

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2004 No. 398**

**AGRICULTURE**

**The Common Agricultural Policy Support Schemes  
(Modulation) (Scotland) Amendment Regulations 2004**

*Made* - - - - 15th September 2004  
*Laid before the Scottish  
Parliament* - - - - 16th September 2004  
*Coming into force* - - 16th October 2004

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup>, and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Common Agricultural Policy Support Schemes (Modulation) (Scotland) Amendment Regulations 2004 and shall come into force on 16th October 2004.

**Amendment of the Common Agricultural Policy Support Schemes (Modulation) (Scotland) Regulations 2000**

2.—(1) The Common Agricultural Policy Support Schemes (Modulation) (Scotland) Regulations 2000<sup>(2)</sup> are amended in accordance with this regulation.

(2) In regulation 3—

(a) before the definition of “the Agrimonetary Regulation”, insert—

““the Act of Accession” means the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded<sup>(3)</sup>”;

---

(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) S.S.I. 2000/429, amended by S.S.I. 2001/390.

(3) O.J. L 236, 30.09.2003, p.33.

- (b) at the end of the definition of “the Council Regulation”(4) insert “, as amended by Commission Regulation (EC) 41/2004(5) and the Act of Accession(6)”;
  - (c) in each of the definitions of “farmer” and “holding”, for “Article 10(a) of the Council Regulation” and “Article 10(b) of the Council Regulation” respectively substitute “Article 1(3) of Council Regulation (EEC) 3508/92 establishing common rules for direct support schemes under the common agricultural policy of the European Community, as amended(7)”; and
  - (d) at the end of the definition of “the Rural Development Regulation” insert “, as amended by Commission Regulation (EC) 1783/2003(8), the Act of Accession(9) and Council Regulation (EC) 583/2004(10).”.
- (3) In regulation 5(b), for “Articles 13 to 21” substitute “Articles 13 to 20”.

St Andrew’s House, Edinburgh  
15th September 2004

ROSS FINNIE  
A member of the Scottish Executive

---

(4) Council Regulation (EC) 1259/1999 was repealed by Article 153(4) of Council Regulation (EC) 1782/2003 (O.J. No. L 270, 21.10.2003, p.1) establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending certain Regulations, but by virtue of Article 153(4), Articles 4 and 5 of Regulation (EC) 1259/1999, and the Annex to that Regulation for the purposes of applying those Articles, continue to apply until 31st December 2004.

(5) O.J. No. L 6, 10.01.2004, p.19, which replaced the text of the original Annex to Council Regulation (EC) 1259/1999.

(6) Annex II, part 6, paragraph 27 of the Act of Accession renamed the Annex to the Council Regulation (EC) 1259/1999 “Annex I”.

(7) O.J. No. L 355, 5.12.92, p.1. Article 1(3) was renumbered as such by Council Regulation 1593/2000 (O.J. L 182, 21.7.2000, p.4). There are other amendments to Council Regulation (EEC) 3508/92 not relevant to these Regulations; that Regulation was repealed by Article 153(1) of Council Regulation (EC) No. 1782/2003 (O.J. No. L270, 21.10.2003, p.1), but continues to apply to applications for direct payments in respect of the calendar years preceding 2005 by virtue of that Article.

(8) O.J. No. L 270, 21.10.2003, p.70.

(9) See Annex II of the Act of Accession, part 6, paragraph 26.

(10) O.J. No. L 91, 30.3.2004, p.1.

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 16th October 2004, amend the Common Agricultural Policy Support Schemes (Modulation) (Scotland) Regulations 2000 (“the principal Regulations”).

“Modulation” involves the making of a deduction from payments due under Common Agricultural Policy direct support schemes (also known as ‘Pillar I schemes’), and the reallocation of the amount so deducted to agri-environment, afforestation and less-favoured areas support schemes (which are rural development measures, also known as ‘Pillar II schemes’). The proportion which is to be deducted is fixed by Member States; in Scotland, the proportion for each year is set out in regulation 4(1) of the principal Regulations.

The amendments in these Regulations reflect the amendment of Council Regulation [\(EC\) 1259/1999](#) (O.J. No. L 160, 26.6.1999, p.113) by Commission Regulation [\(EC\) 41/2004](#) (O.J. No. L 006, 10.01.2004, p.19), which replaces the Annex to that Council Regulation.

The effect is that payments under the direct support schemes introduced by Title IV of Council Regulation [\(EC\) 1782/2003](#) (O.J. No. L 270, 21.10.2003, p.1) (dairy premium and additional payments, durum wheat, protein crops, potato starch, nuts and energy crops) will be subject to modulation in Scotland, in addition to the direct support schemes that are already subject to modulation.

These Regulations also make amendments to update the principal Regulations to reflect recent minor and technical amendments to other Community instruments.

A full Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the cost of business.