
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 143

**The Common Agricultural Policy Single Farm Payment
and Support Schemes (Scotland) Regulations 2005**

PROSPECTIVE

PART 4

Set-aside

Exchange of eligible and ineligible land

13.—(1) In a situation specified in sub-paragraph (a), (b) or (c) of the first paragraph of Article 33 of Commission Regulation 795/2004, a farmer may apply to the Scottish Ministers for land not otherwise eligible for set-aside entitlement to be counted as eligible for set aside entitlement.

(2) Subject to paragraph (3), the application shall be in such form as the Scottish Ministers may reasonably require, and, where the farmer intends to exchange the land in respect of which the application is made for other land which is eligible for set-aside entitlement, that application shall include particulars of that land, as well as the land in respect of which the application is made.

(3) Where a farmer holds any of the land in respect of which such an application is made, or any land that the farmer intends to exchange for that land, as a tenant the farmer shall obtain the written consent of the landlord to the exchange, and the application shall include a declaration by the applicant that such consent has been obtained.

(4) The Scottish Ministers may approve the application made under paragraph (1) if they are satisfied—

- (a) that the relevant sub-paragraph of the first paragraph of Article 33 of Commission Regulation 795/2004 specified in the farmer's application applies in relation to the land in respect of which the application has been made;
- (b) where the application has been made on the basis of sub-paragraph (c) of the first paragraph of Article 33 of Commission Regulation, with the reasons given by the farmer for wanting to exchange ineligible land for eligible land on the holding; and
- (c) that—
 - (i) where the land in respect of which the application is made is to be exchanged for other eligible land, the area of land in respect of which the application is made does not exceed the area of the land which is to be exchanged by more than 5%; or
 - (ii) where there is to be no exchange of land, the approval of the application will not result in a significant increase in the total area of land eligible for set aside entitlements.

(5) Where approval is given under paragraph (4) but any declaration included in, or information given by the farmer in connection with, the application was false in any material particular, the Scottish Ministers may revoke such approval.

Status: *This version of this provision is prospective.*

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

(6) In this regulation, “eligible for set-aside entitlement”, in relation to land, has the meaning given by the first paragraph of Article 54(2) of Council Regulation 1782/2003.

Commencement Information

I1 Reg. 13 in force at 18.4.2005, see [reg. 1\(1\)](#)

Status:

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Changes and effects yet to be applied to :

- Regulations revoked by [S.S.I. 2011/416 Sch. 3](#)
- reg. 13 coming into force by [S.S.I. 2005/143 reg. 1\(1\)](#)
- reg. 13 revoked by [S.S.I. 2009/391 reg. 13\(1\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 6 inserted by [S.S.I. 2009/391 reg. 14](#)
- reg. 22(1A) inserted by [S.S.I. 2009/391 reg. 11\(2\)](#)