

## **EXECUTIVE NOTE**

### **THE COMMON AGRICULTURAL POLICY (SINGLE FARM PAYMENT AND SUPPORT SCHEMES AND CROSS COMPLIANCE) (SCOTLAND) AMENDMENT REGULATIONS 2008**

**SSI/2008/184**

#### **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 will come into force on 15th May 2008.

#### **Background**

2. In June 2003, the EU Agriculture Council agreed a radical reform of the Common Agricultural Policy (CAP). The aim of the reforms is to make agriculture more market-orientated and their objectives are: to break the link between farm subsidies and production; to provide flexibility to help the UK manage the change; to make support contingent on environmentally sensitive and sound farming practices; and to reduce bureaucracy.

3. As part of these reforms, amending Regulations, Council Regulation (EC) No. 146/2008 and Commission Regulation (EC) No. 319/2008, were adopted, to introduce additional flexibility for land eligibility, changes to liability for cross compliance obligations and the provision of a *de minimis* threshold below which penalties (i.e. recovery of subsidies) will not apply: hence the requirement for this instrument.

#### **Purpose of the Instrument / Policy Objectives**

4. The Instrument seeks to implement two broad policy objectives contained in the above European regulations.

5. Firstly, it was a requirement of the original Commission Regulation (EC) No. 795/2004 that farmers must declare land as being “at their disposal” for a 10-month period commencing between dates to be defined by each Member State (this was often referred to as “the 10 month rule”). The amending Regulations (EC) Nos. 146/2008 and 319/2008 now allow Member States to set a single date on which farmers can declare land to be “at their disposal” for the purposes of the Single Farm Payment Scheme. Given that farmers are already required to submit application forms by 15 May each year, for the sake of simplicity, it has been decided to align the land eligibility and claim submission to this single date.

6. This change is implemented in Scotland by paragraph 3 of Schedule 1 to the Instrument, which amends regulation 6 of the Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2005 (S.S.I 2005/143).

7. Secondly, Commission Regulation (EC) No. 319/2008 now gives Member States a discretion to apply a tolerance for minor cases of non-compliance with the obligation that must be met in return for support / Single Farm Payment. These obligations are known as

“cross-compliance requirements”. This tolerance is at the discretion of the Member State and up to a limit of €100 (£69.68 at the current exchange rate).

8. Regulations (EC) Nos. 146/2008 and 319/2008 achieve this by amending, respectively, Council Regulation (EC) No. 1782/2003 and Commission Regulation (EC) No. 796/2004. Each regulation is directly applicable on this point.

9. At the domestic level, implementation of cross-compliance is largely achieved through the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 (SSI 2004/518) (“the cross-compliance regulations”). The amendment made by Regulations (EC) Nos. 146/2008 and 319/2008 are achieved by simply updating the cross-references to the European legislation in the cross-compliance regulations.

10. To ensure full implementation of Regulations (EC) Nos. 146/2008 and (EC) No. 319/2008, a number of consequential updating references to Regulations (EC) Nos. 1782/2003, 795/2004 and 796/2004 are also required in the following domestic regulations (which implement the overall Common Agricultural Policy in regard to Single Farm Payment). They are:

- the Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2005 (SSI 2005/143);
- the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 (SSI 2005/218); and
- the Agricultural Subsidies (Appeals) Scotland Regulations 2004 (SSI 2004/381)

11. Implementing these broad policy changes will contribute to one of the Scottish Government’s key objectives, namely to simplify the rules for claiming support.

### **Financial Effect of the Instrument**

12. The Instrument will make legal provision to allow producers flexibility in the declaration of land eligible for the Single Farm Payment Scheme and making minor corrections to the original Instrument. Accordingly, there is:

- no change to the current position on the financing of the administration of the Common Agricultural Policy;
- no increase in public spending; and
- no further funds would require to be transferred by virtue of this amendment.

13. For the reasons outlined in the preceding paragraph, a Regulatory Impact Assessment has not been undertaken because the instrument has no financial effects on business.

### **Consultation**

14. There has been no formal consultation with main agriculture industry interests because the Instrument seeks only to implement the changes brought about by Council and Commission Regulations, which are welcomed by the industry.

Scottish Government Rural Payments & Inspections Directorate

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