

POLICY NOTE

THE SCOTLAND ACT (AGENCY ARRANGEMENTS) (SPECIFICATION) (No. 2) ORDER 2018

2018 No. 1344

Introduction

This policy note is prepared by the Scottish Government and is laid before Parliament.

The Scotland Act (Agency Arrangements) (Specification) (No. 2) Order 2018 is made in exercise of the power conferred by section 93(3) of the Scotland Act 1998. The instrument is subject to annulment by either House of the UK Parliament and is subject to negative procedure in the Scottish Parliament.

Policy Objectives

The main purpose of this instrument is to allow for Scottish Ministers to make arrangements for certain of their functions relating to the Welfare Food Regulations 1996 (“the 1996 Regulations”)¹, and the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 (“the 2005 Regulations”)² to be specified so that these functions can be exercised by arrangement on behalf of the Scottish Ministers by a Minister of the Crown. This is known as an “agency arrangement” and allows for the UK Government to continue to administer schemes contained in the 1996 and 2005 Regulations when section 27 of the Scotland Act 2016 (“the 2016 Act”) comes into force on 8th February 2019. On that date, the functions in the 1996 Regulations and the 2005 Regulations, so far as they are exercisable within devolved competence, become exercisable by the Scottish Ministers instead of by a Minister of the Crown as a consequence of section 32 of the 2016 Act. Any agency arrangement requires agreement between the UK Government and the Scottish Government; this instrument allows for such an arrangement to be agreed.

The schemes contained in the 1996 Regulations and the 2005 Regulations make provision about Nursery Milk, Healthy Start vouchers and Healthy Start vitamins. Both the UK Government and the Scottish Government have agreed for the Scottish Government to enter into an agency arrangement with the Department of Health and Social Care (DHSC) to allow the DHSC to continue to deliver Nursery Milk and Healthy Start vouchers and Healthy Start vitamins to people in Scotland on behalf of the Scottish Government for a transitional period.

Legislative Context

Section 93(1) of the Scotland Act 1998 enables the Scottish Ministers to make arrangements for any of their functions to be exercised on their behalf by a Minister of the Crown. Functions to be subject to such arrangements must be specified in an Order in Council, made under section 93(3).

¹ S.I. 1996/1434.

² S.I. 2005/3262.

Section 27 of the 2016 Act will come into force on 8th February 2019, devolving all functions relating to the subject-matter of section 13 of the Social Security Act 1988 (“the 1988 Act”), (benefits under schemes for improving nutrition: pregnant women, mothers and children). After section 27 comes into force, the Scottish Ministers will make regulations using the power in section 13 of the 1988 Act to establish a new scheme for Best Start Foods (to replace Healthy Start vouchers), which will come into force in spring 2019. The arrangements that this instrument allows for will cover a transitional period during 2019 so that Healthy Start vouchers can continue to be provided to Scottish recipients until such time as they have made an application for Best Start Foods, and for Healthy Start vitamins to continue to be supplied. In relation to Nursery Milk, the transition period will be until 2020 until such time as new arrangements are made for Scottish recipients.

This Order comes into force immediately after section 27 of the Scotland Act 2016 comes into force on 8th February 2019, in accordance with the Scotland Act 2016 (Commencement No. 9) Regulations 2018.

Consultation

There has been no general public consultation specific to this Order as it simply allows administrative arrangements to be entered into.

Impact Assessments

A Business and Regulatory Assessment has not been prepared for this Order as it will have no impact on business or civil society organisations.

This Order has no direct impact on the public sector. It simply allows for arrangements to be entered into.

Monitoring and Review

There is no need for monitoring or review. Any arrangements will be subject to the UK and Scottish Governments being agreed that they should continue.

Contact

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