotland. Respondents highlighted the importance of inclusive growth and increased productivity, good employment opportunity and wages, the importance of sustainable approaches and

the need to diversify the economy. In addition, it was suggested that the Board should be made up of a diverse group of individuals, with the importance of involving local representatives, individuals from the private sector and young people particularly highlighted.

7. Consultation and engagement with stakeholders has continued through the development of the Bill and has provided a wealth of information that helped to shape legislation. The range of issues raised during this process will also be taken into account operationally by members of South of Scotland Enterprise following its establishment.

8. As there is general support for the establishment of South of Scotland Enterprise, and this order merely allows for the appointments to be regulated in line with the provisions of the Bill, specific consultation on this instrument was not felt necessary. The Cabinet Secretary for Rural Economy has written to the Conveners of the Rural Economy and Connectivity Committee and the Delegated Powers and Law Reform Committee who are considering the Bill to inform them of the proposal to lay this order.

Impact Assessments

9. An Equality Impact Assessment is not necessary as the instrument in itself does not have any equalities impacts. A full Equality Impact Assessment was carried out in the development of the Bill and is available at www.gov.scot/publications/south-scotland-enterprise-bill-equality-impact-assessment/. South of Scotland Enterprise will be subject to the Public Sector Equality Duty and will proactively consider equality when carrying out work by mainstreaming it into its core business, with each individual activity and product being subject to an equality impact assessment as appropriate. The appointment process will be subject to the Gender Representation on Public Boards (Scotland) Act 2018.

10. A Business and Regulatory Impact Assessment is not considered necessary for this instrument as the order itself does not create any new burdens on business, charities or the voluntary sector. A full assessment was carried out in the development of the Bill and is available at www.gov.scot/publications/business-regulatory-impact-assessment-south-scotland-enterprise-bill/.

11. A Child Rights and Wellbeing Impact Assessment is not necessary as the instrument in itself does not have any impact upon children or young people. A full assessment was carried out in the development of the Bill and is available at www.gov.scot/publications/south-scotland-enterprise-bill-child-rights-wellbeing-impact-assessment/.

Financial Effects

12. The instrument will have no direct financial effect as it merely allows for the regulation of the appointment process. Any costs incurred from the appointment process are covered in the Financial Memorandum to the Bill and are likely to be minimal.

Scottish Government
Economic Development Directorate
29 March 2019