

Net Zero, Energy and Transport Committee 8th Meeting, 2021 (session 6), Tuesday, 5 October 2021

Subordinate Legislation - Carbon Accounting Scheme (Scotland) Amendment Regulations 2021

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:

[Carbon Accounting Scheme \(Scotland\) Amendment Regulations 2021](#)

2. The instrument was laid before the Parliament on 15 September 2021 and comes into force on 10 November 2021.

Purpose of the instrument

3. The instrument amends the definition of "registry administrator" in the Carbon Accounting Scheme (Scotland) Regulations 2010. The body which is the registry administrator remains the same (the Environment Agency). The Policy Note explains that the definition needs to be amended to reflect that, post-EU withdrawal, the registry for the UK is no longer within an EU-wide structure.
4. The Policy Note provides further detail on the instrument and is attached at **Annexe A**.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee considered this instrument at [its meeting on 21 September 2021](#) 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 21 September 2021.](#)

Procedure

6. 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).

7. 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.
8. 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.
9. 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.

For decision

10. The Committee is invited to consider any issues it wishes to raise regarding this instrument.
11. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting is 8 November 2021.

POLICY NOTE

THE CARBON ACCOUNTING SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2021 (S.S.I. 2021/318)

The above instrument is made in exercise of the power conferred by section 20(1) of the Climate Change (Scotland) Act 2009 (“the Act”) and all other powers enabling the Scottish Ministers to do so. The instrument is subject to the negative procedure.

Policy Objectives

The purpose of these Regulations is to make a technical update to the definition of the “registry administrator” within the Carbon Accounting Scheme (Scotland) Regulations 2010 (“the 2010 Regulations”).

Background

The need for this update stems from the UK’s exit from the EU, one consequence of which has been that the registry for recording use by UK-based bodies of internationally recognised carbon units, under schemes such as the UN Kyoto Protocol, has changed from an EU-wide structure to a new UK Registry (maintained by the Environment Agency on behalf of the UK Government).

Under the 2010 Regulations, the Scottish Ministers are required to maintain an account for international carbon units, termed the “Scottish credit account”, within the UK registry. The recent change in registry location has led to a technical deficiency arising in the definition of the term “registry administrator” as set out in regulation 2 of the 2010 Regulations, which is remedied by the present amendment Regulations.

Consultation

In preparing these Regulations, Scottish Government officials have liaised with counterparts in the UK Government and the Scottish Environment Protection Agency.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) is not required, as the instrument will not, in itself, impose new regulatory burdens or costs on businesses, public sector organisations, charities or the voluntary sector.

Scottish Government, Energy and Climate Change Directorate, September 2021