
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 143

**The Rural Payments (Appeals)
(Scotland) Amendment Regulations 2012**

Citation and commencement

1. These Regulations may be cited as the Rural Payments (Appeals) (Scotland) Amendment Regulations 2012 and come into force on 12th June 2012.

Amendment of the Rural Payments (Appeals) (Scotland) Regulations 2009

2. The Rural Payments (Appeals) (Scotland) Regulations 2009⁽¹⁾ are amended in accordance with regulations 3 to 6.

3. In regulation 2(1) (interpretation)—

(a) omit the definitions of “Commission Regulation 2419/2001” and “Commission Regulation 2237/2003”;

(b) for the definition of “Commission Regulation 795/2004” substitute—

““Commission Regulation 795/2004” means Commission Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽²⁾”;

(c) for the definition of “Commission Regulation 796/2004” substitute—

““Commission Regulation 796/2004” means Commission Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulations (EC) No 1782/2003 and (EC) No 73/2009, as well as for the implementation of cross compliance provided for in Council Regulation (EC) No 479/2008⁽³⁾”;

(d) after the definition of “Commission Regulation 796/2004” insert—

““Commission Regulation 1973/2004” means Commission Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials⁽⁴⁾;

“Commission Regulation 1120/2009” means Commission Regulation (EC) No 1120/2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009

⁽¹⁾ S.S.I. 2009/376, amended by S.S.I. 2010/273 and 2011/415.

⁽²⁾ OJ L 141, 30.4.2004, p.1, as last amended by Commission Regulation (EC) No 370/2009 (OJ L 114, 7.5.2009, p.3) and repealed, subject to savings, by Commission Regulation 1120/2009.

⁽³⁾ OJ L 141, 30.4.2004, p.18, as last amended by Commission Regulation (EC) No 380/2009 (OJ L 116, 9.5.2009, p.9) and repealed, subject to savings, by Commission Regulation 1122/2009.

⁽⁴⁾ OJ L 345, 20.11.2004, p.1, as last amended by Commission Regulation (EC) No 316/2009 (OJ L 100, 18.4.2009, p.3) and repealed, subject to savings, by Commission Regulation 1121/2009.

establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers⁽⁵⁾, as amended from time to time;

“Commission Regulation 1121/2009” means Commission Regulation (EC) No 1121/2009 laying down detailed rules for the application of Council Regulation (EC) No 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof⁽⁶⁾, as amended from time to time;

“Commission Regulation 1122/2009” means Commission Regulation (EC) No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector⁽⁷⁾, as amended from time to time;”;

(e) omit the definition of “Council Regulation 3508/92”;

(f) for the definition of “Council Regulation 1782/2003” substitute—

““Council Regulation 1782/2003” means Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001⁽⁸⁾”;

(g) for the definition of “Council Regulation 73/2009” substitute—

““Council Regulation 73/2009” means Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006 and (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003⁽⁹⁾, as amended from time to time;”;

(h) after the definition of “holding” insert—

““IACS Regulations” means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005⁽¹⁰⁾ or the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009⁽¹¹⁾”;

(i) for the definition of “IACS scheme” substitute—

““IACS scheme” means one of the EU support schemes specified in Article 17 of Council Regulation 1782/2003 or Article 14 of Council Regulation 73/2009;”;

(j) omit the definition of “IACS year”;

(k) omit “and” at the end of the definition of “the 2004 Regulations”; and

(5) OJ L 316, 2.12.2009, p.1, as last amended by Commission Implementing Regulation (EU) No 1126/2011 (OJ L 289, 8.1.2011, p.24).

(6) OJ L 316, 2.12.2009, p.27, as last amended by Commission Implementing Regulation (EU) No 1368/2011 (OJ L 341, 22.12.2011, p.33).

(7) OJ L 316, 2.12.2009, p.65, as last amended by Commission Implementing Regulation (EU) No 1368/2011 (OJ L 341, 22.12.2011, p.33).

(8) OJ L 270, 21.10.2003, p.1, as last amended by Commission Regulation (EC) No 674/2008 (OJ L 341, 22.12.2011, p.33) and repealed, subject to savings, by Council Regulation 73/2009.

(9) OJ L 30, 31.1.2009, p.16, as last amended by Commission Implementing Regulation (EU) No 785/2011 (OJ L 203, 6.8.2011, p10).

(10) S.I. 2005/218, which was revoked, subject to savings, by S.I. 2009/3263.

(11) S.I. 2009/3263, amended by S.I. 2012/66.

- (l) at the end of the definition of “relevant decision” insert—

“;

“scheme year” means the year commencing on the last day for submission of the single application as specified in the IACS Regulations; and

“single application” has the same meaning as in Article 2(11) of Commission Regulation 796/2004 or Article 2(11) of Commission Regulation 1122/2009”.

4. For regulation 3 (application in relation to IACS matters) substitute—

“Application in relation to IACS matters

3. A decision specified in paragraphs 3 to 13 of the Schedule includes a decision of the Scottish Ministers in relation to a holding administered by them in accordance with the IACS Regulations.”.

5. In regulation 5(2)(b) (application for review), for “IACS year” substitute “scheme year”.

6. In the Schedule (relevant decisions)—

(a) omit paragraphs 1 and 2;

(b) for paragraphs 3 to 8 substitute—

“3. Insofar as not otherwise falling within any of paragraphs 4 to 10, a decision by the Scottish Ministers to postpone, refuse, reduce or recover (in whole or in part) any payment under an IACS scheme for any scheme year under or in accordance with—

(a) Council Regulation 1782/2003;

(b) Commission Regulation 795/2004;

(c) Commission Regulation 796/2004 (including anything done in accordance with Article 71(2) of that Regulation);

(d) Commission Regulation 1973/2004;

(e) Council Regulation 73/2009;

(f) Commission Regulation 1120/2009;

(g) Commission Regulation 1121/2009; or

(h) Commission Regulation 1122/2009.

4. A decision by the Scottish Ministers to refuse, reduce or withdraw (in whole or in part) any payment entitlement (including any set-aside or special entitlement), under and in accordance with—

(a) Title III of Council Regulation 1782/2003 and Commission Regulation 795/2004; or

(b) Title III of Council Regulation 73/2009 and Commission Regulation 1120/2009

5. A decision by the Scottish Ministers under Article 40 of Council Regulation 1782/2003 or Annex IX, Part A, point 4, 5 or 6 of Council Regulation 73/2009, to refuse (in whole or in part) a request to have an applicant’s reference amount calculated on the basis that the applicant’s production was adversely affected by force majeure or exceptional circumstances or agri-environment commitments.

6. A decision by the Scottish Ministers under or in accordance with Article 42 of Council Regulation 1782/2003 or Article 41 of Council 73/2009, to refuse or withdraw entirely any national reserve entitlement in relation to an application.

7. A decision by the Scottish Ministers to refuse, reduce or withdraw (in whole or in part) any other payment entitlement, under or in accordance with—

- (a) Council Regulation 1782/2003;
- (b) Commission Regulation 795/2004;
- (c) Commission Regulation 796/2004;
- (d) Council Regulation 73/2009;
- (e) Commission Regulation 1120/2009; or
- (f) Commission Regulation 1122/2009.

8. A decision by the Scottish Ministers to refuse the transfer (in whole or in part) of any payment entitlement, under or in accordance with—

- (a) Council Regulation 1782/2003;
- (b) Commission Regulation 795/2004;
- (c) Council Regulation 73/2009; or
- (d) Commission Regulation 1120/2009.”; and

(c) for paragraph 10 substitute—

“10.—(1) Any decision by the Scottish Ministers under or in accordance with the relevant EU instrument in respect of part of a holding outwith Scotland or legislation implementing any of those instruments in any other part of the United Kingdom.

(2) In this paragraph, “the relevant EU instrument” means any of the following—

- (a) Council Regulation 1782/2003;
- (b) Commission Regulation 795/2004;
- (c) Commission Regulation 796/2004;
- (d) Commission Regulation 1973/2004;
- (e) Council Regulation 73/2009;
- (f) Commission Regulation 1120/2009;
- (g) Commission Regulation 1121/2009; or
- (h) Commission Regulation 1122/2009.”.

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