

POLICY NOTE

THE PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003 (TREATMENT OF CONSUMER SCOTLAND AS SPECIFIED AUTHORITY) ORDER 2020

SSI 2020/XXX

1. The above instrument was made in exercise of the powers conferred by section 3(3) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (“the 2003 Act”).
2. The instrument is subject to affirmative procedure.

The instrument will enable the appointments of members to Consumer Scotland to be regulated by the Commissioner for Ethical Standards in Public Life.

Policy Objectives

3. The Consumer Scotland Bill is currently being considered by the Scottish Parliament and passed Stage 1 on 23 January 2020. The main policy aim of the Bill is to establish a public body, Consumer Scotland, to represent consumers in Scotland. The Bill therefore makes provision for the establishment of Consumer Scotland and for the appointments of members to be regulated by the Commissioner for Ethical Standards in Public Life under the 2003 Act.
4. It is proposed that Consumer Scotland will take on its functions from 1 April 2021. A section 3(3) order under the 2003 Act will be required so that Consumer Scotland will be treated as a regulated body ahead of the Bill being passed by Parliament and coming into force.
5. Following the precedent set by a number of other new public bodies, this order is being laid following the conclusion of the Stage 1 debate. This will allow the appointment of members to begin in time for the Chair to be in place by September 2020 and involved in the recruitment of the Chief Executive. The remaining members will be recruited and will be in place ahead of April 2021. Audit Scotland recommends that the leadership of new bodies is in place 6 months ahead of the new body taking on its full functions. The timing of this order is in accordance with that advice. It is important for the appointments process to be as rigorous and transparent as possible and involving the Commissioner for Ethical Standards in Public Life helps to achieve this.

Consultation

6. A consultation on a new consumer body ran online between July and September 2018. It was supplemented by a series of events for consumer groups, regulators and enforcement agencies. 58 responses to the consultation were received from businesses, consumer groups, regulators, enforcement agencies and individuals. Responses to the consultation exercise were broadly supportive of a new body, highlighting in particular the need for a more strategic overview of consumer harm in Scotland. However, responses also highlighted that it is already a diverse and complex system, and that careful planning and relationship building will be needed to ensure that Consumer Scotland does not duplicate the activities of others in the landscape where this does not add value. Ensuring early appointment of members will allow this work to happen before

the body formally takes on its functions, and will be vital to ensuring its smooth integration with the current landscape.

7. Consultation and engagement with stakeholders has continued through the development of the Bill and has 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 Consumer Scotland following its establishment.
8. As there is general support for the establishment of Consumer Scotland, and this order merely allows for the appointments to be regulated in line with the provisions of the Bill, specific consultation on this instrument was not felt necessary. The Minister for Business, Fair Work and Skills has written to the Conveners of the Economy, Energy and Fair Work Committee and the Delegated Powers and Law Reform Committee who are considering the Bill to inform them of the proposal to lay this order.

Impact Assessments

9. An Equality Impact Assessment is not necessary as the instrument in itself does not have any equalities impacts. An Equality Impact Assessment was carried out in the development of the Bill and is available at <https://www.gov.scot/publications/equality-impact-assessment-consumer-scotland-bill/>. Consumer Scotland will be subject to the Public Sector Equality Duty and will proactively consider equality when carrying out its work. The appointment process will be subject to the Gender Representation on Public Boards (Scotland) Act 2018.
10. A Business and Regulatory Impact Assessment is not considered necessary for this instrument as the order itself does not create any new burdens on business, charities or the voluntary sector. An assessment was carried out in the development of the Bill and is available at <https://www.gov.scot/publications/business-regulatory-impact-assessment-consumer-scotland-bill/>.
11. A Child Rights and Wellbeing Impact Assessment is not necessary as the instrument in itself does not have any impact upon children or young people.

Financial Effects

12. The instrument will have no direct financial effect as it merely allows for the regulation of the appointment process. Any costs incurred from the appointment process are covered in the Financial Memorandum to the Bill and are likely to be minimal.

Scottish Government
Energy and Climate Change Directorate
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