

POLICY NOTE

THE SOUTH OF SCOTLAND ENTERPRISE ACT 2019 (COMMENCEMENT) REGULATIONS 2019

SSI 2019/308 (C. 13)

The above instrument was made in exercise of the powers conferred by section 24 of the South of Scotland Enterprise Act 2019. (“the 2019 Act”). It is not subject to any parliamentary procedure.

The instrument will bring into force in two phases the remaining provisions in the South of Scotland Enterprise Act, the overarching aim of which is to establish South of Scotland Enterprise and to provide for its functions.

Policy Objectives

1. The Bill for the 2019 Act received Royal Assent on 12 July 2019. This instrument brings into force all of the provisions outlined in the 2019 Act, with the exception of Sections 22 to 25 which came into force on the day after Royal Assent. The instrument provides for a staged commencement with a limited number of sections provisions into force on 16 October with all the other provisions coming into force on 1 April 2020.
2. The highest level policy aim behind the 2019 Act is to establish a public body, South of Scotland Enterprise (SOSE), to take a fresh approach to addressing the enterprise and skills needs of the south of Scotland and drive inclusive growth in the region. The 2019 Act makes provision for the creation of SOSE and its functions.
3. The Scottish Government is taking forward work, in collaboration with key stakeholders, to ensure SOSE is operational on 1 April 2020. This includes developing the detail of the structure, operations and activities of the new body using the overarching powers of the legislation. This instrument is being laid as soon as possible following Royal Assent to ensure the practical arrangements for effective delivery on day one can be made (staff, buildings, equipment, systems) and preliminary work carried out by SOSE.
4. The provisions that will be commenced on 16 October 2019 to enable this preliminary work to be carried out are:
 - Section 1 and 2 and Schedule 1 – to enable the first chief executive to be appointed and staff to be employed by SOSE;
 - Section 3 and Section 4 – to establish the status of SOSE and to apply specified public body legislation to the new body;
 - Section 8(1) and (2)(a) and (b) – to enable SOSE to enter into contracts and to acquire and dispose of land and other property;
 - Section 9 and Section 17 – to enable decisions to be made about SOSE’s office locations and for Ministers to announce the headquarters of the body;
 - Section 13 and 14 – to ensure that members and staff of SOSE can perform its functions and to ensure that actions of the body are legally valid if the body were not properly constituted;

- Section 15 and Section 16 – to ensure SOSE keeps proper accounts and produces an annual report;
 - Section 19 – to enable Scottish Ministers to give financial assistance to SOSE;
 - Section 20(2) – to enable work to be take forward to identify the transfer of property and liability from Scottish Enterprise; and
 - Section 21 – to define the South of Scotland as the areas of Dumfries and Galloway Council and Scottish Borders Council.
5. All remaining provisions will come into force on 1 April 2020. That will ensure that SOSE assumes its full range of aims, powers and duties as set out in the Act.

Transitional Provision

6. The Act requires SOSE to publish an action plan to set out how it intends to achieve its aims (section 6). Before making its action plan, SOSE must consult. To ensure that SOSE can take forward activities on 1 April 2020, the order makes a transitional provision to ensure that SOSE can take forward activity to deliver its aims in advance of the first action plan being in place.

Consultation

7. “Consultation on a new Enterprise Agency for the South of Scotland” ran online between March and June 2018, and was supplemented by 26 engagement events across the south of Scotland. There were a total of 268 responses to the online consultation. Responses to the consultation exercise were generally positive, with 87% of respondents agreeing with the Scottish Government's outlined ambition for the South of Scotland. Respondents highlighted the importance of inclusive growth and increased productivity, good employment opportunity and wages, the importance of sustainable approaches and the need to diversify the economy.
8. Consultation and engagement with stakeholders provided a wealth of information that helped to shape legislation. The range of issues raised during this process will also be taken into account operationally by members of SOSE following its establishment.

Impact Assessments and Financial Effects

9. An Equality Impact Assessment, a Child Rights & Wellbeing Assessment and a Business and Regulatory Impact Assessment were carried out in relation to the South of Scotland Enterprise Bill which became the 2019 Act. The Financial Memorandum which was prepared for that Bill considered the financial impact and remains valid. The links below show the relevant documentation.

Link to the Equality Impact Assessment:

www.gov.scot/publications/south-scotland-enterprise-bill-equality-impact-assessment/

Link to the Child Rights and Wellbeing Impact Assessment:

www.gov.scot/publications/south-scotland-enterprise-bill-child-rights-wellbeing-impact-assessment/.

Link to the Business and Regulatory Impact Assessment:

www.gov.scot/publications/business-regulatory-impact-assessment-south-scotland-enterprise-bill/

The Financial Memorandum can be found at:

https://www.parliament.scot/S5_Bills/South%20of%20Scotland%20Enterprise%20Bill/S_PBill41FMS052018_new_FM_with_bookmarks.pdf

Scottish Government
Economic Development Directorate
16 September 2019