

**2017 No. 98**

**AGRICULTURE**

**The Common Agricultural Policy (Direct Payments etc.)  
(Scotland) Amendment Regulations 2017**

<i>Made</i>	- - - -	<i>28th March 2017</i>
<i>Laid before the Scottish Parliament</i>		<i>30th March 2017</i>
<i>Coming into force</i>	- -	<i>15th May 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Common Agricultural Policy (Direct Payments etc.) (Scotland) Amendment Regulations 2017 and come into force on 15th May 2017.

(2) In these Regulations—

“area-determined” has the same meaning as in regulation 14(4) of the 2015 Regulations;

“single application” has the same meaning as in regulation 2(1) of the 2015 Regulations; and

“the 2015 Regulations” means the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015(b).

**Amendment to the 2015 Regulations**

2. The 2015 Regulations are amended in accordance with regulations 3 to 5.

3. In regulation 14 (windfall profit)—

(a) in paragraph (1), for “any increase” substitute “an above-threshold increase”; and

(b) in paragraph (4), before the definition of “area-determined”, insert—

““above-threshold increase” means an increase attributable to the portion of the reduction in the area-determined exceeding 40 per cent;”.

4. In part 1 of schedule 3 (voluntary coupled support – bovine animals), in paragraph 3 (eligible bovine animal)—

(a) after sub-paragraph (b) omit “and”;

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(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2015/58, as amended by S.S.I. 2015/194, S.S.I. 2015/215, S.S.I. 2016/104 and S.S.I. 2016/178.

(b) for sub-paragraph (c) substitute—

- “(c) which is reared for the production of beef as part of a suckler beef herd; and
- (d) in respect of which the following requirements of the Cattle Identification Regulations have been complied with—
  - (i) regulation 5 and schedule 1 (ear tags);
  - (ii) regulation 6 and paragraph 2 of schedule 2 (notification of movement);
  - (iii) regulation 7 and schedule 3 (cattle passports etc.); and
  - (iv) regulation 8 and schedule 4 (records).”.

5. In schedule 4 (ineligible breeds – bovine animals), omit the following entries—

- “Blue Albion”;
- “Blue Albion Cross”;
- “Fleckvieh”;
- “Fleckvieh Cross”;
- “Swedish Red Polled”; and
- “Water Buffalo”.

#### **Transitional Provision**

6. The amendments to regulation 14 of the 2015 Regulations made by regulation 3 have effect only where the Scottish Ministers have not made a final determination of the area-determined in respect of a single application before the day on which these Regulations come into force.

*FERGUS EWING*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
28th March 2017

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 (“the principal Regulations”), which make provision in Scotland for the administration of Regulation (EU) No 1307/2013 (OJ L 347, 20.12.2013, p.608) (“the Direct Payments Regulation”), and other associated EU regulations as referred to in regulation 2(1) of the principal Regulations.

Regulation 3 amends regulation 14 of the principal Regulations to make it clear that only part of the increase in the value of payment entitlements reverts to the national reserve. The part which reverts is that which is attributable to the reduction as mentioned in paragraph (3) to the extent that such a reduction exceeds 40 per cent of the area-determined.

Regulations 4 and 5 amend schedules 3 and 4 respectively of the principal Regulations in respect of voluntary coupled support for bovine animals, in respect of what is an eligible bovine animal for the purposes of that support.

Regulation 4 amends paragraph 3 of part 1 of schedule 3 of the principal Regulations to provide that a bovine animal must be reared for the production of beef as part of a suckler herd and to extend the applicable requirements of the Cattle Identification (Scotland) Regulations 2007 (“the 2007 Regulations”) which must be complied with, to include those in relation to ear-tagging as mentioned in regulation 5 and schedule 1 to the 2007 Regulations. The latter is a requirement of Article 53(4) of Commission Delegated Regulation (EU) No 639/2014 (OJ L 181, 20.6.2014, p.1).

Regulation 5 amends the list of ineligible breeds in schedule 4 of the principal Regulations to remove six breeds of bovine animal, making them eligible for voluntary coupled support but only to the extent that they meet the requirement that they are reared for the production of beef as part of a suckler herd.

Regulation 6 provides that regulation 3 applies only where the Scottish Ministers have not made a final determination of the area-determined in respect of a single application before the day on which these Regulations come into force.

No Business and Regulatory Impact Assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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