

Net Zero, Energy and Transport Committee 6th Meeting, 2022 (session 6), Tuesday, 22 February 2022

Subordinate legislation - The Financial Assistance for Environmental Purposes (Scotland) Order 2022 (SSI2022/8)

Note by the clerk

Overview of instrument

1. The following Scottish Statutory Instrument (SSI), subject to negative procedure, is being considered at today's meeting:
 - [The Financial Assistance for Environmental Purposes \(Scotland\) Order 2022 \(SSI2022/8\)](#)
2. The instrument was laid before the Parliament on 19 January 2022 and would come into force on 9 March 2022.

Purpose of the instrument

3. The purpose of this instrument is to add further descriptions of matters for which the Scottish Ministers may give financial assistance to section 153(1) of the Environmental Protection Act 1990. Section 153 provides for the giving of such assistance for environmental purposes.
4. Specifically, this instrument will enable Scottish Ministers to provide financial assistance to, or for the purposes of regional land use partnerships in Scotland. It will also enable Scottish Ministers to provide financial assistance related to the purposes of assessing greenhouse gas emissions from land (including from the use of land), biodiversity supported by land, or soil quality.
5. The Policy Note provides further detail on the instrument. It is available in Annex A.

Delegated Powers and Law Reform Committee Consideration

6. The Delegated Powers and Law Reform Committee considered this instrument at [its meeting on 25 January 2022](#) and determined that it did not need to draw the attention of Parliament to the instrument on any grounds within its remit. [Read the official report for the meeting on 25 January 2022.](#)

Committee Consideration

7. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting is 7 March 2022.

Procedure

8. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
9. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
10. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
11. 12. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
12. Each negative instrument appears on the Net Zero, Energy and Transport Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
13. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

ANNEXE A

POLICY NOTE

THE FINANCIAL ASSISTANCE FOR ENVIRONMENTAL PURPOSES (SCOTLAND) ORDER 2022

SSI 2022/8

The above instrument was made in exercise of the powers conferred by section 153(4) of the Environmental Protection Act 1990. The instrument is subject to negative procedure.

This instrument will enable Scottish Ministers to provide financial assistance to, or for the purposes of regional land use partnerships in Scotland. It will also enable Scottish Ministers to provide financial assistance related to the purposes of assessing greenhouse gas emissions from land (including from the use of land), biodiversity supported by land, or soil quality.

Policy Objectives

The purpose of this Order is to add further descriptions of matters for which the Scottish Ministers may give financial assistance to section 153(1) of the Environmental Protection Act 1990.

Section 153 provides for the giving of such assistance for environmental purposes.

Regional land use partnerships

The Order adds regional land use partnerships to the list of organisations, schemes, or programmes listed in section 153(1) of the Environmental Protection Act 1990. This will enable Scottish Ministers to provide financial assistance to, or for the purpose of regional land use partnerships, so far as their activities relate to the protection, improvement or better understanding of the environment.

Regional land use partnerships support partnership working that focuses on furthering climate and environmental objectives of the Scottish Government in a way suitable for the regional context. They enable collaboration on local land use priorities between national and local government, communities, land owners and managers and wider stakeholders.

Providing core funding to regional land use partnerships enables continued delivery of commitments in the Programmes for Government 2019, 2020 and 2021, as well as in the Land Use Strategy, Bute House Agreement and Climate Change Plan Update. Regional land use partnerships are also supported by the recommendations of the Just Transition Commission.

Assessments: greenhouse gas emissions, biodiversity and soil quality

The Order also adds financial assistances related to the purposes of assessing greenhouse gas emissions from land (including from the use of land), biodiversity supported by land, or soil quality.

Farmers and crofters are to be supported to play their part in Scotland becoming a global leader in sustainable and regenerative agriculture.

A National Test Programme will begin from Spring 2022, with up to £51 million of investment over the following three years.

The Programme will support and encourage farmers and crofters to learn about how their work impacts on climate and nature, including offering financial support to carry out carbon audits and nutrient management plans. This will establish a clear baseline and options for action for all who participate.

Through work with a focus group of farmers and crofters, the Programme will also help understanding of how sustainable farming can be supported and rewarded in future. This will ensure the right tools and support are in place when, from 2025, the climate and biodiversity performance of businesses will be key components of agricultural support payments.

The new payment powers will allow Scottish Ministers to provide financial assistance to elements of the National Test Programme. ,

Consultation

The Scottish Land Commission carried out extensive engagement before providing their advice to Scottish Ministers on establishing regional land use partnerships.

Pilot regional land use partnerships are currently being established in five areas across Scotland and this Order is required to ensure that core funding can be provided for the second year of the pilot project, as well as for any future phases of regional land use partnerships. Ministers will assess evidence of the pilots' success before deciding on any wider roll out and future continuation of regional land use partnerships.

The National Test Programme arose from a series of farmer led working groups, engaging with climate change experts, who determined a list of improvements that would make an impact on agricultural emissions. Ministers will assess the evidence provided by the Programme and use it to inform future agriculture policy.

Impact Assessments

Following an assessment of a variety of policy options, and advice from the Scottish Land Commission, Scottish Ministers identified regional land use partnership pilots as the preferred option to achieve the objectives.

The regional land use partnership pilots will undertake their individual strategic environmental impact assessments during year two of the pilot project. If regional land use partnerships are rolled out more widely, Scottish Ministers and each additional region will undertake the relevant impact assessments as required.

Relevant impact assessments will be undertaken for the National Test Programme before it commences in spring 2022.

Financial Effects

The powers do not confer any foreseeable adverse impact on the finances of business, charities or voluntary bodies.

Scottish Government
Agriculture and Rural Economy Directorate

January 2022