

2015 No. 215

AGRICULTURE

**The Common Agricultural Policy (Direct Payments etc.)
(Scotland) Amendment Regulations 2015**

Made - - - - - *26th May 2015*

Laid before the Scottish Parliament *28th May 2015*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Common Agricultural Policy (Direct Payments etc.) (Scotland) Amendment Regulations 2015.

(2) This regulation and regulations 2 and 3 come into force on 1st June 2015.

(3) Regulations 4 to 12 and the Schedule come into force on 27th June 2015.

Amendment to the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 – amendments coming into force on 1st June 2015

2. Regulation 6 (applications and date on which land must be at farmer’s disposal) of the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015(b) is amended as follows—

(a) in paragraph (1), for “For” substitute “Subject to paragraph (1A), for”; and

(b) after paragraph (1) insert—

“(1A) For the purposes of Article 13(1) of the Horizontal Implementing Regulation and Article 1 of Commission Implementing Regulation (EU) 2015/747 derogating from Implementing Regulation (EU) No 809/2014 as regards the final date of submission of the single application, aid applications or payment claims, the final date for notification of amendments to the single application or payment claim and the final date for applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme for the year 2015(c), the final date on which a single

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2015/58, as amended by S.S.I. 2015/194.

(c) OJ L 119, 12.5.2015, p.21.

application, aid application or payment claim may be submitted to the Scottish Ministers in respect of calendar year 2015, is 15th June 2015.”.

3. For regulation 9(3) (transfer of payment entitlements) of the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 substitute—

“(3) For the purposes of Article 22(1) of the Horizontal Implementing Regulation and Article 3 of Commission Implementing Regulation (EU) 2015/747 derogating from Implementing Regulation (EU) No 809/2014 as regards the final date of submission of the single application, aid applications or payment claims, the final date for notification of amendments to the single application or payment claim and the final date for applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme for the year 2015, applications for the allocation of, or the increase of the value of, payment entitlements must be submitted—

- (a) in respect of calendar year 2015, on or before 15th June 2015; or
- (b) in any other calendar year, on or before 15th May, or if that date is a Saturday, Sunday, Bank Holiday or other public holiday, the next working day.”.

Amendment to the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 – amendments coming into force on 27th June 2015

4. The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 are further amended in accordance with regulations 5 to 9.

5. In regulation 15(1) (national reserve), after “For the purposes” insert “of”.

6. In regulation 18(5)(a) (ecological focus areas), for “under sowing perennial rye grass (*Lolium perenne*) or Italian rye grass (*Lolium multiflorum*)” substitute “under-sowing grass”.

7. After regulation 18, insert—

“Voluntary coupled support

18A. Schedules 3 (voluntary coupled support) and 4 (ineligible breeds – bovine animals) have effect.”.

8. In Schedule 1 (agricultural activity: further criteria), in Part 2 (minimum activity for the purposes of Article 4(1)(c)(iii) of the Direct Payments Regulation), in head (e) of the definition of “livestock unit” in paragraph 2(2), after “ewes” insert “, ewe hoggs”.

9. After Schedule 2 (ecological focus areas: further criteria), insert Schedules 3 (voluntary coupled support) and 4 (ineligible breeds – bovine animals) as set out in the Schedule to these Regulations.

Amendment to the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014

10. The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014(a) are amended in accordance with regulations 11 and 12.

11. In the Schedule (standards for good agricultural and environmental condition), in Part 1 (general interpretation), after the definition of “pesticides” insert—

““relevant period” means the period beginning on the day the land is prepared for planting a hedge and terminating at the end of the third growing season following the planting of that hedge;”.

12. In the Schedule, in Part 2 (standards for good agricultural and environmental condition)—

(a) S.S.I. 2014/325, as amended by S.S.I. 2015/58.

- (a) in paragraph 1 (establishment of buffer strips along water courses)—
 - (i) in sub-paragraph (5), after “sub-paragraph (6)” insert “or (7)”;
 - (ii) for sub-paragraph (6) substitute—
 - “(6) This sub-paragraph applies where pesticides are applied to land to control—
 - (a) injurious weeds to which the Weeds Act 1959 applies;
 - (b) invasive species; or
 - (c) if the prior written consent of the Scottish Ministers has been given, other plant species.”; and
 - (iii) after sub-paragraph (6), insert—
 - “(7) This sub-paragraph applies where the cultivation of land takes place for the purpose of establishing—
 - (a) a green cover on that land, where it does not already have a green cover; or
 - (b) a hedge (as defined in paragraph 7(7)(a)) during the relevant period.”; and
- (b) in paragraph 7 (retention of landscape features), for sub-paragraph (6), substitute—
 - “(6) This sub-paragraph applies where—
 - (a) the cultivation of land takes place for the purpose of—
 - (i) establishing a green cover on that land, where it does not already have a green cover;
 - (ii) establishing a hedge during the relevant period and, for that purpose, organic manure, chemical or nitrogen fertilisers or pesticides may be applied to the land; or
 - (iii) in calendar year 2015, harvesting any crop that has been established before 1st January 2015;
 - (b) organic manure, chemical or nitrogen fertilisers or pesticides are applied to land prior to the harvesting of a crop as mentioned in head (a)(iii); or
 - (c) pesticides are applied to land to control—
 - (i) injurious weeds to which the Weeds Act 1959 applies;
 - (ii) invasive species; or
 - (iii) if the prior written consent of the Scottish Ministers has been given, other plant species.”.

RICHARD LOCHHEAD
A member of the Scottish Government

St Andrew’s House,
Edinburgh
26th May 2015

SCHEDULE

Regulation 9

New Schedules 3 and 4 to be inserted into the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015

“SCHEDULE 3

Regulation 18A

Voluntary coupled support

PART 1

Voluntary coupled support – bovine animals

Interpretation

1. In this Part—

“applicant” means a farmer whose holding is wholly or partly situated in Scotland and who, at the time of submitting an application, is producing beef or veal in any part of the holding situated in Scotland;

“application” means an application for a Scheme payment under paragraph 2;

“bovine animal” means an animal of the bovine species;

“Cattle Identification Regulations” means the Cattle Identification (Scotland) Regulations 2007(a);

“cattle passport” has the same meaning as in the Cattle Identification Regulations;

“ear tag identification code” means the unique identification code for the purposes of Article 4(1) of Regulation 1760/2000 and regulation 5 of and Schedule 1 (ear tags) to the Cattle Identification Regulations;

“eligible bovine animal” has the meaning given in paragraph 3;

“holding”, for the purposes of paragraph 3, means a holding defined in Article 2 of Regulation 1760/2000;

“identification document” has the same meaning as in regulation 2(1) of the Cattle Identification Regulations;

“Regulation 1760/2000” means Regulation (EC) No 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Regulation (EC) No 820/97(b);

“Scheme payment” means a payment by way of coupled support under and in accordance with Chapter 1 of Title IV (voluntary coupled support) of the Direct Payments Regulation; and

“Scheme year” means the calendar year in which a particular application for a Scheme payment is made under paragraph 2.

(a) S.S.I. 2007/174, as amended by S.S.I. 2007/312, S.S.I. 2011/412 and S.I. 2011/1043.

(b) OJ L 204, 11.8.2000, p.1, as last amended by Regulation (EU) No 653/2014 (OJ L 189, 27.6.2014, p.33).

Application for a Scheme payment

2.—(1) An applicant may, during a calendar year, submit an application to the Scottish Ministers in respect of any eligible bovine animal.

(2) A Scheme payment for a particular Scheme year is to be made in respect of an application made during that Scheme year.

(3) An application is to be made in such form and include such information as may be specified by the Scottish Ministers.

(4) In accordance with Article 3 of the Horizontal Implementing Regulation, an application may be withdrawn in writing in respect of any bovine animal included in that application.

(5) In respect of any bovine animal for which an application is made, that application must include—

- (a) the eartag identification code;
- (b) details concerning the identification document which has been issued in respect of that animal; and
- (c) such other information as the Scottish Ministers may require.

(6) For the purposes of this paragraph, an applicant must have submitted a single application in accordance with these Regulations in the Scheme year.

Eligible bovine animal

3. For the purposes of Article 53 of the Direct Payments Delegated Regulation and this Schedule, an eligible bovine animal means a bovine animal—

- (a) which genetically is at least 75 per cent of a breed of bovine animal other than a breed listed in Schedule 4;
- (b) which was born on the applicant's holding on or after 2nd December 2014 and kept on that holding from birth for a continuous period of at least 30 days; and
- (c) in respect of which the following requirements of the Cattle Identification Regulations have been complied with—
 - (i) regulation 7 and Schedule 3 (cattle passports etc.);
 - (ii) regulation 8 and Schedule 4 (records); and
 - (iii) regulation 6 and paragraph 2 of Schedule 2 (notification of movement).

Scheme payments

4. A Scheme payment to be made in respect of an eligible bovine animal must be determined by the Scottish Ministers in accordance with—

- (a) Article 52(3) of the Direct Payments Regulation;
- (b) Article 52(6) of the Direct Payments Regulation; and
- (c) Article 53(2) of the Direct Payments Delegated Regulation.

PART 2

Voluntary coupled support – ovine animals

Interpretation

5. In this Part—

“applicable requirements” means the requirements in relation to—

- (a) means of identification;
 - (b) replacement means of identification; and
 - (c) holding register and movement requirements;
- “applicant” means a farmer—
- (a) whose holding is wholly or partly situated in Scotland and who, at the time of submitting an application, is producing sheepmeat on any agricultural areas of any part of the holding situated in Scotland comprising parcels of land in region 3; and
 - (b) in respect of any part of whose holding is situated in Scotland—
 - (i) at least 80 per cent of the total agricultural area declared for the purposes of a payment under Chapter 1 of Title III (basic payment scheme) of the Direct Payments Regulation on that farmer’s single application in the Scheme year comprises parcels of land in region 3; and
 - (ii) no more than 200 hectares of that area declared comprises parcels of land in region 1;
- “application” means an application for a Scheme payment under paragraph 6;
- “eligible ovine animal” has the meaning given in paragraph 7;
- “holding”, for the purposes of paragraph 7, means a holding defined in Article 2 of Regulation 21/2004;
- “holding register and movement requirements” means the requirements under—
- (a) Articles 5(1), (3) and (5), 6(1) and (3) and 8(2) of Regulation 21/2004; and
 - (b) articles 22, 23 and 25 of the Sheep and Goats Order;
- “means of identification” means the requirements on the first and second means of identification under—
- (a) Articles 4(1) and (2)(a) and (b) and 9 of, and Sections A.1 to A.4 and A.6 of the Annex to, Regulation 21/2004; and
 - (b) articles 5, 30 and 37 of the Sheep and Goats Order,
- as read with Article 30(5) of the Horizontal Delegated Regulation;
- “ovine animal” means an animal of the ovine species;
- “region 1” means the region applied by the Scottish Ministers under and in accordance with Article 23(1) of the Direct Payments Regulation as region 1 of Scotland and comprising parcels of land that are arable land, permanent grassland or temporary grassland other than rough grazing land;
- “Regulation 21/2004” means Council Regulation (EC) No 21/2004 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC^(a);
- “replacement means of identification” means the requirements on removal and replacement of the means of identification under Article 4(6) of Regulation 21/2004 and articles 14, 15, 18 and 19 of the Sheep and Goats Order;
- “Scheme payment” means a payment by way of coupled support under and in accordance with Chapter 1 of Title IV (voluntary coupled support) of the Direct Payments Regulation;
- “Scheme year” means the calendar year in which a particular application is made under paragraph 6; and
- “Sheep and Goats Order” means the Sheep and Goats (Records, Identification and Movement) (Scotland) Order 2009^(b).

(a) OJ L 5, 9.1.2004, p.8, as last amended by Regulation (EU) No 517/2013 (OJ L 158, 10.6.2013, p.1).
 (b) S.S.I. 2009/414.

Application for a Scheme payment

6.—(1) An applicant may, during the period beginning 1st September and ending on 16th October in any calendar year, submit an application to the Scottish Ministers for a Scheme payment in respect of any eligible ovine animal.

(2) A Scheme payment for a particular Scheme year is to be made in respect of an application for a Scheme payment made during that Scheme year.

(3) An application is to be made in such form and include such information as may be specified by the Scottish Ministers.

(4) In accordance with Article 3 of the Horizontal Implementing Regulation, an application may be withdrawn in writing in respect of any ovine animal included in that application.

(5) In respect of any ovine animal for which an application is made, that application must include—

- (a) details concerning the means of identification in respect of that animal; and
- (b) such other information as the Scottish Ministers may require.

(6) For the purposes of this paragraph, an applicant must have submitted a single application in accordance with these Regulations in the Scheme year.

Eligible ovine animal

7. For the purposes of Article 53 of the Direct Payments Delegated Regulation and this Schedule, an eligible ovine animal means an ovine animal—

- (a) which was born on the applicant's holding;
- (b) which has been kept on that holding from birth and will be kept on that holding during the period beginning on 17th October of the Scheme year and ending on 31st March of the following calendar year;
- (c) which is less than 12 months old on 17th October of the Scheme year; and
- (d) in respect of which the applicable requirements have been complied with.

Scheme payments

8.—(1) Subject to sub-paragraph (2), a Scheme payment to be made in respect of an eligible ovine animal must be determined by the Scottish Ministers in accordance with—

- (a) Article 52(3) of the Direct Payments Regulation;
- (b) Article 52(6) of the Direct Payments Regulation; and
- (c) Article 53(2) of the Direct Payments Delegated Regulation.

(2) A Scheme payment may be made in respect of an eligible ovine animal up to a maximum of one animal for every 4 hectares of agricultural area declared by the applicant for the purposes of a payment under Chapter 1 of Title III (basic payment scheme) of the Direct Payments Regulation on a single application in the relevant Scheme year and comprising parcels of land in region 3.

SCHEDULE 4

Regulation 18A and
Schedule 3, paragraph 3(a)

Ineligible breeds – bovine animals

Armoricaïne;
Australian Lowline;
Ayrshire;
Ayrshire Cross;
Belted Dutch;
Belted Dutch Cross;
Black and White Friesian;
Blue Albion;
Blue Albion Cross;
Bretonne Pie-Noire;
British Friesian;
British Friesian Cross;
British Holstein;
British Holstein Cross;
Brown Swiss;
Brown Swiss Cross;
Cross breed Dairy;
Dairy Shorthorn;
Dairy Shorthorn Cross;
Deutsche Schwartzbunte;
Estonian Red;
Estonian Red Cross;
Fleckvieh;
Fleckvieh Cross;
Française Frisonne Pie-Noire;
Fries Holland;
Friesian;
Friesian Cross;
Frisona Española;
Frisona Española Cross;
Frisona Italiana;

Groninger Blaarkop;
Guernsey;
Guernsey Cross;
Holstein;
Holstein Cross;
Holstein Friesian;
Holstein Friesian Cross;
Jersey;
Jersey Cross;
Kerry;
Kerry Cross;
Northern Dairy Shorthorn;
Pie-Noire de Belgique;
Red and White Friesian;
Reggiana;
Sortbroget Dansk Malke race;
Swartzbunte Milchrasse;
Swiss Gray;
Swedish Red;
Swedish Red Cross;
Swedish Red Polled;
Swedish Red and White;
Water Buffalo;
Yak;
Zwartbonten van Belge; or
any other dairy breed.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 (“the principal Regulations”), which make provision in Scotland for the administration of Regulation (EU) No 1307/2013 (OJ L 347, 20.12.2013, p.608) (“the Direct Payments Regulation”), and other associated EU regulations as referred to in regulation 2(1) of the principal Regulations.

The amendments made to the principal Regulations by regulations 2 and 3 make provision for the exercise of derogations in respect of deadlines for relevant applications applicable to calendar year 2015, in accordance with Articles 1 and 3 of Commission Implementing Regulation (EU) 2015/747 (OJ L 119, 12.5.2015, p.21).

Regulation 2 amends regulation 6 of the principal Regulations so that, in respect of calendar year 2015, the final date for submission of a single application, aid application or payment claim is 15th June 2015.

Regulation 3 substitutes regulation 9(3) of the principal Regulations to provide that, in respect of calendar year 2015, the final date for submission of an application for the allocation of, or an increase of the value of, payment entitlements is 15th June 2015. In the case of any other calendar year, the relevant date remains as 15th May or the next working day (in any year where that date falls on a Saturday, Sunday, Bank Holiday or other public holiday).

Regulation 6 amends regulation 18(5)(a) of the principal Regulations. Regulation 18 of the principal Regulations makes provision for Ecological Focus Areas (EFA), and paragraph (5) of that regulation makes particular provision in relation to areas under green cover or catch crops. Regulation 6 removes references to specific species of grass which are required where a farmer wishes to meet his EFA requirement by under-sowing grass.

Regulations 7 and 9 insert new Schedules 3 and 4 into the principal Regulations and give effect to them.

New Schedule 3 makes provision for a voluntary coupled support scheme in Scotland in favour of bovine and ovine animals that are born on the farmer’s holding and in respect of which the relevant eligibility criteria are met. Paragraph 2 sets out how a farmer may make an application for a payment under the scheme, and what information is to be included. Paragraph 3 sets out what animals will be eligible for support. In respect of support for bovine animals, new Schedule 4 lists which breeds of cattle are ineligible for support.

These Regulations also amend the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 (“the Cross-Compliance Regulations”).

Regulation 12 amends the standards for good agricultural and environmental condition set out at paragraphs 1 (establishment of buffer strips along watercourses) and 7 (retention of landscape features) of Part 2 of the Schedule to the Cross-Compliance Regulations.

In respect of the cultivation of land and application of pesticides to land within 2 metres of the top of the bank of a watercourse, a beneficiary may cultivate that land in order to establish a green cover there (where one does not already exist) or for the purposes of establishing a hedge there during the relevant period (as defined in Part 1 of the Schedule).

In respect of the cultivation of land and the application of organic manure, chemical or nitrogen fertilisers or pesticides to land within 2 metres of the centre line of a hedge, a beneficiary may cultivate that land—

- (a) in order to establish a green cover there (where one does not already exist);
- (b) for the purposes of establishing a hedge there during the relevant period (as defined in Part 1 of the Schedule), and the application of organic manure, chemical or nitrogen fertilisers or pesticides may take place for that purpose;

- (c) in calendar year 2015, for the purpose of harvesting any crop that has been established before 1st January 2015, and organic manure, chemical or nitrogen fertilisers or pesticides may be applied to that land up until the point the crop is harvested.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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