

2004 No. 3324 (S.13)

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

**The Scotland Act 1998 (Functions Exercisable in or as Regards
Scotland) Order 2004**

Made - - - - 16th December 2004

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been—

- (a) laid before and approved by a resolution of each House of Parliament; and
- (b) laid before and approved by a resolution of the Scottish Parliament;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 30(3) of the Scotland Act 1998^(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 2004 and shall come into force immediately before 1st January 2005.

(2) In this Order—

“the Council Regulation” means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No. 2019/93, (EC) No. 1452/2001, (EC) No. 1453/2001, (EC) No. 1454/2001, (EC) 1868/94, (EC) No. 1251/1999, (EC) No. 1254/1999, (EC) No. 1673/2000, (EEC) No. 2358/71 and (EC) No. 2529/2001^(b);

“Scottish farmer” means a farmer whose holding is situated wholly or partly in Scotland and “farmer” and “holding” shall have the same meaning as in Article 2 of the Council Regulation; and

^(a) 1998 c.46.

^(b) O.J. No. L 270, 21.10.2003, p.1, as last amended by Council Regulation (EC) 864/2004 (O.J. No. L 206, 9.6.04, p.20).

“specified function under Community law” means any function related to the implementation of any legislative instrument of the European Community adopted in pursuance of its common agricultural policy, which applies in relation to an agricultural activity by reference to a holding; and “agricultural activity” shall have the same meaning as in Article 2 of the Council Regulation.

Agriculture

2. So far as a specified function under Community law, or a function to which section 53(2)(a) of the Scotland Act 1998 applies, is exercisable in relation to a Scottish farmer it shall be treated for all purposes of that Act as exercisable in or as regards Scotland.

A.K.Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision under section 30(3) of the Scotland Act 1998. It concerns functions related to the implementation of a common agricultural policy legislative instrument of the European Community, which apply to an agricultural activity by reference to a holding, and prerogative and other executive functions under section 53(2)(a) of that Act. It provides that, so far as exercisable in relation to a farmer, defined for these purposes as one whose holding within the United Kingdom is situated wholly or partly within Scotland (“a Scottish farmer”), the relevant functions should be treated for the purposes of that Act as being functions which are exercisable in or as regards Scotland.

The relevant functions relate to Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No. 2019/93, (EC) No. 1452/2001, (EC) No. 1453/2001, (EC) No. 1454/2001, (EC) 1868/94, (EC) No. 1251/1999, (EC) No. 1254/1999, (EC) No. 1673/2000, (EEC) No. 2358/71 and (EC) No. 2529/2001 (“the Council Regulation”).

This Order makes clear the powers of the Scottish Parliament and the Scottish Ministers under the Council Regulation in relation to a Scottish farmer as a consequence of the reform of the common agricultural policy of the European Community.

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