
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in Scotland for the administration of Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ No. L 347, 20.12.2013, p. 608) (“the Direct Payments Regulation”), as amended by Regulation (EU) No. 1310/2013 (OJ No. L 20.12.2013, p.865), and other associated EU regulations referred to in regulation 2(1).

Regulation 3 prescribes the minimum size of agricultural parcel in respect of which a single application can be made.

Regulation 4 specifies the minimum eligible area of a holding in respect of which direct payments may be granted to a farmer.

Regulation 5 extends the definition of permanent grassland.

Regulation 6 specifies the final date for submission of a single application, an aid application or payment claim, and the date on which parcels used as the basis for a claim under the basic payment scheme must at the disposal of farmers.

Regulation 7 designates the short rotation coppice trees eligible under the basic payment scheme and sets the maximum harvest cycle.

Regulation 8 provides for the reduction by 5% of the part (if any) of any direct payments granted to a farmer which exceeds [euro]150,000.

Regulation 9 makes provision for the period within which the transferor must notify the Scottish Ministers of a transfer of payment entitlements and the deadline for submitting applications for the allocation of payment entitlements from the national reserve It also provides for a siphon on the value of payments entitlements which are transferred without land.

Regulation 10 provides for the basis on which an increase in direct payments to qualifying farmers aged 40 or less and participating in the young farmers scheme must be calculated.

Regulation 11 and Schedule 1 provide for (i) the criteria to be met by farmers in respect of agricultural areas maintained in a state suitable for grazing or cultivation and (ii) the minimum activity to be carried out in respect of agricultural areas naturally kept in a state suitable for grazing or cultivation.

Regulation 12 also specifies the detail of two of the readmission tests which are applied to rebut the presumption that certain business or activities are automatically not entitled to receive direct payments.

Regulation 13 sets the level of the reduction coefficient to be applied to eligible hectares for areas with difficult climate conditions at 10 per cent.

Regulation 14 provides, for the purpose of determining the initial unit value of entitlements, that in the case of (i) termination of a short limited duration tenancy or a limited duration tenancy; (ii) non-renewal of a lease for grazing or mowing, or (iii) sale of land, where the reduction in the eligible agricultural area is greater than 40 per cent, any increase in the value of payment entitlements will revert to the national reserve.

Regulation 15 describes the circumstances where farmers may apply to the national reserve because they have suffered a specific disadvantage.

Regulations 16 to 18 make provision relating to the “greening” component of direct payments, linking payments to agricultural practices beneficial for the climate and environment.

Regulation 16 sets out the period to be taken into account for the purposes of determining whether crop diversification requirements have been met.

Regulation 17 provides for the designation of permanent grasslands which are environmentally sensitive.

Changes to legislation: *There are currently no known outstanding effects for the The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015. (See end of Document for details)*

Regulation 18 and Schedule 2 set out the areas which are to be ecological focus areas (“EFAs”) and details as to the scope of the EFAs relating to land lying fallow, landscape features, buffer strips, areas with catch crops or green cover and areas with nitrogen-fixing crops.

Regulation 19 provides for powers of entry of an authorised person and the power to carry out certain actions on the land entered for the purpose of enforcing these Regulations or any of the associated EU Regulations. An authorised person entering premises under these Regulations may be accompanied by such other person as the authorised person considers necessary or any representative of the European Commission. The person accompanying the authorised person may also exercise some of the powers of the authorised person.

Regulation 20 provides for an authorised person (or a person accompanying an authorised person) to request assistance of a farmer or any employee, agent, contractor or tenant of a farmer so as to enable to exercise of the powers in regulation 20.

Regulation 21 specifies criminal offences and penalties for obstructing an authorised person, failing to provide assistance and supplying to an authorised person false or misleading information.

Regulation 22 provides for offences by bodies corporate, Scottish partnerships and unincorporated associations.

Regulation 23 provides that any repayment due from farmers is recoverable as a debt and regulation 24 provides for the rate of interest on that repayment. Regulation 25 allows any payments due to the Scottish Ministers under regulation 23 to be set off against any amount due to the farmer under these Regulations or the European Regulations.

Regulation 26 makes consequential amendments to the Rural Payments (Appeals) (Scotland) Regulations 2009 (which provide for the review and appeal of certain decisions) so that decisions of the Scottish Ministers made in relation to the national reserve to allocate or top up entitlements can be subject to review by the Scottish Ministers and appealed to the Scottish Land Court.

Regulation 27 amends the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014.

Regulation 28 revokes the Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2011 (the 2011 Regulations) and the Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Amendment Regulations 2013, subject to savings. The 2011 Regulations will continue to apply in respect of a single application (within the meaning of those Regulations) and an application for payment under the Scottish Beef Scheme.

Copies of guidance issued by the Scottish Ministers in relation direct payments will be made available at www.ruralpayments.org.

A business and regulatory impact assessment is being prepared for these Regulations and will be placed in the Scottish Parliament Information Centre. Copies may be obtained from the Directorate for Agriculture, Food and Rural Communities.

Changes to legislation:

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