

Delegated Powers and Law Reform Committee
Tuesday, 12th November 2024
31st Meeting, 2024 (Session 6)

Instrument responses

Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) Regulations 2024 (SSI 2024/Draft)

On Friday 1st November 2024, the Committee asked the Scottish Government:

The enabling power is subject to the restriction in section 2(2) of the 2020 Act that it can only be used to make modifications that the Scottish Ministers consider would “simplify or improve the operation of the provisions of” the relevant legislation. During the passage of the Bill, the examples given to the Parliament of how this power was likely to be used related to improving processes, for example improvements to mapping, the approach to penalties, inspections, appeals and communications to customers ([Official Report, 21 January 2020](#), columns 3 and 7).

Could explanation please be provided as to why the Scottish Ministers consider that the modifications made by regulation 2 of the instrument, inserting significant new conditions into the 2014 Regulations, are within the restriction on the enabling power that limits it to making modifications that improve the operation of the provisions of the 2014 Regulations?

On Tuesday 5th November 2024, the Scottish Government responded:

Regulation 2 of the Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) Regulations 2024 proposes to modify paragraph 6 of Part 2 of the schedule of the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 (“2014 Regulations”). Part 2 of the 2014 Regulations sets out the Standards for Good Agricultural and Environmental Condition (“GAEC”), being the minimum requirements for the purposes of Article 94 of, and Annex II to, Regulation (EU) No 1306/2013 (“2013 Regulations”).

Paragraph 6 of the 2014 Regulations relates to maintenance of soil organic matter and includes provision which operates to ensure the maintenance of soil organic matter with a view to protecting soil and carbon stock as part of the ‘area’ of environment, climate change, and good agricultural condition of land (see Annex II of the 2013 Regulations).

The Scottish Ministers consider that the proposed modifications improve the operation of paragraph 6 the 2014 Regulations and the provisions to which paragraph 6 relates more broadly by adding further minimum requirements within the thematic scope of that paragraph, which will help deliver protection of the soil and carbon stock which is the purpose of paragraph 6 of the 2014 Regulations. The instrument does not introduce an entirely new policy approach but improves the existing policy.