

2022 No. 107

AGRICULTURE

**The Rural Support (Controls) (Coronavirus) (Scotland)
Regulations 2022**

Made - - - - *22nd March 2022*

Laid before the Scottish Parliament *24th March 2022*

Coming into force - - *19th May 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by Article 62(2)(a) and (b) of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council of 13 December 2013 on the financing, management and monitoring of the common agricultural policy(a), section 2 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020(b), and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Rural Support (Controls) (Coronavirus) (Scotland) Regulations 2022 and come into force on 19 May 2022.

Amendment of the Horizontal Regulation

2.—(1) Regulation (EU) No. 1306/2013(c) is amended as follows.

(2) In Article 75 for paragraph 2 substitute—

“Payments referred to in paragraph 1 may be made after the administrative checks referred to in Article 74 have been finalised.”.

(a) EUR 2013/1306 (“the Horizontal Regulation”).

(b) 2020 asp 17.

(c) EUR 2013/1306 (“the Horizontal Regulation”) was incorporated into domestic law on exit day by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2), insofar as it relates to direct payment support. Insofar as it relates to agricultural support, the Horizontal Regulation was incorporated into domestic law on IP completion day by section 3 of the European Union (Withdrawal) Act 2018 (c. 16). The Horizontal Regulation was relevantly amended in relation to direct payment support by S.I. 2020/90 and in relation to agricultural support by S.I. 2019/748, S.I. 2019/763 and S.S.I. 2021/72. Regulation 2 of S.I. 2020/1445 makes further provision in respect of the effect of the Horizontal Regulation on IP completion day. The term “appropriate authority” in relation to Scotland means the Scottish Ministers as per Article 2(1)(m), as read with Article 2(1)(k) of the Horizontal Regulation. Due to a drafting error in S.I. 2020/1445 the definition of “appropriate authority” in Article 2(1)(m) was not inserted into the Horizontal Regulation, insofar as it relates to agricultural support, on IP completion day. This error was corrected and the definition later inserted by S.I. 2022/190.

Amendment of Commission Implementing Regulation (EU) No. 809/2014

3.—(1) Commission Implementing Regulation (EU) No. 809/2014**(a)** is amended in accordance with paragraphs (2) to (7).

(2) In Article 24(4), for the sub-paragraph beginning “By way of derogation from the first-sub-paragraph” substitute—

“By way of derogation from the first sub-paragraph, no physical inspection is required in respect of claim year 2020 for on-the-spot checks related to direct payment support and in respect of claim year 2021 for on-the-spot checks related to direct payment support and support for rural development. The competent authority will draw a definitive conclusion from the use of photo-interpretation of satellite or aerial ortho-images or other relevant evidence including such evidence provided by the beneficiary at the request of the competent authority.”.

(3) In Article 26(4), for the sub-paragraph beginning “In respect of claim year 2020” substitute—

“In respect of claim year 2020 for on-the-spot checks related to direct payment support and in respect of claim year 2021 for on-the-spot checks related to direct payment support and support for rural development, the requirement for additional visits under this paragraph may be met by the use of new technologies or other relevant evidence.”.

(4) In Article 33(1), at the end insert as a new sub-paragraph—

“By way of derogation from the first sub-paragraph, the control sample for the on-the-spot checks in respect of claim years 2020 and 2021 must cover at least 1% of all beneficiaries applying for that respective aid scheme. By way of derogation from the second-subparagraph, the control sample selected shall cover at least 1% of all animals for which aid is applied for per aid scheme.”.

(5) In Article 49(1), at the end insert as a new sub-paragraph—

“By way of derogation from the first sub-paragraph, no physical inspection is required for the on-the-spot checks related to claim year 2021. The competent authority will draw a definitive conclusion from the use of photo-interpretation of satellite or aerial ortho-images or other relevant evidence including such evidence provided by the beneficiary at the request of the competent authority.”.

(6) In Article 52(2), at the end insert as a new sub-paragraph—

“By way of derogation from the first sub-paragraph, the control rate for ex-post checks shall be at least 0.6 % in calendar year 2021. In calendar year 2021, no physical inspection is required for ex-post checks. The competent authority will draw a definitive conclusion from the use of photo-interpretation of satellite or aerial ortho-images or other relevant evidence including such evidence provided by the beneficiary at the request of the competent authority.”.

(7) In Article 68—

(a) in paragraph 1—

(i) after “receiving direct payment support.” insert “For the purposes of on-the-spot checks in respect of claim year 2021, this sub-paragraph applies as if for “1%” there were substituted “0.5%””,

(ii) for “claim year 2020” substitute “claim years 2020 and 2021”,

(a) EUR 2014/809. This Regulation was incorporated into domestic law on exit day by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, insofar as it relates to direct payment support. Insofar as it relates to agricultural support, this Regulation was incorporated into domestic law on IP completion day by section 3 of the European Union (Withdrawal) Act 2018. The Regulation was relevantly amended, in relation to direct payment support, by S.I. 2020/90, S.S.I. 2020/244, S.S.I. 2020/349 and S.S.I. 2020/460. The Regulation was relevantly amended, in relation to agricultural support, by S.I. 2019/765 and S.S.I. 2020/349.

- (iii) after “Title III shall apply.” insert “This sub-paragraph does not apply in respect of claim years 2021 and 2022.”,
- (b) omit paragraph 4.

St Andrew’s House,
Edinburgh
22nd March 2022

MAIRI GOUGEON
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (“the Horizontal Regulation”) and Commission Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance. These Regulations make changes to inspection requirements and reduce control rates for rural support schemes in Scotland to address the effects of the coronavirus pandemic. They also simplify and improve the retained EU law relating to rural support schemes to make permanent some temporary changes that have proved beneficial.

Regulation 2 simplifies and improves the retained EU law relating to the operation of rural support schemes by allowing for payments to be made for direct payment support and the support for rural development specified in Article 67(2) of the Horizontal Regulation after completion of all administrative checks.

Regulations 3(2), (3) and (5) allow for physical checks to be replaced by other forms of evidence, including new technologies for inspections related to direct payments and rural development schemes for claim year 2021. Regulations 3(2) and (3) also consolidate the text on these derogations for claim years 2020 and 2021. The terms ‘direct payment support’ and ‘support for rural development’ used in regulations 3(2) and (3) are defined in Article 2 of the Horizontal Regulation.

Regulation 3(4) reduces the control rate for inspections related to animal aid schemes to 1% for claim years 2020 and 2021.

Regulation 3(6) reduces the control rate for ex-post checks, in calendar year 2021, to at least 0.6% and allows for physical checks to be replaced by other forms of evidence, including new technologies, for inspections related to investment operations.

Regulation 3(7) reduces, for claim year 2021, the cross compliance control rate to 0.5%, derogates, for claim years 2021 and 2022, from the requirement to substitute the control rate for certain cross compliance acts and standards from 1% to a higher rate, if such a rate is set out in separate legislation applicable to that specific act or standard. Regulation 3(7) also simplifies and improves the retained EU law on rural support schemes by removing the obligation to automatically increase the cross compliance inspection rate in the year following any significant non-compliance.

A Business and Regulatory Impact Assessment has been prepared. Copies may be obtained online at www.legislation.gov.uk.

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