

POLICY NOTE

THE COMMON AGRICULTURAL POLICY (DIRECT PAYMENTS ETC.) (SCOTLAND) AMENDMENT REGULATIONS 2017

SSI 2017/98

Introduction

1. The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure. It was made on 28 March 2017, laid before the Scottish Parliament on 30 March 2017 and will come into force on 15 May 2017.

Background

2. The Agriculture Council and the European Parliament reached a political agreement about the reform of the CAP in June 2013. A new direct payments system for farmers replaced the Single Farm Payment Scheme (SFPS) from 1st January 2015 through a revised legislative framework. The new CAP is set out in European Regulations in a series of basic acts:

- Regulation (EU) No 1306/2013 of the European Parliament and of the Council;
- Regulation (EU) No 1307/2013 of the European Parliament and of the Council (the Direct Payments Regulation);
- Regulation (EU) No 1305/2013 of the European Parliament and of the Council;

3. There are also a number of Commission delegated and implementing Regulations supplementing these basic acts. Certain provisions of this European regulatory framework are directly applicable but it also affords some discretion to Member States to adapt some of the arrangements for the implementation of the schemes to their own particular circumstances. As agriculture is a devolved matter and in light of the public engagement undertaken, the Scottish Ministers have already made certain decisions about how the direct payments regime will be implemented and these were given effect through the Common

Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 (S.S.I. 2015/58) (“the principal Regulations”), as amended. This Instrument further amends the principal Regulations.

4. This amending Instrument amends regulation 14, and schedules 3 and 4, of the principal Regulations in respect of the operation of the windfall profit and voluntary coupled support, respectively.

Outline of Changes to the Direct Payment Scheme: windfall profit

6. The amendments to regulation 14 (windfall profit) of the principal Regulations made by regulation 3 of this Instrument are required to make it clear that only part of the increase in the value of payment entitlements attributable to a reduction in a farmer’s area-determined reverts to the national reserve. “Area-determined” is defined as the area determined by the Scottish Ministers as meeting the eligibility criteria applicable to the schemes mentioned in paragraph (3) of regulation 14 of the Principal Regulations. The part of the increase in the value of payment entitlements which reverts to the national reserve is that which is attributable to a reduction of the area-determined in excess of 40%.

7. 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.

Outline of Changes to the Voluntary Coupled Support

8. The amendments made by regulation 4 of this Instrument to paragraph 3 of part 1 of schedule 3 of the principal Regulations provide that a bovine animal must be reared for the production of beef as part of a suckler herd and extend the applicable requirements of the cattle Identification (Scotland) Regulations 2017 (“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.

9. Regulation 5 amends the list of ineligible breeds in schedule 4 of the principal Regulations to remove six breeds of bovine animal (namely dual breed cattle and water buffalo), 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.

Effect of Instrument

10. The Scottish Government has brought forward this secondary legislation to implement appropriate scheme criteria in Scotland.

Impact Assessments

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

12. In terms of the assessment of the impact of the implementation of the reformed CAP in Scotland, on people with 'protected characteristics' (age, disability, sex, gender reassignment, race, religion or belief, sexual orientation) an Equality Impact Assessment was undertaken in 2015 and the findings are still acceptable in full. A copy can be accessed using the following link:-

<http://www.scotland.gov.uk/Topics/People/Equality/18507/EqualityImpactAssessmentSearch>

Financial Effects

13. The Schemes covered by this instrument will contribute to enabling the Scottish Ministers to pay around £450 million per annum.

Scottish Government Rural Payments and Inspections Division

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