

## **POLICY NOTE**

### **THE COMMON AGRICULTURAL POLICY (DIRECT PAYMENTS ETC.) (SCOTLAND) REGULATIONS 2015**

**SSI No. 2015/58**

#### **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 was laid before the Scottish Parliament on 13 February 2015 and will come into force on 16 March 2015.

#### **Background**

2. The Agriculture Council and the European Parliament reached a political agreement about the reform of the Common Agricultural Policy (CAP) in June 2013. A new direct payments system for farmers replaced the current Single Payment Scheme (SFPS) from 1st January 2015. This instrument primarily makes provision in Scotland for the implementation of Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing the rules for direct payments to farmers under support schemes within the framework of the Common Agricultural Policy (the European Regulation), together with certain decisions that are at the discretion of the Scottish Ministers.

3. Council Regulation 1782/2003 introduced the Single Payment Scheme (SFPS) in 2005. That regulation was repealed by Council Regulation 73/2009 as part of the CAP Health Check which also amended those support arrangements and the Scottish Ministers have relied on Council Regulation (EC) 73/2009 for the management primarily of the SFPS under the CAP. Council Regulation 73/2009 was repealed with transitional arrangements under the latest reforms of the CAP as set out in Council Regulation (EC) 1307/2013.

#### **Outline of Scheme**

4. The term 'direct payments' refers to the total amount available for direct support to farmers that will be delivered through a number of funding streams. The support an eligible farmer will receive will be made up of:

- The basic payment;
- the payment for agricultural practices beneficial for the climate and the environment (known as "greening" measures);
- the young farmers payment (applicable by virtue of the European Regulation only to farmers no older than 40 years of age); and
- payments under voluntary coupled support schemes for the beef and sheep sectors (not covered in this instrument, however secondary legislation will be brought forward implementing this as due course).

5. The European Regulation requires mandatory funding of greening measures at the level of 30% of the direct payment budget and to provide a national reserve, according to demand, for young farmers and those who have started an agricultural enterprise. What remains is used to make the basic payment.

6. The new direct payments system is similar to the SFPS e.g. farmers must apply in May each year, must hold entitlements, and match eligible hectares to the number of entitlements in order to generate a payment. With the exception of voluntary coupled support, payments are not linked to the level of agricultural production. A further aspect of commonality with SFPS is that farmers must meet the requirements of cross compliance, which refers to maintaining land in good agricultural and environmental condition, and respecting statutory management requirements.

7. There will however be a number of changes. One of the most important is that a significant part of a farmer's direct payment will be dependent on meeting certain greening requirements, which means participants must apply the environmental practices set out in the European Regulation and this Instrument.

8. A further key difference from SFPS will be that differing payment rates will be set in 2015 according to three payment regions of Scotland. These payment rates will transit in equal steps in each region from 2015 to a common payment rate for each region by 2019.

### **Policy Objectives and Stakeholder Engagement**

9. Following publication of the European Commission's draft legislative proposals, in October 2011, Scottish Ministers undertook a public consultation exercise and stakeholder engagement exercises via correspondence or in meetings with Ministers and officials as the European Regulation gives Member States discretion in certain areas about how to apply the new direct payments system in order to reflect different needs and priorities. As agriculture is a devolved matter and in light of the public engagement undertaken, the Scottish Ministers have made certain decisions about how the direct payments regime will be implemented. These implementation decisions are different to those made in other parts of the United Kingdom.

10. The decisions by the Scottish Ministers have four overall objectives:

- To provide a level playing field for new entrants;
- To target support at active farmers;
- To avoid over-compensating the least active farmers; and
- To limit basic payments.

The instrument implements these objectives by introducing:-

- Successful applicants to the National Reserve to receive payments at the regional average (avoiding transition – see paragraph 8);
- Access to the National Reserve for farmers suffering from specific disadvantages (for example, farmers excluded from the previous regime when introduced by Council Regulation 1782/2003 because they were operating in a sector unsupported by the CAP (e.g. deer farming));
- The Young Farmers Payment to be available on the maximum number of hectares allowed under the European Regulation;
- Additional funding to the National Reserve to be achieved through:
  - A reduction of 5% of any direct payments greater than €150,000; and
  - A windfall profit reduction where an excessive increase in the value of payment entitlements arises from a fall in agricultural areas farmed between 2014 (when SFPS applied) and 2015 (when the new CAP was introduced);

- The minimum eligible area of a holding set at 3ha (unchanged from SFPS);
- Specify a minimum level of activity to be carried out on land which is naturally kept in a state suitable for grazing and which can be: a minimum stocking density of 0.05 lu/ha; a lower stocking density where this is justified by historic records; or an annual audit and survey of such land. This latter option will consist of map and description of the farm environment, surveys of breeding birds, mammals, butterflies and plant health and monitoring of habitats;
- The establishment of three payment regions (payment regions 1, 2 and 3) according to agricultural potential (see paragraph 8).
- A limit on the number of entitlements allocated in payment regions 2 and 3 to prevent dilution of payment values caused by an influx of previously undeclared land; and

11. The Scottish Ministers will also be implementing voluntary coupled support schemes for the beef and sheep sectors later in 2015. This is not covered in this instrument because the support arrangements have different eligibility criteria, application periods, and obligations compared to those in the present instrument and the Scottish Government will bring forward separate secondary legislation in due course.

### **Effect of Instrument**

12. The Scottish Government has brought forward this secondary legislation to implement appropriate scheme criteria to land in Scotland. It is supplemented by The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 (SSI 2014/325), Orders under the Scotland Act (sections 30(3) and 106) to deal with cross border producers, and the European Integrated Administration and Control System (IACS) protocol between administrations so that the effect of these Orders, secondary legislation and administrative arrangements, will be to allow Scottish Ministers to apply Scottish rules to Scottish land, and, with advice from the respective administrations, their rules to their land for cross-border producers.

### **Impact Assessments**

13. A Business and Regulatory Impact Assessment (BRIA) is being undertaken and is expected to be completed before the instrument comes into force. An assessment could not have been completed in advance because the latest deadline for notification of decisions was 31 January 2015 and stakeholder engagement could not have been undertaken whilst these decisions were pending. A partial BRIA was completed at the time of the public consultation and was published on the Scottish Government website and can be assessed using this link:- <http://www.scotland.gov.uk/Resource/0044/00440744.pdf>

14. In terms of the assessment of the impact of the implementation of the reformed CAP in Scotland, on people with 'protected characteristics' (age, disability, sex, gender reassignment, race, religion or belief, sexual orientation) an Equality Impact Assessment has been undertaken and can be accessed using the following link:- <http://www.scotland.gov.uk/Topics/People/Equality/18507/EqualityImpactAssessmentSearch>

## **Financial Effects**

15. The Schemes covered by this instrument will enable the Scottish Ministers to pay around £450 million per annum.

Scottish Government Rural Payments and Inspections Division

10 February 2015