POLICY NOTE

THE RURAL SUPPORT (SIMPLIFICATION AND IMPROVEMENT) (SCOTLAND) REGULATIONS 2022

SSI 2022/206

The Rural Support (Simplification and Improvement) (Scotland) Regulations 2022 (the "2022 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 2022 Regulations are subject to the negative procedure because they make a relatively minor modification to the Common Agricultural Policy ("CAP") legislation to simplify and improve the operation of existing schemes and do not introduce any significant new policy.

In addition, there are other factors that clearly point to negative being the more appropriate procedure for these regulations. In particular, these regulations do not create or amend a criminal offence, do not amend an Act of the Scottish Parliament and do not contain any matter with material financial impact or financial implications.

The 2022 Regulations will come into force on 18 September 2022.

Purpose of the Instrument

The amendments made by regulation 2 will simplify and improve the operation of the provisions of the CAP retained EU legislation by removing provisions that prevent advance payments being made for direct payments before 16 October.

Regulation 3 corrects a minor drafting error in the Rural Support (Controls) (Coronavirus) (Scotland) Regulations 2022.

1. Policy Objectives

The 2022 Regulations simplify and improve the retained EU law relating to the operation of rural support schemes to allow Scottish Ministers to begin making advance payments for direct payment schemes at a date in the calendar year earlier than 16 October for the benefit of applicants.

2. Explanation of the law being amended by the 2022 Regulations

The 2022 Regulations amend Article 75(1)(a) of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy (the "Horizontal Regulation") to remove

[1] The Agriculture (Retained EU Law and Data) 2020 Act of Scottish Parliament number 17

the restriction that prevents advance payments for direct payment schemes being made before 16 October.

3. Reasons for and effect of the proposed change

The amendment being made by the 2022 Regulations will provide additional flexibility and the option, if necessary, to commence advance payments for direct payment schemes at an earlier date than is currently possible. This will help address cash flow issues that may be experienced by scheme applicants due to rises in input costs.

Payments for direct payment schemes can only be made after applications have been validated by the completion of all administrative checks. This will ensure that adequate controls and management of public funds will be maintained notwithstanding any earlier advance payment date. In addition, if a business is selected for inspection, no payment, advance or balance will be issued until that inspection has been completed. Also in practice, advance payments are made in Scotland only for Basic Payment Scheme and greening payments.

Without this simplification and improvement, the additional flexibility of making advance payments before 16 October for direct payment schemes would not be available. This would result in potential financial hardship for scheme beneficiaries experiencing cash flow issues due to rising input costs.

Further information

Consultation

We conducted a full public consultation on our period of Stability and Simplicity to 2024 and further consultation took place in relation to the Agriculture (Retained EU Law and Data) (Scotland) Bill and the 2022 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".

The 2022 Regulations do not amount to a significant change in policy and are being made to provide additional flexibility and the option to bring forward advance payments for direct payment schemes for the benefit of scheme applicants.

A letter dated 24 May 2022 addressed to the Cabinet Secretary for Rural Affairs and Islands, Mairi Gougeon, from key stakeholders asked if the payment of Basic Payment Scheme payments including greening payments can be brought forward due to current rising input costs. In response we have informally advised these stakeholders of our proposals for the 2022 Regulations and we understand they will support them given both the risks relating to, and the challenges presented by, the current rise in input costs.

Impact Assessments

A BRIA has been prepared for the 2022 Regulations but no other impact assessments are considered necessary.

Financial Effects

The Cabinet Secretary for Rural Affairs and Islands, Mairi Gougeon, has approved the BRIA for the 2022 Regulations.

Scottish Government
Agriculture and Rural Economy Directorate

June 2022