

**2004 No. 278**

**AGRICULTURE**

**The Common Agricultural Policy Non-IACS Support Schemes  
(Appeals) (Scotland) Regulations 2004**

<i>Made</i> - - - -	<i>9th June 2004</i>
<i>Laid before the Scottish Parliament</i>	<i>10th June 2004</i>
<i>Coming into force</i> - -	<i>3rd July 2004</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004 and come into force on 3rd July 2004.

**Interpretation**

2.—(1) In these Regulations—

“applicant” means the person to whom a decision referred to in regulation 3 below is directed; and

“date of notification of the decision” means the date of the letter from the Scottish Ministers to the applicant notifying the applicant of the decision which the applicant is seeking to have reviewed.

(2) Any reference in these Regulations to a person to whom a decision is directed, an applicant for review or a person appealing to the Scottish Land Court includes a reference to any successor, executor, trustee in bankruptcy, receiver or liquidator of such a person or applicant.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

**Application**

3.—(1) These Regulations apply in relation to decisions by the Scottish Ministers in respect of the administration of any of the Schemes listed in the Schedule, and directed to applicants whose principal trading address was in Scotland at the date of the decision to be reviewed.

(2) Any such decision may be reviewed, and any decision on a review may be appealed, in accordance with the following provisions of these Regulations.

---

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act (c.46), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown by section 2(2) were transferred, so far as within devolved competence, to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

### **First stage review of decisions**

4.—(1) An application may be made no later than 6 months from the date of notification of the decision to be reviewed, to the Scottish Ministers for a review of that decision.

- (2) An application for review must be in writing and specify—
- (a) the name and address of the applicant, and where that person is not the person named in the decision the basis upon which that person is seeking review;
  - (b) the subsidy scheme in relation to which the review is sought;
  - (c) the decision of the Scottish Ministers which is to be reviewed and its date;
  - (d) full details of the grounds upon which review is sought; and
  - (e) the change sought to the decision.

(3) An application made under this regulation, or under regulation 7, may be made by fax or other means of electronic communication which is capable of reproduction.

(4) An application under this regulation, or under regulation 7, is to be treated as made if it is received by the Scottish Ministers, at the address specified by them for receipt of such applications.

(5) In relation to decisions amenable to review made on or after 1st April 2004 but before 3rd July 2004 an application may be made no later than 3rd January 2005 and any such application for review must satisfy the conditions of paragraph (2) above.

### **Procedure at first stage review**

5.—(1) Where an application is made under regulation 4 above, the Scottish Ministers shall review the decision which is specified in it.

- (2) In reviewing a decision the Scottish Ministers may—
- (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision);
  - (b) invite the applicant to provide such further information relevant to the review as they consider appropriate; and
  - (c) give the applicant an opportunity to give evidence and to make representations in person or through a representative.

### **Decision following first stage review**

6.—(1) Following review of a decision in accordance with regulation 5 above the Scottish Ministers may—

- (a) confirm their decision;
- (b) amend or alter their decision in any respect which they consider appropriate; or
- (c) revoke their decision in its entirety and substitute a new decision.

(2) The Scottish Ministers must give their decision under paragraph (1) above in writing, setting out the facts upon which their decision is based and the reasons for their decision.

(3) The Scottish Ministers must, in the case of a decision which does not provide any remedy specified by the applicant in accordance with regulation 4(2)(e) above, offer the applicant an opportunity to have their decision under this regulation reviewed by persons appointed by them and must in such a case advise the applicant of the right of a second stage review provided by regulation 7(1) below.

## **Second stage review by persons appointed**

7.—(1) An applicant to whom regulation 6(3) above applies may, no later than 60 days following the date of notification of the decision under regulation 6 above, make an application in writing to the Scottish Ministers to have that decision reviewed by persons appointed by the Scottish Ministers.

(2) Where the decision to be reviewed is a decision of a kind referred to in regulation 6(1)(b) or (c) above the applicant may supplement the original application made by the applicant under regulation 4(2) above as the nature of that decision may require.

(3) A fee of £100 is payable for all applications for review under this regulation.

(4) The fee referred to in paragraph (3) above is payable to Scottish Ministers and recoverable by them, in the event of default, as a debt.

## **Power of persons appointed**

8.—(1) Where an application is made under regulation 7 above, the Scottish Ministers shall appoint such persons (who may include a member of the staff of the Scottish Ministers) as they consider appropriate to review the decision and the Scottish Ministers shall provide those persons with a copy of—

- (a) the application;
- (b) the decision under regulation 6 above; and
- (c) any document or note of evidence produced or taken in relation to a review under regulation 6 above.

(2) The persons appointed under this regulation shall review the decision and may—

- (a) consider any document or other evidence produced by the applicant or the Scottish Ministers (whether or not that document or evidence was available at the time of taking the decision under regulation 6 above);
- (b) invite the applicant and the Scottish Ministers to provide such further information relevant to the review as the persons appointed consider appropriate; and
- (c) at the applicant's request, invite the applicant and the Scottish Ministers to give evidence and to make representations, to the persons appointed under this regulation, in person or through a representative.

(3) Following their review of the matter the persons appointed shall report—

- (a) their findings in fact and law on the matter; and
- (b) their recommendations as to the determination of the application, to the Scottish Ministers.

(4) Having considered the matters reported to them under paragraph (3) above, the Scottish Ministers may—

- (a) confirm their decision;
- (b) amend or alter their decision in any respect which they consider appropriate; or
- (c) revoke their decision in its entirety and substitute a new decision.

(5) In coming to their decision in accordance with paragraph (4) above, the Scottish Ministers must have regard to the findings and recommendations reported to them by the persons appointed under this regulation but are not bound to follow all or any part of such findings or recommendations.

(6) The Scottish Ministers must give their decision under this regulation in writing and where they do not adopt the findings and recommendations reported to them shall set out—

- (a) the relevant facts upon which their decision is based;
- (b) the reasons for their decision;

- (c) their reasons for not following in whole or in part the findings or recommendations of the persons appointed; and
- (d) the effect of their decision on the payment or non-payment of subsidy.

(7) Where the Scottish Ministers decide in accordance with paragraph (4)(b) or (c) above, the fee referred to in regulation 7(3) above must be refunded to the applicant.

(8) The Scottish Ministers may make such payment, by way of fee or reimbursement of expenses, to any of such persons appointed under paragraph (1) above, as appears to them to be appropriate.

### **Notification of decisions**

**9.—**(1) A decision under regulations 6 and 8 above must be notified to the applicant as soon as practicable after it is made by recorded delivery post to the address shown on the application for review.

(2) In the case of a decision under regulation 8, the findings and recommendations of the persons appointed (along with intimation of the right of appeal under regulation 10(1) below) shall be notified along with the decision.

### **Appeal to the Scottish Land Court**

**10.—**(1) Where an applicant is dissatisfied by a decision under regulation 8 above, that applicant may make an appeal against that decision on any issue of fact or law to the Scottish Land Court, in accordance with the following provisions.

(2) An appeal may be made no later than 60 days following the date of notification of the decision under regulation 8.

(3) An appeal shall be in such form as may be prescribed from time to time by the Rules of the Scottish Land Court.

(4) An appeal shall specify—

- (a) what finding of fact, if any, is sought in substitution for any of the findings set out in the decision;
- (b) what, if any, additional finding of fact is sought;
- (c) the documents or witnesses to be relied on in relation to the matters set out in sub-paragraphs (a) and (b) above;
- (d) the findings or propositions of law contained in the decision which are to be challenged;
- (e) the propositions of law relied on in support of the appeal; and
- (f) the legislative provisions and judicial authorities to be referred to in relation to the appeal.

### **Procedure in the Scottish Land Court**

**11.—**(1) The Scottish Land Court may hear evidence or submissions on matters of fact or law not specified in accordance with regulation 10 above on such terms and conditions as to expenses or otherwise as it considers appropriate but shall not do so in respect of any matter referred to in regulation 10(4)(a) to (c) above unless it is satisfied that there are special circumstances to justify doing so.

(2) The Chairman of the Scottish Land Court may make appropriate arrangements for the hearing of appeals under these Regulations.

(3) The arrangements referred to in paragraph (2) above shall include the delegation, to the Chairman or any member of the Court, of the power to determine the whole or any part of an appeal.

- (4) In determining an appeal, the Scottish Land Court may–
- (a) confirm the decision of the Scottish Ministers under regulation 8 above;
  - (b) amend or alter that decision in any respect which it considers appropriate; or
  - (c) substitute for that decision any decision which it considers appropriate, and any such determination of the Scottish Land Court is, subject to any case stated in accordance with section 1(7) of the Scottish Land Court Act 1993(a), binding upon the Scottish Ministers and the applicant.

**Reimbursement of fee following successful appeal**

**12.** In the event that, as a result of an appeal under regulation 10 above, the Scottish Land Court determines in accordance with regulation 11(4)(b) or (c) above, the Scottish Ministers must reimburse the fee paid in accordance with regulation 7(3) above.

St Andrew's House,  
Edinburgh  
9th June 2004

*ROSS FINNIE*  
A member of the Scottish Executive

---

(a) 1993 c.45.

## SCHEDULE

Regulation 3

### Schemes in respect of which decisions are amenable to review and appeal

<i>Scheme</i>	<i>Council Regulation establishing the Scheme</i>
<b>GENERAL</b>	
Aid for Concentrated Grape Must	(EC) No. 1493/1999(a) on the common organisation of the market in wine (Article 34))
Aid for Dehydrated Fodder	(EC) No. 1786/2003(b) on the common organisation of the market in dried fodder
Apple Consumption Aid	(EC) No. 2826/2000(c) on information and promotion actions for agricultural products on the internal market
Beef Information Programme	(EC) No. 2826/2000(d) on information and promotion actions for agricultural products on the internal market (Articles 1 and 2)
Butter for Manufacture	(EC) No. 1255/1999(e) on the common organisation of the market in milk and milk products (Article 13(1)(c) - (d))
Butter for Non-Profit Making Organisations	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Article 13(1)(a))
Control of Casein in Cheese Making	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Article 12) (EEC) No. 2204/90(f) laying down additional general rules on the common organisation of the market in milk and milk products as regards cheese.
Casein Production Subsidy	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Article 12)
Citrus Processing Aid	(EC) No. 2202/96(g) introducing a Community aid scheme for producers of certain citrus fruits (Article 1)
Concentrated Butter for Direct Consumption	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Article 13(1)(e))
End Use Control of Certain Fruit and Vegetables	(EC) No. 2202/96 introducing a Community aid scheme for producers of certain citrus fruits (Article 30)

- (a) O.J. No. L 179, 14.7.99, p.1, amended by Commission Regulation (EC) No. 1622/2000, O.J. No. L 194, 31.7.00, p.1, Commission Regulation (EC) No. 885/2001, O.J. No. L 128, 10.5.01, p.54, Council Regulation (EC) No. 2826/2000, O.J. No. L 328, 23.12.00, p.2, Council Regulation (EC) No. 2585/2001, O.J. No. L 345, 29.12.01, p.10, Council Regulation (EC) No. 806/2003, O.J. No. L 122, 16.5.03, p.1, Commission Regulation (EC) 1795/2003, O.J. No. L 262, 14.10.03, p.13, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.
- (b) O.J. No. L 270, 21.10.03, p.114, amended by Council Regulation (EC) No. 583/2004, O.J. No. L 91, 30.03.04, p.1.
- (c) O.J. No. L 328, 23.12.00, p.2.
- (d) O.J. No. L 328, 23.12.00, p.2.
- (e) O.J. No. L 160, 26.6.99, p.48, amended by Council Regulation (EC) No. 1040/2000, O.J. No. L 118, 19.5.00, p.1, Commission Regulation (EC) No. 1526/2000, O.J. No. L 175, 14.7.00, p.55, Council Regulation (EC) No. 1670/2000, O.J. No. L 193, 29.7.00, p.10, Commission Regulation (EC) No. 509/2002, O.J. No. L 79, 22.3.02, p.15, Council Regulation (EC) 806/2003, O.J. No. L 122, 16.5.03, p.1, Council Regulation (EC) 1787/2003, O.J. No. L 270, 21.10.03, p.121, Commission Regulation (EC) No. 186/2004, O.J. No. L 29, 3.2.04, p.6, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.
- (f) O.J. No. L 201, 31.7.90, p.7, amended by Council Regulation (EC) No. 2583/2001, O.J. No. L 345, 29.12.01, p.6.
- (g) O.J. No. L 297, 21.11.96, p.49, amended by Council Regulation (EC) No. 858/1999, O.J. No. L 108, 27.4.99, p.8, Council Regulation (EC) No. 2699/2000, O.J. No. L 311, 12.12.00, p.9, Commission Regulation (EC) No. 1931/2001, O.J. No. L 262, 2.10.01, p.4, Commission Regulation (EC) No. 1933/2001, O.J. L 262, 2.10.01, p.6, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.

<i>Scheme</i>	<i>Council Regulation establishing the Scheme</i>
Fibres Processing Aid	(EC) No. 1673/2000(a) on the common organisation of the markets in flax and hemp grown for fibre
Fish Carry-Over Aid	(EC) No. 104/2000(b) on the common organisation of the markets in fishery and aquaculture products (Article 23)
Fish Flat-Rate Aid	(EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products (Article 24)
Fish Flat-Rate Premium	(EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products (Article 24)
Fish Private Storage Aid	(EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products (Article 25)
Fish Withdrawals Compensation	(EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products (Article 21)
Fresh Fruit and Vegetables Withdrawals	(EC) No. 2200/96(c) on the common organisation of the market in fruit and vegetables (Articles 23 and 24)
Fruit and Vegetable Operational Programme	(EC) No. 2200/96 on the common organisation of the market in fruit and vegetables (Articles 15 and 16)
Fruit and Vegetable Producer Organisation Recognition	(EC) No. 2200/96 on the common organisation of the market in fruit and vegetables (Articles 11 - 14)
Grape Juice Aid	(EC) No. 1493/1999 on the common organisation of the market in wine (Article 35)

- 
- (a) O.J. No. L 193, 29.7.00, p.16, amended by Commission Regulation (EC) No. 651/2002, O.J. No. L 101, 17.4.02, p.3, Council Regulation (EC) No. 393/2004, O.J. No. L 65, 3.3.04, p.4, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.
- (b) O.J. No. L 17, 21.1.00, p.22, amended by the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.
- (c) O.J. No. L 297, 21.11.96, p.1, amended by Commission Regulation (EC) No. 2520/97, O.J. No. L 346, 17.12.97, p.41, Council Regulation (EC) No. 857/1999, O.J. No. L 108, 27.4.99, p.7, Council Regulation 1257/1999, O.J. No. L 160, 26.6.99, p.80, Council Regulation No. 2699/2000, O.J. No. L 311, 12.12.00, p.9, Council Regulation (EC) 2826/2000, O.J. No. L 328, 23.12.00, p.2, Commission Regulation (EC) No. 718/2001, O.J. No. L 100, 11.4.01, p.12, Commission Regulation (EC) 911/2001, O.J. No. L 129, 11.5.01, p.3, Council Regulation 545/2002, O.J. No. L 84, 28.3.02, p.1, Council Regulation (EC) No. 1881/2002, O.J. No. L 285, 23.10.02, p.13, Commission Regulation (EC) No. 47/2003 O.J. No. L 7, 11.1.03, p.64, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.

<i>Scheme</i>	<i>Council Regulation establishing the Scheme</i>
Herbage Seed Production Aid	(EEC) No. 2358/71(a) of the Council on the common organisation of the market in seeds (Article 1)  (EEC) No. 1674/72(b) of the Council laying down general rules for granting and financing aid for seed (Article 1)
Milk Quotas Scheme	(EC) No. 1788/2003(c) establishing a levy in the milk and milk products sector
Over Thirty Month Scheme	(EC) No. 1254/1999(d) on the common organisation of the market in beef and veal (Article 39)
Promotions to Internal Market	(EC) No. 2826/2000(e) on information and promotion actions for agricultural products on the internal market (Article 1)
Promotions to Third Countries	(EC) No. 2702/1999(f) on measures to provide information on, and to promote, agricultural products in third countries
School Milk Scheme	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Article 14)
Selective Cull Scheme	(EC) No. 1254/1999(g) on the common organisation of the market in beef and veal (Article 39)
Skimmed Milk Powder for Animal Feed	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Article 11)
Starch for Prescribed End Users	(EC) No. 1784/2003(h) on the common organisation of the market in cereals (Article 8)
<b>INTERVENTION SCHEMES</b>	
Beef	(EC) No. 1254/1999 on the common organisation of the market in beef and veal (Title I) as last amended by (EC) No. 1782/2003
Cereals	(EEC) No. 1784/2003 on the common organisation of the market in cereals (Articles 4 and 5)

- (a) OJ No. No. L 246, 5.11.71, p.1, amended by Regulation (EEC) No. 597/73 of the Council, O.J. No. L 57, 2.3.73, p.3, Regulation (EEC) No. 1014/73 of the Council, O.J. No. L 106, 20.4.73, p.1, Regulation (EEC) No. 1707/73 of the Council, O.J. No. L 175, 29.6.73, p.5, Regulation (EEC) 1119/74 of the Council, O.J. No. L 128, 10.5.74, p.3, Regulation (EEC) of the Council, O.J. No. L 72, 20.3.75, p.21, Council Regulation (EEC) No. 1167/77, O.J. No. L 137, 3.6.77, p.1, Council Regulation (EEC) 1346/78, O.J. No. L 165, 22.6.78, p.1, Council Regulation (EEC) No. 234/79, O.J. No. L 34, 9.2.79, p.2, Council Regulation 2878/79, O.J. No. L 325, 21.12.79, p.1, Council Regulation (EEC) No. 1968/80, O.J. No. L 192, 26.7.80, p.1, Council Regulation (EEC) No. 3808/81, O.J. No. L 382, 31.12.81, p.37, Council Regulation (EEC) No. 1581/83, O.J. No. L 163, 22.6.83, p.23, Council Regulation (EEC) No. 3768/85, O.J. No. L 362, 31.12.85, p.8, Council Regulation (EEC) 1355/86, O.J. No. L 118, 7.5.86, p.1, Commission Regulation (EEC) No. 3997/87, O.J. No. L 377, 31.12.87, p.37, Council Regulation (EEC) No. 1239/89, O.J. No. L 128, 11.5.89, p.35, Council Regulation (EEC) No. 1740/91, O.J. No. L 163, 26.6.91, p.39, Commission Regulation (EEC) No. 3695/92, O.J. No. L 374, 22.12.92, p.40, Commission Regulation (EC) No. 3375/93, O.J. No. L 303, 10.12.93, p.9, Council Regulation (EC) 3290/94, O.J. No. L 349, 31.12.94, p.105, Council Regulation (EC) No. 192/98, O.J. No. L 20, 27.1.98, p.16, Council Regulation (EC) No. 1405/1999, O.J. No. L 164, 30.6.99, p.17, Council Regulation No. 2371/2000, O.J. No. L 275, 27.10.00, p.1, Council Regulation No. 154/2002, O.J. No. L 25, 29.1.02, p.18, the Act of Accession of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, O.J. No. L 73, 27.3.72, p.14 adapted by Council Decision of 1st January 1973 O.J. No. L 2, 1.1.73, p.1, the Act of Accession of Greece, O.J. No. L 291, 19.11.79, p.17, and the Act of Accession of Austria, Sweden and Finland, O.J. C 241, 29.8.1994, p.21 adapted by Council Decision 95/1/EC, Euratom, ECSC, O.J. No. L 1, 1.1.1995, p.1.
- (b) O.J. No. L 177, 4.8.72, p.1, amended by Regulation (EEC) No. 597/73 of the Council, O.J. No. L 57, 2.3.73, p.3, Regulation (EEC) No. 1119/74 of the Council, O.J. No. L 128, 10.5.74, p.3, Council Regulation (EEC) No. 1969/80, O.J. No. L 192, 26.7.80, p.4, Council Regulation (EEC) No. 1659/81, O.J. No. L 166, 24.6.81, p.1, and Council Regulation (EEC) No. 3795/85, O.J. No. L 367, 31.12.85, p.21.
- (c) O.J. No. L 270, 21.10.03, p.123.
- (d) OJ No. L 160, 26.6.99, p.21, amended by Council Regulation (EC) No. 1455/2001, O.J. No. L 198, 21.7.01, p.58, Council Regulation (EC) No. 1512/2001, O.J. No. L 201, 26.7.01, p.1, Commission Regulation 2345/2001, O.J. No. L 315, 1.12.01, p.29, Council Regulation (EC) 806/2003, O.J. No. L 22, 16.5.03, p.1, Council Regulation (EC) No. 1782/2003, O.J. No. L 270, 21.10.03, p.1, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.
- (e) O.J. No. L 325, 23.12.00, p.2.
- (f) O.J. No. L 327, 21.12.99, p.7.
- (g) O.J. No. L 160, 26.6.99, p.21.
- (h) O.J. No. L 270, 21.10.03, p.78.



<i>Scheme</i>	<i>Council Regulation establishing the Scheme</i>
Dairy	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Chapter II)
PRIVATE STORAGE AID SCHEMES	
Beef	(EC) No. 1254/1999 on the common organisation of the market in beef and veal
Dairy	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Articles 9 and 10(b))
Pigmeat	(EEC) No. 2759/75(a) on the common organisation of the market in pigmeat
Sheepmeat/Goatmeat	(EC) No. 2529/2001(b) on the common organisation of the market in sheepmeat and goatmeat
SUGAR, OILS and STARCH	
Cane Sugar Refining	(EC) No. 1260/2001(c) on the common organisation of the markets in the sugar sector (Articles 35 and 38)
End Use Control of Certain Vegetable Oils	Regulation No. 136/66/EEC(d) of the Council on the establishment of a common organisation of the market in oils and fats (Title I)
Isoglucose Quotas and Production Levies	(EC) No. 1260/2001 on the common organisation of the markets in the sugar sector (Title I)
Olive Oil Production Aid	Regulation No. 136/66/EEC of the Council on the establishment of a common organisation of the market in oils and fats (Title II)
Production Refund on sugar used in the Chemical Industry	(EC) No. 1260/2001 on the common organisation of the markets in the sugar sector (Title I)
Starch Refunds – Cereals	(EEC) No. 1784/2003 on the common organisation of the market in cereals (Articles 13 - 18 )
Starch Refunds – Rice	(EC) No. 3072/95(e) on the common organisation of the market in rice (Article 7)
Sugar Quotas and Production Levies	(EC) No. 1260/2001 on the common organisation of the markets in the sugar sector (Title I)
EXTERNAL TRADE	
Bananas	(EEC) No. 404/93(f) on the common organisation of the market in bananas

- (a) O.J. No. L 282, 1.11.75, p.1, amended by Council Regulation (EEC) No. 367/76, O.J. No. L 45, 21.2.76, p.1, Council Regulation (EEC) No. 1423/78, O.J. No. L 171, 28.6.78, p.19, Commission Regulation (EEC) No. 2966/80, O.J. No. L 307, 18.11.80, p.5, Council Regulation (EEC) No. 3768/85, O.J. No. L 362, 31.12.85, p.8, Council Regulation (EEC) No. 1473/86, O.J. No. L 133, 21.5.86, p.36, Council Regulation (EEC) No. 1475/86, O.J. No. L 133, 21.5.86, p.39, Council Regulation (EEC) No. 3906/87, O.J. No. L 370, 30.12.87, p.11, Council Regulation (EEC) No. 1249/89, O.J. No. L 129, 11.5.89, p.12, Council Regulation (EC) No. 3290/94, O.J. No. L 349, 31.12.94, p.105, Council Regulation (EC) No. 1365/2000, O.J. No. L 156, 29.6.00, p.5, the Act of Accession of Greece, O.J. No. L 291, 19.11.79, p.17, as also amended by the Act of Accession of Austria, Sweden and Finland, O.J. C 241, 29.8.1994, p.21 adapted by Council Decision 95/1/EC, Euratom, ECSC, O.J. No. L 1, 1.1.95, p.1.
- (b) O.J. No. L 341, 22.12.01, p.3., amended by the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33, and Council Regulation (EC) No. 1782/2003, O.J. No. L 270, 21.10.03, p.1.
- (c) O.J. No. L 178, 30.6.01, p.1, amended by Commission Regulation (EC) No. 680/2002, O.J. No. L 104, 20.4.02, p.26, Commission Regulation (EC) No. 2196/2003, O.J. No. L 328, 17.12.03, p.17, Commission Regulation (EC) No. 39/2004, O.J. No. L 6, 10.1.04, p.16, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.
- (d) O.J. No. L 172, 30.9.66, p.3025 (O.J./SE 1965-66 p.221).
- (e) O.J. No. L 329, 30.12.95, p.18
- (f) O.J. No. L 47, 25.2.93, p.1, amended by Commission Regulation (EC) No. 3518/93, O.J. No. L 320, 22.12.93, p.15, Council Regulation (EC) No. 3290/94, O.J. No. L 349, 31.12.94, p.105, Council Regulation (EC) No. 1637/98, O.J. No. L 210, 28.7.98, p.28, Council Regulation (EC) No. 1257/1999, O.J. No. L 160, 26.6.99, p.80, Council Regulation (EC) No. 216/2001, O.J. No. L 31, 2.2.01, p.2, Council Regulation (EC) No. 2587/2001, O.J. No. L 345, 29.12.01, p.13, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.03, p.33.

<i>Scheme</i>	<i>Council Regulation establishing the Scheme</i>
Beef and Veal	(EC) No. 1254/1999 on the common organisation of the market in beef and veal (Article 1 and Title II)
Beef Import Tariff Quota	(EC) No. 1254/1999 on the common organisation of the market in beef and veal (Article 1 and Title II)
Cereals	(EEC) No. 1784/2003 on the common organisation of the market in cereals (Articles 9 - 22)
Eggs	(EEC) No. 2771/75(a) on the common organisation of the market in eggs
Ethyl Alcohol	(EC) No. 670/2003(b) laying down specific measures concerning the market in ethyl alcohol of agricultural origin (Article 4)
Fish	(EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products (Title V)
Floriculture (live plants and flowers)	(EEC) No. 234/68(c) on the establishment of a common organisation of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage
Fruit and Vegetables	(EC) No. 2200/96 on the common organisation of the market in fruit and vegetables (Title V)
Milk/Milk Products	(EC) No. 1255/1999 on the common organisation of the market in milk and milk products (Title II)
Oils/Fats	Regulation No. 136/66/EEC of the Council on the establishment of a common organisation of the market in oils and fats (Articles 13 to 20, 28 and 29)
Oilseeds/Seeds	(EEC) No. 2358/71 on the common organisation of the market in seeds (Articles 4, 5 and 7)
Pigmeat	(EEC) No. 2759/75 on the common organisation of the market in pigmeat
Poultrymeat	(EEC) No. 2777/75 on the common organisation of the market in poultrymeat
Processed Goods	(EC) No. 3448/93(d) laying down the trader arrangements applicable to certain goods resulting from the processing of agricultural products
Rice	(EC) No. No. 1785/2003 on the common organisation of the market in rice (Articles 5, 9 – 12 and 14 – 23)
Sheepmeat and Goatmeat	(EC) No. 2529/2001 on the common organisation of the market in sheepmeat and goatmeat
Sugar, Isoglucose and Insulin Syrup	(EC) No. 1260/2001 on the common organisation of the markets in the sugar sector (Title II)

- (a) O.J. No. L 282, 1.11.75, p.49, amended by Council Regulation (EEC) No. 368/76, O.J. No. L 45, 21.2.76, p.2, Council Regulation (EEC) 3643/81, O.J. L 364, 19.12.81, p.1, Council Regulation (EEC) No. 3768/85, O.J. No. L 362, 31.12.85, p.8, Council Regulation (EEC) No. 1475/86, O.J. No. L 133, 21.5.86, p.39, Commission Regulation (EEC) No. 4000/87, O.J. No. L 377, 31.12.87, p.39, Council Regulation (EEC) No. 3207/88, O.J. No. L 286, 20.10.88, p.2, Council Regulation (EEC) No. 1235/89, O.J. No. L 128, 11.5.89, p.29, Council Regulation (EEC) 1574/93, O.J. No. L 152, 24.6.93, p.105, Council Regulation (EC) 3290/94, O.J. No. L 349, 31.12.94, p.1, Commission Regulation (EC) 2916/95, O.J. No. L 305, 19.12.95, p.49, Commission Regulation (EC) 1516/96, O.J. No. L 189, 30.7.96, p.99, Commission Regulation (EC) No. 493/2002, O.J. No. L 77, 20.3.02, p.7, Council Regulation (EC) No. 806/2003, O.J. No. L 122, 16.5.03, p.1, the Act of Accession of Greece, O.J. No. L 291, 19.11.79, p.17, and the Act of Accession of Austria, Sweden and Finland, O.J. C. 241, 29.8.1994, p.21 adapted by Council Decision 95/1/EC, Euratom, ECSC, O.J. No. L 1, 1.1.1995, p.1.
- (b) O.J. No. L 97, 15.4.03, p.6.
- (c) O.J. No. L 55, 2.3.68, p.1 (O.J./SE 1968(I) p.26), amended by Council Regulation (EEC) No. 3768/85, O.J. No. L 362, 31.12.85, p.8, Commission Regulation (EEC) No. 3991/87, O.J. No. L 377, 31.12.87, p.19, Council Regulation (EEC) No. 3336/92, O.J. No. L 336, 20.11.92, p.1, Council Regulation (EC) No. 3290/94, O.J. No. L 349, 31.12.94, p.105, Council Regulation (EC) No. 806/2003, O.J. No. L 122 16.5.03, p.1, the Act of Accession of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, O.J. No. L 73, 27.3.72, p.14 adapted by Council Decision of 1st January 1973, O.J. No. L 2, 1.1.73, p.1, and the Act of Accession of Austria, Sweden and Finland, O.J. No. L 291, 19.11.79, p.17, the Act of Accession of Austria, Sweden and Finland, O.J. C 241, 29.8.1994, p.21 adapted by Council Decision 95/1/EC, Euratom, ECSC, O.J. No. L 1, 1.1.1995, p.1.
- (d) O.J. No. L 318, 20.12.93, p.18, amended by Council Regulation (EC) No. 1097/98, O.J. No. L 157, 30.5.98, p.1, Commission Regulation (EC) No. 2491/98, O.J. No. L 309, 19.11.98, p.28, and Council Regulation (EC) No. 2580/2000, O.J. No. L 298, 25.11.00, p.5.

<i>Scheme</i>	<i>Council Regulation establishing the Scheme</i>
Tobacco	(EEC) No. 2075/92(a) on the common organisation of the market in raw tobacco
Whisky refunds	(EEC) No. 1784/2003 on the common organisation of the market in cereals (Articles 13 - 18)
Wine	(EC) No. 1493/1999 on the common organisation of the market in wine (Title VII)

---

(a) O.J. No. L 215, 30.7.92, p.70, amended by Council Regulation (EC) No. 3290/94, O.J. No. L 349, 31.12.94, p.105, Council Regulation (EC) No. 711/95 of (EC), O.J. No. L 73, 1.4.95, p.13, Council Regulation (EC) No. 415/96, O.J. No. L 59, 8.3.96, p.3, Council Regulation (EC) No. 2444/96, O.J. No. L 333, 21.12.96, p.4, Council Regulation (EC) 2595/97, O.J. No. L 351, 23.12.97, p.11, Council Regulation (EC) No. 1636/98, O.J. No. L 210, 28.7.98, p.23, Council Regulation (EC) No. 660/1999, O.J. No. L 83, 27.3.99, p.10, Council Regulation (EC) No. 1336/2000, O.J. No. L 154, 27.6.00, p.2, Council Regulation (EC) 546/2002, O.J. No. L 84, 28.3.02, p.4, Council Regulation (EC) 806/2003, O.J. No. L 122, 16.5.03, p.1, Council Regulation (EC) No. 2319/2003, O.J. No. L 345, 31.12.03, p.17, the Act of Accession of Austria, Sweden and Finland, O.J. C 241, 29.8.1994, p.21 adapted by Council Decision 95/1/EC, Euratom, ECSC, O.J. No. L 1, 1.1.1995, p.1, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.2003, p.33.

## **EXPLANATORY NOTE**

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

These Regulations provide for a review of certain decisions of the Scottish Ministers in relation to decisions made under any of the Common Agricultural Policy (“CAP”) support schemes listed in the Schedule to the Regulations.

They apply in relation to decisions directed to applicants whose principal trading address was in Scotland at the date of the decision to be reviewed or appealed (regulation 3).

The procedure for review is by application made no later than 6 months from the date of notification of the decision to be reviewed (regulation 4).

The review in the first instance will be conducted by the Scottish Ministers. Certain powers are given to the Scottish Ministers in relation to such reviews (regulation 5(2)).

Scottish Ministers must following a review give their decision in a form specified by regulation 6.

Where an applicant is dissatisfied by such a decision, the applicant may apply to the Scottish Ministers to have their decision further reviewed by persons appointed by them (regulation 7(1)) and a fee of £100 is payable in respect of such an application (regulation 7(3)).

The Scottish Ministers may appoint such persons as they consider appropriate to conduct this second stage review, and may appoint a member of their staff for this purpose (regulation 8(1)).

Persons appointed under regulation 8 must review the decision of the Scottish Ministers and have certain powers to consider additional information and to invite representations from the applicant and the Scottish Ministers (regulation 8(2)).

Following their review of the decision the persons appointed by the Scottish Ministers must report their findings in fact and law and any recommendations which they wish to make to the Scottish Ministers (regulation 8(3)).

The Scottish Ministers then require to make a decision having regard to the findings and recommendations reported to them by the persons appointed (regulation 8(4) and (5)).

The Scottish Ministers require to give their decision in writing and to give full details of the facts and reasons for their decision (regulation 8(6)).

Where the Scottish Ministers decide that an applicant has been successful in whole or in part in the review they must refund the fee of £100 (regulation 8(7)).

The Scottish Ministers may make payments to persons appointed by them under regulation 8 (regulation 8(8)).

Decisions and the existence of the right of appeal must be notified in accordance with regulation 9.

Where an applicant is dissatisfied with a decision following review under regulation 9 that person may appeal against that decision on any issue of fact or law to the Scottish Land Court in accordance with regulation 10.

Regulation 11 sets out certain aspects of the internal procedures of the Scottish Land Court. Regulation 11(4) sets out the orders which may be made by the Scottish Land Court following consideration of the appeal. It may confirm the decision of the Scottish Ministers or amend or alter the decision which has been appealed or substitute that decision with one of its own. Regulation 12 requires reimbursement of the fee required by regulation 7(3) in the event that the appeal to the Scottish Land Court is successful.







**2004 No. 278**

**AGRICULTURE**

**The Common Agricultural Policy Non-IACS Support Schemes  
(Appeals) (Scotland) Regulations 2004**

**£3.00**

© Crown Copyright 2004

Printed in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland  
150 06/04 19593

