

# Rural Affairs, Islands and Natural Environment Committee

## 14<sup>th</sup> Meeting, 2021 (Session 6), Wednesday, 8 December 2021

### Subordinate legislation

#### Introduction

1. This paper supports the Committee's consideration of [the Private Storage Aid Scheme \(Pigmeat\) \(Scotland\) Regulations 2021 \(SSI 2021/398\)](#). This instrument is subject to the negative procedure.

#### Policy objectives

2. This instrument makes provision for a scheme to grant aid for the private storage of pigmeat and specifies the criteria for payment, the procedure for applications and by when these must be made. The scheme is designed to avoid the need for culling of pigs on farms and the financial loss to farmers as a result.

3. This is an 'urgently made' SSI (meaning it has come into force before the Parliament has the opportunity to undertake any scrutiny). As the instrument breaches the requirement that instruments be laid at least 28 days before coming into force, the Scottish Government has written to the Presiding Officer to set out the reasons. The letter, plus the policy note, is set out in **Annexe A**.

4. The policy note for the instrument states that this instrument is an animal welfare "emergency mechanism" to help the pig sector and "to ensure that that we do not get to a stage where we are required carry out any on farms culling". The letter to the Presiding Officer states that—

"the sector, due to issues caused by a combination of EU exit and Covid, are on the verge of a welfare issue, which inevitably would also be costly to the industry. A lack of butchers and staff shortages means that Scottish abattoirs have not been able to work to capacity, which has led to a larger number of pigs still on farm than would normally be the case."

5. The instrument, plus Scottish Government funding, will allow a number of pigs to be "minimally processed and put in private storage before being reintroduced into the food chain at a later date".

6. The letter goes on to state that the SSI had to be laid as an 'urgently made' instrument in order to maintain alignment, as far as possible and appropriately, with UK Government regulations being laid at the same time.

## Consideration by the Delegated Powers and Law Reform Committee

7. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [16 November 2021](#).

8. The Committee noted that the instrument breached the 28-day rule and was content with the explanation provided by the Scottish Government.

### Parliamentary procedure – negative instrument

9. 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).

10. 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.

11. 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.

### Recommendation

12. The Committee is invited to consider whether it wishes to raise any issues regarding this instrument.

**Rural Affairs, Islands and Natural Environment Committee Clerks  
December 2021**

## **Letter from the Scottish Government to the Presiding Officer, dated 5 November 2021**

The Private Storage Aid Scheme (Pigmeat) (Scotland) Regulations 2021 were made yesterday, 4 November 2021, by the Scottish Ministers under Articles 18 and 20 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products, and Article 4(2) of Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products.

They are being laid before the Scottish Parliament today, 5 November 2021, and come into force on 8 November 2021.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, it has not been possible to comply with this requirement. To meet the requirements of section 31(3) of that Act, this letter explains why.

These Regulations are being made to urgently put in place a private aid scheme for the Scottish pig sector. The sector, due to issues caused by a combination of EU Exit and Covid, are on the verge of a welfare issue, which inevitably would also be costly to the industry. A lack of butchers and staff shortages means that Scottish abattoirs have not been able to work to capacity, which has led to a larger number of pigs still on farm than would normally be the case. This legislation will put in place an aid scheme, with funding provided by the Scottish Government, which will allow a number of pigs to be minimally processed and placed into Private Storage, before being reintroduced into the food chain at a later stage.

It is our wish to maintain alignment, as far as possible and appropriately, with the UK Government regulations, the Private Storage Aid for Pigmeat (England) Regulations 2021, which we understand will be laid imminently.

The failure to comply with section 28(2) of the 2010 Act is necessary to ensure that the scheme comes into force as soon as possible so as to avoid the potential necessity of an on-farm cull of pigs, which would also cause a financial loss to farmers.

The Scottish Government fully acknowledge the difficulties that breaching the 28-day rule poses in terms of Parliamentary scrutiny, and regret that on this occasion it has not been possible to comply with this requirement.

## Scottish Government policy note

### The Private Storage Aid Scheme (Pigmeat) (Scotland) Regulations 2021 (SSI 2021/398)

The above instrument was made in exercise of the powers conferred by made by the Scottish Ministers under Articles 18 and 20 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets, and Article 4(2) of Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products.

#### **Purpose of the Instrument**

To provide the pig industry with support to help alleviate the issues on farm, and to avoid any on farm culls where the pig meat cannot then be used in the food chain. This instrument will allow the slaughter and minimal processing of pig meat to be put in the Private Storage Aid scheme and so negating the need for any on farm culls.

#### **Policy Objectives**

The Scottish Ministers are putting this emergency mechanism in place to aid the sector and to ensure that that we do not get to a stage where we are required carry out any on farms culling. This is being introduced as part of a suite of actions to assist the sector at a time of great need.

If this was not introduced at this time, there would potential be welfare issues on farms that would lead to the a cull having to be introduced in the sector, this will have the effect of mitigate any economic loss for the sector as well.

#### **Consultation**

A consultation as such has not taken place due to the urgency of this legislation. However we have and continue to discuss and engage with the sector on the issues they are facing on a regular basis, and it is our understanding that this will be a welcome move by the Scottish Government.

#### **Impact Assessments**

Full impact assessment have not been prepared for this instrument because of the time lines involved with making and laying the legislation. However, we are looking at carrying out a BRIA if necessary. The impact on stakeholders will be nothing more that assisting them if they wish to use the scheme there is no compulsory directive that this has to be done it is aimed at preserving the effect of existing regulatory regimes. The impact on stakeholders is expected to be minimal.