

EXECUTIVE NOTE

THE RURAL PAYMENTS (APPEALS) (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/143

This note explains the need for the above SSI which 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.

Policy Objectives

The Regulations **amend** The Rural Payments (Appeals) (Scotland) Regulations 2009 ('the principal Regulations') which came into force on 20 November 2009 in light of changes to the relevant directly applicable EU rules under which the Scottish Ministers can make decisions which give rise to an appeal under the principal Regulations.

Background

The principal Regulations sets out the procedures for allowing those in the agricultural, forestry and rural sector who apply for grants under the EU Common Agricultural Policy to seek a review or to formally appeal against decisions made by the Scottish Ministers to refuse, reduce or recover any grant they have applied for or have received in application of the relevant directly applicable EU rules. In the first instance, Ministers can review their decision and this is subject to a further right of appeal to the Scottish Land Court. The current appeals process is administered under the principal Regulations and became operational on 20 November 2009.

Main changes made by these Regulations

The changes that are being made are largely technical and primarily relate to those decisions made by the Scottish Ministers concerning direct payments to farmers which can give rise to an appeal under the principal Regulations. Those decisions are made in reliance of directly applicable EU rules under the Common Agricultural Policy. The main purpose of the amendments made by this instrument is to ensure that, technically, the rights of appeals provided continue to properly reflect the relevant EU rules.

In addition, the instrument updates references in the principal Regulations to the relevant UK rules concerning holdings administered by the Scottish Ministers which may be partly situated elsewhere in the UK. The decisions which the Scottish Ministers make in relation to these holdings can also give rise to an appeal under the principal Regulations. The amendments reflect the current UK rules as set out in the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009.

Financial Effects

No obvious effect but failure to make these amendments may leave the Scottish Government open to challenge on technical grounds in relation to appeals. This may lead to possible increased administrative costs and/or we would be unable to claim the money involved from EU Funds.

Consultation

There has been no formal consultation given that the changes are, largely, technical in nature. However, relevant Scheme Managers have been involved in identifying the technical changes. In substance, the scope of the appeals regime under the principal Regulations remains the same.

Directorate for Agriculture, Food & Rural Communities (DAFRC)