POLICY NOTE

THE RURAL DEVELOPMENT (CONTINUATION OF OPERATION) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2024

SSI 2024/342

The above instrument ("2024 Regulations") was made in exercise of the powers conferred by section 3(1) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 ("2020 Act") and all other powers enabling them to do so. The instrument is subject to *affirmative procedure*.

Summary Box

Purpose of the instrument. The 2024 Regulations:

- ensure the continuation of rural development support and the Scottish Rural Development Programme ("SRDP"), including the Less Favoured Area Support Scheme, from 2025, and
- extend the requirement for an "Annual Implementation Report" for a further year to cover 2025.

Policy Objectives

The 2024 regulations do not make significant changes to the legislation governing rural development in Scotland and the SRDP. The changes are intended to ensure stability and continuity for farmers, crofters and land managers in the period from 2025 to 2030 by extending the period of operation of support for rural development.

In particular, they use the powers in the 2020 Act to enable the SRDP and rural support generally to continue to operate under assimilated law from 1 January 2025. This is required as the current rural development schemes are otherwise due to end in 2024.

The Scottish Ministers previously extended the operation of the Common Agricultural Policy ("CAP") and SRDP using section 3 of the 2020 Act until the end of 2024, in line with the public commitment to "Stability and Simplicity" following EU Exit.

With the passing of the Agriculture and Rural Communities (Scotland) Act 2024 ("ARC Act") and the publication of the Vision for Scottish Agriculture and Agricultural Reform Route Map, the timeline for establishing a new Scottish agricultural policy is now clear. To deliver on the Route Map commitments, which include the phased approach to transitioning between the SRDP and new support, the 2024 Regulations use section 3 of the 2020 Act to extend the operation of rural development support and the SRDP until 2030.

This provides certainty to the rural economy and assurance to the Agriculture Reform Programme, which is a proportionate response to manage risk and make best use of resource.

Without the changes made by the 2024 Regulations, the schemes administered under the SRDP would be unable to continue for new commitments from 2025. This would remove a significant method of providing support to the rural economy in Scotland.

The requirement for an "Annual Implementation Report" has been extended for a single year to cover 2025. This has not been extended until 2030, as reporting of legacy CAP schemes is a requirement of Rural Support Plan reporting in the ARC Act. The extension for a year ensures there is no gap in reporting until the initial Rural Support Plan is laid.

The Scottish Ministers have committed to providing a replacement for legacy SRDP schemes, as set out in the Vision for Agriculture, the Route Map and the ARC Act. Extending the operation of rural development support is required to enable co-development within the Agricultural Reform Programme to continue, in line with the Route Map phased transition from legacy CAP schemes into the proposed new framework.

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

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 Development (Continuation of Operation) (Miscellaneous Amendment) (Scotland) Regulations 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Statement required by the European Union (Withdrawal) Act 2018

The Cabinet Secretary for Rural Affairs, Land Reform and Islands has made the following statement under paragraph 16(2) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018: "In my view there are good reasons for the amendments made by this instrument to regulations made under section 2(2) of the European Communities Act 1972 that comprise assimilated law. I have concluded that the making of these amendments is a reasonable course of action."

EU Alignment Consideration

It is Scottish Government policy to ensure broad alignment to EU CAP objectives. The 2024 Regulations extend, unchanged, the operation of support for rural development. The SRDP was approved by the European Commission and the objectives of the SRDP remain aligned to the key policy objectives of the EU CAP 2023-27.

Less Favoured Area Support Scheme (LFASS) remains a part of rural development support under assimilated law, and the 2024 Regulations ensure that it can continue to operate. In comparison, the EU's CAP 2023-2027 has phased out this specific type of support and replaced it with support for Areas of Natural Constraint (ANC). However support for constrained areas (which is the purpose of LFASS support) remains an EU CAP objective and it was always the intent of the EU to allow for a phased transition from LFASS to ANC. The Route Map commitment of "working with stakeholders on how best to deliver this type of support under the new framework" is aligned to this phased approach but on an extended timeline linked to future policy development and commitments. This approach ensure there is no cliff edges in this type of support.

The consultation and development of the ARC Act included EU alignment considerations and the ARC Act has a requirement that the Scottish Ministers must have regard to the "developments in the law and policy of the European Union" when preparing or amending a Rural Support Plan on the use of ARC Act powers. Consideration of EU alignment has been framed as adhering to the key policy objectives of the EU CAP, where practicable.

Consultation

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

The purpose of this SSI is to extend the operation of assimilated law in Scotland that pertains to rural development, and in doing so to bridge the gap between the phasing out of such legacy schemes and the introduction of new schemes using the powers of the ARC Act.

The Scottish Government made a commitment to co-design those new schemes and will continue to engage with stakeholders through mechanisms including the Agricultural Reform Implementation Oversight Board (ARIOB), wider Agriculture Reform Programme (ARP) and during the passage of secondary legislation made under the ARC Act.

Impact Assessments

The CAP was formally approved by the European Commission and the SRDP was developed in conjunction with stakeholders, consulted on and impact assessed. SRDP schemes apply across Scotland, both the mainland and islands. When the 2014-2020 programme was developed a Strategic Environmental Assessment (SEA), a Business and Regulatory Impact Assessment (BRIA) and an Equality Impact Assessment (EQIA) were carried out. It is not considered appropriate or proportionate to re-do any of these Impact Assessments for the 2024 Regulations as they do not introduce new policy, or a change in policy, but simply enable the continued functioning of assimilated law pertaining to rural development and the continuation of the SRDP and rural development support from 2025. This SSI is simply to bridge the gap until the introduction of the new schemes, providing clarity to customers and leeway for a phased transition whilst ensuring there are no cliff edges in support.

The impact assessment approach is consistent with the previous use of Agriculture (Retained EU Law and Data) (Scotland) Act 2020 powers to extend the SRDP. The rationale and background to the development of the SRDP, including consultations, can be found in the policy note for the Rural Development (EU Exit) (Scotland) (Amendment) Regulations 2020 (which is available on https://www.legislation.gov.uk). However, since the introduction of the SRDP 2014-2020 there are three new relevant impact assessments – Island Communities (ICIA), Child Rights and Wellbeing (CRWIA) and assessment under the Consumer Duty.

A CRWIA has been completed. A Statement of Compatibility to accompany the CRWIA has also been completed and is available to view on https://www.legislation.gov.uk.

An ICIA was completed.

A Consumer Duty assessment was not required. This was previously part of the BRIA, which was carried out when the programme was developed. As stated above, this SSI is simply

bridging the gap until the introduction of the new schemes. This SSI only allows the continuation of schemes which are already in place.

The new impact assessments have been considered with the caveat that there is a binary choice between extending the SRDP or not, and the greatest impact would be in not extending support.

The 2024 Regulations will not have a significant impact on the environment.

The 2024 Regulations are not expected to have any impact on business, charities or voluntary bodies, therefore an updated BRIA has not been carried out.

Financial Effects

The *Cabinet Secretary for Rural Affairs, Land Reform and Islands* confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Agriculture and Rural Economy (ARE)

29 August 2024