

Economy and Fair Work Committee

SSI cover note

21st Meeting 2022, (Session 6), 28 September 2022

Title of Instrument:	Consumer Scotland (Transfer of Functions) Regulations 2022
Laid Date:	28 June 2022
Reporting deadline:	26 October 2022
Type of instrument:	Affirmative

Parliamentary procedure:

The affirmative procedure means an instrument cannot be made and come into force unless the Parliament has voted to approve it (rule 10.6.1 of standing orders).

Affirmative instruments are considered by the DPLR Committee before being considered by the lead committee (usually the committee which examined the Bill for the Act that the SSI is made under or whose remit is most aligned).

It is usual practice for the lead committee to take evidence from the relevant Scottish Minister and officials, in advance of formally considering the motion to approve the instrument. During the evidence session, the committee can ask the Minister and any officials questions about the instrument.

Next, the Minister proposes, by motion, that the lead committee recommend the instrument or draft instrument be approved. The committee has up to 90 minutes to debate the motion. Officials are not allowed to speak in any debate.

The lead committee must report its decision on the motion to Parliament within 40 days of the instrument being laid. If the Committee agrees the motion and recommends the instrument should be approved, that recommendation is put to a vote in the Chamber.

If the lead committee does not approve the motion to approve an instrument, it reports that fact to the Parliament and it is then for the Parliamentary Bureau to decide whether MSPs should vote on it in the Chamber.

Purpose of regulations

1. The Policy Note for the regulations is attached at **Annexe B** and the regulations are attached at **Annexe A**.
2. The [Consumer Scotland Act 2020](#) established [Consumer Scotland](#) as a statutory independent consumer body. It was officially launched on Wednesday 22 June 2022. The Chair of Consumer Scotland wrote to the Committee about its implementation plans in [June 2022](#).
3. The Regulations make amendments to provisions of Acts of the Scottish Parliament by:
 - Transferring functions from Citizens Advice Scotland to Consumer Scotland.
 - Ensuring both Citizens Advice Scotland and Consumer Scotland can perform certain functions.
4. Regulation 2 makes modifications to:
 - The [Water Industry \(Scotland\) Act 2022](#), the [Water Services etc. \(Scotland\) Act 2005](#) and the [Public Services Reform \(Scotland\) Act 2010](#) to transfer certain functions from Citizens Advice Scotland to Consumer Scotland.
 - [The Water Industry \(Scotland\) Act 2002](#) to allow one function to be performed by both Citizens Advice Scotland and Consumer Scotland.
5. Regulation 3 makes transitional and saving provisions relating to the transfer of functions from Citizens Advice Scotland to Consumer Scotland.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [6 September 2022](#) and made no recommendations.

For decision

7. The Committee must decide whether or not to agree the motion and then report to Parliament by 26 October 2022.

Economy and Fair Work Committee Clerks

23 September 2022

Transitional and saving provision

3.—(1) Nothing in these Regulations affects the validity of anything done (or having effect as if done) by or in relation to Citizens Advice Scotland before their coming into force.

(2) Anything done (or having effect as if done) at the coming into force of these Regulations by or in relation to Citizens Advice Scotland, so far as it relates to any function of Citizens Advice Scotland transferred to Consumer Scotland by these Regulations, has effect, so far as is necessary for continuing its effect after the coming into force of these Regulations, as if done by or in relation to Consumer Scotland.

(3) Anything (including legal proceedings) which at the coming into force of these Regulations is in the process of being done by or in relation to Citizens Advice Scotland, so far as it relates to any function transferred by these Regulations, may be continued by or in relation to Consumer Scotland.

(4) So far as may be necessary for the purposes of or in consequence of a transfer of a function by these Regulations, a reference to Citizens Advice Scotland in a Scottish instrument or other document is to be treated as a reference to Consumer Scotland.

Name

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

SCHEDULE

Regulation 2

MODIFICATIONS OF ACTS OF THE SCOTTISH PARLIAMENT

Water Industry (Scotland) Act 2002

- 1.**—(1) The Water Industry (Scotland) Act 2002(a) is amended as follows.
- (2) In section 4(b) (power of the Commission to require information), in subsection (4), after “Scotland”, insert “or Consumer Scotland”.
- (3) In section 6(c) (funding of the Commission and Citizens Advice Scotland)—
- (a) in the heading, for “Citizens Advice Scotland” substitute “Consumer Scotland”,
 - (b) in subsection (2A)—
 - (i) for “Citizens Advice Scotland” substitute “Consumer Scotland”,
 - (ii) for “Citizens Advice Scotland’s”, substitute “Consumer Scotland’s”, and
 - (c) in subsection (2B), for “Citizens Advice Scotland” substitute “Consumer Scotland”.
- (4) In section 27(d) (approval of customer standards code)—
- (a) in subsection (1), for “Citizens Advice Scotland” substitute “Consumer Scotland”,
 - (b) in subsection (4), for “Citizens Advice Scotland” substitute “Consumer Scotland”.
- (5) In section 28(e) (consultation code), in subsection (3)(a) in both places it occurs, for “Citizens Advice Scotland” substitute “Consumer Scotland”.
- (6) In section 29B(f) (determination of maximum charges), in subsection (4)(a)(iii) for “Citizens Advice Scotland” substitute “Consumer Scotland”.
- (7) In section 29D(g) (statements regarding charges), in subsection (5)(b) for “Citizens Advice Scotland” substitute “Consumer Scotland”.
- (8) In section 56A(h) (directions may set objectives), in subsection (4) for “Citizens Advice Scotland” substitute “Consumer Scotland”.
- (9) In section 57(i) (information and reports), in subsection (6)(a) for “Citizens Advice Scotland” substitute “Consumer Scotland”.

Water Services etc. (Scotland) Act 2005

- 2.**—(1) The Water Services etc. (Scotland) Act 2005(j) is amended as follows.
- (2) In section 19(k) (disconnections code), in subsection (4)(c), for “Citizens Advice Scotland” substitute “Consumer Scotland”.

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- (a) 2002 asp 3.
 - (b) Subsection (4) was inserted by paragraph 3 of schedule 2 of the Public Services Reform (Scotland) Act 2010 (asp 8) (“the 2010 Act”) and amended by S.I. 2014/631.
 - (c) Subsections (2A) and (2B) were inserted by paragraph 3 of schedule 2 of the 2010 Act and amended by S.I. 2014/631.
 - (d) As relevantly amended by S.I. 2014/631.
 - (e) As relevantly amended by S.I. 2014/631.
 - (f) Section 29B was substituted by section 21(1) of the Water Services etc. (Scotland) Act 2005 (asp 3) (“the 2005 Act”); subsection (4)(a)(iii) was substituted by paragraph 10 of schedule 2 of the 2010 Act and amended by S.I. 2014/631.
 - (g) Section 29D was substituted by section 21(1) of the 2005 Act; subsection (5)(b) was substituted by paragraph 11 of schedule 2 of the 2010 Act and amended by S.I. 2014/631.
 - (h) Section 56A was inserted by section 22 of the 2005 Act; subsection (4) was relevantly amended by S.I. 2014/631.
 - (i) As relevantly amended by S.I. 2014/631.
 - (j) 2005 asp 3.
 - (k) Subsection (4)(c) was substituted by paragraph 14 of schedule 2 of the 2010 Act and amended by S.I. 2014/631.

(3) In section 20B(a) (Commission's scheme), in subsection (4)(c), for "Citizens Advice Scotland" substitute "Consumer Scotland".

Public Services Reform (Scotland) Act 2010

3.—(1) The Public Services Reform (Scotland) Act 2010(b) is amended as follows.

(2) In section 3(c) (transfer to certain bodies of functions of Waterwatch Scotland)—

- (a) in subsection (4), for "Citizens Advice Scotland" substitute "Consumer Scotland",
- (b) in subsection (5), for "Citizens Advice Scotland" substitute "Consumer Scotland", and
- (c) omit subsection (8).

(a) Section 20B was inserted by section 32 of the Water Resources (Scotland) Act 2013 (asp 5) and subsection (4)(c) was amended by S.I. 2014/631.

(b) 2010 asp 8.

(c) Section 3(4) and (5) was amended by S.I. 2014/631 and section 3(8) was inserted by S.I. 2014/631.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in consequence of the Consumer Scotland Act 2020 (asp 11) which establishes Consumer Scotland and makes provision about its functions.

Regulation 2 and the schedule make modifications to primary legislation in consequence of the Consumer Scotland Act 2020 to transfer certain functions from the Scottish Association of Citizens Advice Bureaux (“Citizens Advice Scotland”) to Consumer Scotland.

Regulation 3 makes transitional and saving provisions relating to the transfer of functions from Citizens Advice Scotland to Consumer Scotland.

POLICY NOTE**THE CONSUMER SCOTLAND (TRANSFER OF FUNCTIONS) REGULATIONS 2022****SSI 2022/XXX**

The above instrument will, if approved by the Scottish Parliament, be made in exercise of the powers conferred by section 20(1) and (2) and section 26(1)(b) of the Consumer Scotland Act 2020. The instrument is subject to affirmative procedure.

Purpose of the instrument

The Consumer Scotland Act 2020 established Consumer Scotland. These Regulations make amendments to provisions of Acts of the Scottish Parliament which have the effect of transferring functions from Citizens Advice Scotland to Consumer Scotland or providing that both Citizens Advice Scotland and Consumer Scotland can both perform certain functions.

Policy Objectives

The Consumer Scotland Act 2020 (“the 2020 Act”) established Consumer Scotland to provide and promote advice and advocacy on consumer matters in Scotland. In accordance with section 20 of the 2020 Act, certain functions currently delivered by the Scottish Association of Citizens Advice Bureau (“Citizens Advice Scotland”) will now transfer to Consumer Scotland, or will be capable of being performed by Consumer Scotland, as well as by Citizens Advice Scotland. Separate to this the general functions to be delivered by Consumer Scotland are set out in Sections 2-8 of the 2020 Act and are already excisable by them.

Regulation 2 and the schedule make modifications to the Water Industry (Scotland) Act 2002, the Water Services etc. (Scotland) Act 2005 and the Public Services Reform (Scotland) Act 2010 in consequence of the Consumer Scotland Act 2020 to transfer certain functions from Citizens Advice Scotland to Consumer Scotland, and in relation to section 4 of the Water Industry (Scotland) Act 2002, to provide for one function to be capable of being performed by Consumer Scotland, as well as by Citizens Advice Scotland.

Regulation 3 makes transitional and saving provisions relating to the transfer of functions from Citizens Advice Scotland to Consumer Scotland. This ensures that any tasks or proceedings which Citizens Advice Scotland is in the course of undertaking at the point when these Regulations come into force are transferred to and undertaken by Consumer Scotland, where they relate to the functions that are being transferred.

Consultation

In accordance with section 20(4) of the 2020 Act, the Scottish Ministers have consulted Consumer Scotland and Citizens Advice Scotland as the body from which the functions are being transferred. No other persons were identified as appropriate to be included in the consultation. Consultation on the content of the Regulations followed on broader discussions with Citizens Advice Scotland and with the then Board-designate (now the Board of Consumer Scotland), which was appointed to carry out work until Consumer Scotland came into being on 1 April 2022. These discussions around the transfer of functions ran from Autumn 2021 until Spring 2022. Regular meetings were held as part of the overall process of Consumer Scotland coming into being and taking up functions.

Impact Assessments

All necessary impact assessments were completed as part of the Consumer Scotland Act 2020 passage process. These were: Business Regulatory Impact Assessment (BRIA), Equalities Impact Assessment (EQIA), Child Rights and Wellbeing Impact Assessment (CRWIA) and Data Protection Impact Assessment (DPIA).

Financial Effects

The financial effects of this instrument were considered as part of the impact assessments completed during the Bill passage process and through consultation with key stakeholders on these regulations. However, no new financial burden is created as a consequence of this instrument.

The Scottish Government

DIRECTORATE FOR ENERGY AND CLIMATE CHANGE

23 June 2022