
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 60

**The Common Agricultural Policy (EU Exit)
(Scotland) (Amendment) Regulations 2019**

PART 3

Amendment of secondary legislation relating to withdrawal from the European Union

The Crofting Counties Agricultural Grants (Scotland) Scheme 2006

3.—(1) The Crofting Counties Agricultural Grants (Scotland) Scheme 2006⁽¹⁾ is amended as follows.

(2) In paragraph 2(1) (interpretation), in the definition of “Commission Regulation 65/2011”, at the end insert “(except in relation to paragraph 6(4)(c))”.

(3) In paragraph 6(4)(c) (restrictions on payment of grant), after “65/2011” insert “as that Article of that Commission Regulation had effect immediately before exit day”.

(4) In paragraph 11A (power of authorised persons), for sub-paragraph (5) substitute—

“(5) An authorised person entering any land under sub-paragraph (1) may be accompanied by such other person as the authorised person considers necessary, and sub-paragraphs (3) and (4) shall apply to that person when acting under the instructions of an authorised person as they apply to an authorised person.”.

The Less Favoured Area Support Scheme (Scotland) Regulations 2010

4. In regulation 13(1) (powers of authorised persons) of the Less Favoured Area Support Scheme (Scotland) Regulations 2010⁽²⁾, for paragraph (a) substitute—

“(a) verification of the accuracy of an application by carrying out administrative and periodic checks which are required under—

(i) Article 11 of Commission Regulation 65/2011;

(ii) Articles 12 and 20 of Commission Regulation 65/2011 as it had effect immediately before exit day; or

(iii) Titles III and V of the Horizontal Delegated Regulation; or”.

The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014

5. In regulation 5 (powers of authorised persons) of the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014, for paragraph (5) substitute—

“(5) An authorised person entering any premises by virtue of this regulation may be accompanied by such other person as the authorised person considers necessary.”.

(1) [S.S.I. 2006/24](#); relevant amending instruments are [S.S.I. 2008/58](#) and [S.S.I. 2015/105](#).

(2) [S.S.I. 2010/273](#); relevant amending instruments are [S.S.I. 2011/73](#) and [S.S.I. 2015/185](#).

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

6.—(1) The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015⁽³⁾ are amended as follows.

(2) In regulation 4 (minimum eligible area of holding), after “Regulation” insert “as it had effect immediately before exit day”.

(3) In regulation 7 (short rotation coppice), for “and (2)(c)” substitute “and, as it had effect immediately before exit day, (2)(c)”.

(4) In regulation 14(1) (windfall profit), for “Article 28” to “Delegated Regulation” substitute—
“Article 28 of the Direct Payments Regulation and as determined in accordance with Article 27 of the Direct Payments Delegated Regulation, as those Regulations had effect immediately before exit day,”.

(5) In regulation 17(1) (permanent grassland), after “Direct Payments Regulation” insert “as it had effect immediately before exit day”.

(6) In regulation 19 (powers of authorised persons), for paragraph (5) substitute—

“(5) An authorised person entering any premises by virtue of this regulation may be accompanied by such other person as the authorised person considers necessary.”.

(7) In regulation 23 (recovery of undue payments)—

(a) in paragraph (2)(b), for “or the coordinating body” substitute “, the coordinating body or, on or after exit day, the appropriate authority”,

(b) for paragraph (3) substitute—

“(3) In this regulation—

“the appropriate authority” means the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers acting jointly; and

“the coordinating body” means the coordinating body referred to in regulation 3 of the Common Agricultural Policy (Competent Authority and Coordinating Body) Regulations 2014⁽⁴⁾ as those Regulations had effect immediately before exit day.”.

The Rural Development (Scotland) Regulations 2015

7.—(1) The Rural Development (Scotland) Regulations 2015⁽⁵⁾ are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “service level agreement” substitute—

““service level agreement”, except in relation to regulation 21(3) (agency arrangements), means an agreement between the Scottish Ministers and an accountable body for the purposes of—

(a) Article 7(1) of the Horizontal Regulation, and

(b) Article 1 of, and Annex I(1)(C) to, Commission Delegated Regulation (EU) No 907/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro⁽⁶⁾ as it had effect immediately before exit day;”,

(3) [S.S.I. 2015/58](#); relevant amending instrument is [S.S.I. 2017/98](#).

(4) [S.I. 2014/3260](#). This instrument is being revoked on exit day by S.I. 2019/XXX.

(5) [S.S.I. 2015/192](#).

(6) OJ L 255, 28.8.2014, p.18, as last amended by Commission Delegated Regulation (EU) 2018/967 (OJ L 174, 10.7.2018, p.2).

- (b) for the definition of “SRDP” substitute—
 - ““SRDP” means the Scottish Rural Development Programme—
 - (a) as approved by the European Commission in respect of Scotland in accordance with Article 10(2) of the Rural Development Regulation and Article 29(4) of the Common Provisions Regulation, as those Regulations had effect immediately before exit day⁽⁷⁾,
 - (b) as amended pursuant to Article 11 of the Rural Development Regulation and Article 30 of the Common Provisions Regulation, as those Regulations had effect immediately before exit day⁽⁸⁾, and
 - (c) as may from time to time be supplemented or amended, on or after exit day, by the Scottish Ministers in accordance with Article 11 of the Rural Development Regulation and Article 30 of the Common Provisions Regulation;”.
- (3) In regulation 11 (powers of entry), for paragraph (6) substitute—
 - “(6) An authorised person entering any land or premises by virtue of this regulation may be accompanied by such other person as the authorised person considers necessary.”
- (4) For regulation 16(1)(d) (breaches of conditions of grant/undertakings etc.), substitute—
 - “(d) the whole or any part of the sum paid or payable in relation to an approval duplicates assistance provided or to be provided out of monies made available—
 - (i) by the European Union in respect of an application for European Union assistance approved before exit day; or
 - (ii) under any enactment, including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”.
- (5) In regulation 18 (recovery of undue payments, interest and set-off)—
 - (a) in paragraph (2)(b), for “or the coordinating body” substitute “, the coordinating body or, on or after exit day, the appropriate authority”,
 - (b) in paragraph (5)—
 - (i) before the definition of “the Bank of England base rate”, insert—
 - ““the appropriate authority” means the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers acting jointly;”,
 - (ii) in the definition of “the coordinating body”, at the end insert—
 - “as those Regulations had effect immediately before exit day.”.

The Rural Payments (Appeals) (Scotland) Regulations 2015

- 8. In the Rural Payments (Appeals) (Scotland) Regulations 2015⁽⁹⁾, after regulation 10 insert—

“Transitional provision for decisions on or after exit day in relation to EU instruments

10A. For the purposes of these Regulations, a “relevant decision” includes a decision made on or after exit day under and in accordance with any EU instrument specified in

(7) As approved pursuant to Commission Implementing Decision C(2015) 3489 approving the rural development programme of Scotland for support from the European Agricultural Fund for Rural Development.

(8) As last amended pursuant to Commission Implementing Decision C(2018) 8463 approving the amendment of the rural development programme of Scotland (UK) for support from the European Agricultural Fund for Rural Development.

(9) [S.S.I. 2015/194](#).

any of the paragraphs of the Schedule, so far as that EU instrument had effect immediately before exit day.”.