
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the review of certain decisions of the Scottish Ministers in relation to payment of certain agricultural subsidies and other rural payments. After review, a right of appeal of such decisions is provided for to the Scottish Land Court.

The Schedule specifies which decision may be subject to a review under these Regulations (a “relevant decision” as defined in regulation 2(1)). This includes certain decisions which will be taken by the Scottish Ministers in exercise of functions under the common agricultural policy (CAP). The Regulations make provision for decisions under legacy schemes of previous CAP programmes (where the commitments under these schemes continue to apply – see the Schedule, paragraphs 10 to 22) and decisions of the Scottish Ministers taken in relation to the new CAP programme which took effect from 1st January 2015 (see the Schedule, paragraphs 1 to 9).

Regulation 3 ensures that these regulations have effect in Scots law in relation to holdings (whether wholly situated in Scotland or partly in Scotland and partly elsewhere in the United Kingdom), which are administered in accordance with the Integrated Administration and Control System (IACS) under the CAP.

Regulation 4 allows a beneficiary of aid or support to apply to the Scottish Ministers for a review of a relevant decision and regulation 5 provides that the application for review must be made no later than 60 days following the date of the decision letter.

Regulation 6 provides that the review must include an opportunity for the beneficiary to be heard on any matter relevant to the application at a review meeting. The review meeting must be held within 60 days of receipt of the application and the Scottish Ministers must intimate the date of the review meeting in writing. A review meeting will normally take place in person or, as agreed with the beneficiary, by telephone or video-conferencing facilities or such other arrangements.

Regulation 7 provides that the Scottish Ministers must, following a review, give their decision in the form of a written report. The written report must be sent by recorded delivery within the time period specified in regulation 7(4).

Where dissatisfied with the decision on review, regulation 8 provides that a beneficiary may appeal the decision to the Scottish Land Court on any issue of fact or law. This must be done within 60 days of the applicant receiving the written report. That appeal must be accompanied by the decision letter, the application for review and evidence of the date of the review meeting.

Regulation 9 sets out the Scottish Land Court’s powers in relation to an appeal. Any determination by that Court may be further appealed to the Court of Session on a question of law.

Regulation 10 provides that the Scottish Land Court may have regard to the conduct of either party during the review process as a whole when considering an award of expenses.

Regulation 11 revokes the Rural Payments (Appeals) (Scotland) Regulations 2009 subject to savings.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Rural Payments (Appeals) (Scotland) Regulations 2015.