

# Rural Affairs, Islands and Natural Environment Committee

## 4<sup>th</sup> Meeting, 2022 (Session 6), Wednesday, 2 February

### Subordinate legislation

1. This paper supports the Committee's consideration of the following subordinate legislation—
  - The Private Storage Aid Scheme (Pigmeat) (Scotland) Amendment Regulations 2021 (2021/492)
2. The SSI is subject to the negative parliamentary procedure. Further information about this procedure is set out in paragraphs 8 and 9.

### The Private Storage Aid Scheme (Pigmeat) (Scotland) Amendment Regulations 2021 (2021/492)

3. The purpose of this instrument is to amend the Private Storage Aid Scheme (Pigmeat) (Scotland) Regulations 2021 (SSI 2021/398). SSI 2021/398 was considered by the Committee on 8 December 2021.<sup>1</sup> The amendment regulations would amend the scheme to—
  - allow the inclusion of loins as a cut that can go into the private storage; and
  - amend the closing date of the scheme from 28 February to 31 March 2022.
4. The Scottish Government states these amendments would “increase the effectiveness of the scheme and give greater assistance to the industry”. Further information is set out in the policy note, provided at **Annexe A**.
5. The SSI was laid on 22 December 2021 and came into force on 15 January 2022. The Scottish Government has, therefore, breached the 28-day rule which requires that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. In these circumstances, the Scottish Government must write to the Presiding Officer setting out the reasons for the breach. The Scottish Government's letter is provided at **Annexe B**. The letter explains the reason for the breach was “due to the need to act urgently to avoid an economic loss to farmers by not accepting additional cuts of pigmeat into the scheme”.
6. In a [letter](#) to the Delegated Powers and Law Reform Committee (DPLRC), the Scottish Government provided further information regarding the 28-day breach,

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<sup>1</sup> The Committee [wrote](#) to the Scottish Government asking for further information on a number of points – a response has not yet been received.

stating that, as a result of staff shortages, “there was a significant immediate demand from industry to include the additional cuts” and a delay would mean “pigs would not be slaughtered and the backlog of pigs on farms would continue”.

7. The DPLRC considered this instrument at its meeting on 25 January 2022. The Committee agreed to draw the instrument to the attention of the Parliament on the basis of the breach of the 28-day rule. The Committee concluded, however, that it was “content with the explanation provided by the Scottish Government for failure to comply with the laying requirements”.<sup>2</sup>

## **Parliamentary procedure – negative instruments**

8. The negative parliamentary procedure is set out in Chapter 10 of the Parliament’s Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.
9. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being laid. Any MSP may by motion propose to the lead committee that the committee recommends “that nothing further is to be done under the instrument”. Any motion for annulment would be debated by the lead committee and a report made to Parliament.

## **For decision**

10. **The Committee is invited to note the instrument.**

**Rural Affairs, Islands and Natural Environment Committee clerks  
January 2022**

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<sup>2</sup> Delegated Powers and Law Reform Committee, 5<sup>th</sup> Report 2022, paragraphs 4 to 11 and available at: [Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 25 January 2022 \(azureedge.net\)](https://www.azureedge.net/subordinate-legislation-considered-by-the-delegated-powers-and-law-reform-committee-on-25-january-2022)

## **Policy Note**

# **The Private Storage Aid Scheme (Pigmeat) (Scotland) Amendment Regulations 2021**

## **SSI 2021/492**

1. 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, 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**

2. To amend the Private Storage Aid Scheme (Pigmeat) (Scotland) Regulations 2021 allowing the inclusion of Loins as a cut that can go into the private Storage Aid.
3. To amend the closing date of the scheme from 28 February to 31 March 2022.
4. This instrument will increase the effectiveness of the scheme and give greater assistance to the industry.

## **Policy objectives**

5. The Scottish Ministers are putting this amendment in place to provide further aid to the sector, as well as ensuring that the scheme is working to full effect.
6. If this change was not made at this time, there would potentially be an economic loss to the sector. This change will mitigate any losses associated with specific cuts which were not included in the original scheme.

## **Consultation**

7. 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**

8. Full impact assessment has not been prepared for this instrument because of the time lines involved with making and laying the legislation. The impact on

stakeholders will be to extend the scope of the scheme, use of which is not compulsory. The impact on stakeholders is expected to be positive.

## Letter to the Presiding Officer from the Scottish Government, 21 December 2021

The Private Storage Aid Scheme (Pigmeat) (Scotland) Amendment Regulations 2021 were made yesterday, 21 December 2021, by the Scottish Ministers under powers contained in (1) 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 (2) 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, 22 December 2021, and come into force on 15 January 2022.

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 amend the The Private Storage Aid Scheme (Pigmeat) (Scotland) Regulations 2021 (“the principal Regulations”) which came into force on 9 November. 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 be costly to the industry. Due to a lack of butchers and staff shortages, the Scottish abattoirs have not been able to work to capacity, which has led to a larger number of pigs still on farm that would normally be the case.

The principal Regulations established a scheme which provides funding for the storage of pig meat. The principal Regulations provide which cuts of pigmeat are eligible for the scheme but did not include either bone-in or bone-out Loins. At the time of making the Regulations, following discussions with industry, our understanding was that we had included the cuts that were required in the scheme. However we have now been approached by an operator on 15 December with an indication that they would be interested in entering a further significant tonnage in the scheme if loins were to be included, As a result, we are now of the view that inclusion of loins would be of greater benefit to the industry This will significantly increase the effectiveness of the scheme, and considerably assist in reducing the backlog of pigs, and does not fundamentally alter the nature of the scheme.

We are also extending the closing date for applications under the scheme from 28 February 2022 to 31 March 2022.

The failure to comply with section 28(2) of the 2010 Act is necessary to ensure that the scheme is running in the most effective way possible and to maximize the cuts which are able to go into storage. We require to act urgently to avoid causing a potential loss to farmers if the loin was not accepted into the scheme.

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.