EXECUTIVE NOTE

THE COMMON AGRICULTURAL POLICY SINGLE FARM PAYMENT AND SUPPORT SCHEMES (SCOTLAND) REGULATIONS 2011

SSI 2011/416

1. The above instrument was made in exercise of powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. It will be laid before the Scottish Parliament on 24 November 2011 and will come into force on 01 January 2012.

2. The instrument revokes and replaces The Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2005 (SSI 2005/143) ("the 2005 Regulations"). It consolidates and updates the 2005 Regulations and introduces a new direct support scheme- the Scottish Beef Scheme- which is continuation of the Scottish Beef Calf Scheme.

3. This instrument primarily makes provision in Scotland for the administration of Council Regulation (EC) No. 73/2009 ("Council Regulation 73/2009").

Policy Objectives

4. The reform of the CAP, agreed in June 2003, aimed to improve the competitiveness and sustainability of European agriculture, promote food quality and environmental standards; simplify the system of support to farmers; and strengthen rural development policy. The current system of direct payments runs from 2005 to 2012 but the European Commission undertook a mid-point review to assess the implementation of the 2003 reforms and to make any necessary adjustments to simplify the policy, grasp new market opportunities and to prepare for new challenges (such as climate change and water management). This review took place between November 2007 and May 2008.

5. Following publication of the European Commission's draft legislative proposals, Scottish Ministers undertook a public consultation exercise and the responses to this and other stakeholder engagement via correspondence or in meetings with Ministers and officials, informed the decisions now implemented.

In summary, the instrument includes provisions
(a) that consolidate the Single Farm Payments Scheme (Scotland) Regulations 2005;

- Prescribe the minimum size of a holding for which Single Farm Payment can be claimed
- Prescribe the timing of application to transfer payment entitlement
- Provide member state modulation for the period 2011 and 2012

(b) a new provision for The Scottish Beef Scheme.

- Introduction of a new Scottish Beef Scheme to replace the Scottish beef Calf Scheme.

The drafting has been updated to replace references to repealed EU instruments with the correct references and also to reflect modern drafting practise.
These features are explained further in the following paragraphs.

Minimum requirements for direct payment

6. Member States are obligated to set a minimum threshold below which farmers are excluded from the direct payment arrangements. The requirement to set the threshold is contained in Article 28 of Council Regulation 73/2009 and the European Commission's rationale for it is that it will reduce the administrative burden on Member States. Setting the threshold is a matter for individual UK administrations who can decide within a maximum limit of €200 or 5ha: the Cabinet Secretary for the Environment and Rural Affairs has decided on 3ha. This minimum threshold area is effective before the application of any reductions or exclusions arising from non-compliance with eligibility requirements.

Additional Modulation

7. "Modulation" is the deduction applied to direct payments i.e. Single Farm Payment, and Scottish Beef Calf Scheme. The amounts deducted are applied for the "relevant purposes", meaning as additional support for rural development measures. These "... relevant purposes ... " were defined in the 2005 Regulations and amended by SSI 2007/414. The present instrument updates the legal references in the definition but makes no substantive change in the measures funded.
The deduction takes two forms: European Modulation as covered by Article 7 (Council Regulation (EC) 73/2009) and Member State Modulation as covered by Council Regulation (EC) 378/2007.

8. The main purpose of this regulation is to set the rates of Member State Modulation to be applied in Scotland for the period 2011 to 2012. The way in which Modulation is deducted as a variable rate applied in chronological order of payment and on a cumulative basis. In addition, increases in European Modulation are reflected as decreases in Member State Modulation as illustrated by the following tables:-

The rates of European Modulation are as follows:

AMOUNT OF DIRECT PAYMENTS			
YEAR	00.01 to 5,000	5,000.01 to 300,000	300,000 and above
2011	0%	9%	13%
2012	0%	10%	14%

(*) Percentages are applied according to the threshold reached for total direct payments.

The rates of Member State Modulation are as follows:

AMOUNT OF DIRECT PAYMENTS			
YEAR	00.01 to 5,000	5,000.01 to 300,000	300,000 and above
2011	9%	5%	1%
2012	9%	4%	0%

(*) Percentages are applied according to the threshold reached for total direct payments.

NB - The increases in European Modulation and decreases in Member State Modulation are in relation to rates of deduction already planned. This means that these changes have no financial impact on individual farmers: the overall deduction for modulation under these new arrangements will be the same as provided for under the previous arrangements. The rates included in the instrument have already been made available to scheme applicants via the Single Farm Payments Notes for Guidance.

9. The amount of direct payment is calculated cumulatively so, for example, once a producer reaches a total of direct payments of €300,000, any payment, regardless of scheme, thereafter will be reduced by 13% in respect of European Modulation and 1% in respect of Member State Modulation. At the opposite end of the scale, the first €5,000 of direct payments, regardless of whether one scheme or a combination of schemes, are exempt from European Modulation but are reduced by 9% Member State Modulation.

10. Note: "... Direct Payment. .. " is defined in Article 2(d) of Council Regulation 73/2009 as any payment granted under any of the schemes listed in Annex I of the regulation.

The Scottish Beef Scheme

11. Council Regulation (EC) No 1782/2003 introduced additional support measures, which were adopted in Scotland as The Scottish Beef Calf Scheme.
The CAP Health Check reforms in 2008 allowed the Scottish Beef Calf Scheme to continue until 2012. However for support to continue beyond that any scheme has to be compatible with measures set out under Article 68 of Council Regulation 73/2009. This means that that funding has to be targeted at specific disadvantages and in the beef sector; it is the hill producers who are particularly vulnerable and continually struggle to make a profit. The Scottish Beef Scheme (SBS) will give direct support to specialist beef producers and has an annual budget of 29.8 million Euros. Taking account of views expressed through the public consultation exercise and other avenues, Scottish Ministers decided to implement this derogation and introduce the Scottish Beef Scheme. The European Commission has been informed.

Financial Effects

12. The Schemes covered by this instrument will enable the Scottish Government to pay around £420 million per annum. Regulatory Impact Assessments for the Single Farm Payment and Support Schemes, etc were undertaken at the time of "' implementation”. These amendments have no new financial effect on farmers (modulation), reduce administration (minimum size of a holding) and extend pre-existing regulatory requirements (Scottish Beef Scheme): a renewed Regulatory Impact Assessment IA has not, therefore, been undertaken.

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