

Draft Order in Council laid before Parliament and the Scottish Parliament under paragraphs 1 and 2 of Schedule 7 to the Scotland Act 1998 for approval by resolution of each House of Parliament and of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No. (S.)

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
AGRICULTURE**

The Scotland Act 1998 (Functions Exercisable
in or as Regards Scotland) Order 2015

Made - - - - 2015
Coming into force - - 28th February 2015

At the Court at , the day of 2015

Present,

The Queen's Most Excellent Majesty in Council

This Order is made by Her Majesty in Council in exercise of the power conferred on her by section 30(3) of the Scotland Act 1998⁽¹⁾.

In accordance with paragraphs 1 and 2 of Schedule 7 to that Act⁽²⁾ a draft of this Order has been—

- (a) laid before and approved by a resolution of each House of Parliament; and
- (b) laid before and approved by a resolution of the Scottish Parliament.

Accordingly, Her Majesty, by and with the advice of Her Privy Council, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 2015 and comes into force on 28th February 2015.

(2) In this Order—

(1) 1998 c.46.

(2) Paragraphs 1 and 2 of Schedule 7 have been modified by paragraph 3(2) of schedule 4 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

“the EU Regulation” means Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008⁽³⁾;

“Scottish farmer” means a farmer (within the meaning of Article 2 of the EU Regulation) whose holding is situated wholly or partly in Scotland, and “holding” has the same meaning as in Articles 2 and 91 of the EU Regulation⁽⁴⁾; and

“specified function under EU law” means any function which—

- (a) relates to the implementation of any legislative instrument of the European Union adopted in pursuance of the common agricultural policy of the European Union established in accordance with Title III of Part Three of the Treaty on the Functioning of the European Union; and
- (b) applies in relation to an agricultural area or an agricultural activity by reference to a holding,

and “agricultural area” and “agricultural activity” have the same meaning as in Article 2 of the EU Regulation.

Agriculture

2. So far as a specified function under EU law, or a function to which section 53(2)(a) of the Scotland Act 1998 applies, is exercisable in relation to a Scottish farmer it shall be treated for all purposes of that Act as exercisable in or as regards Scotland.

Name
Clerk of the Privy Council

⁽³⁾ OJ L 347, 20.12.2013, p.549.

⁽⁴⁾ The definition of “holding” in article 2 of the EU Regulation includes (a) units used for agricultural activities and managed by a farmer and (b) in the case of article 93 of that Regulation (cross-compliance requirements), production units and areas managed by a farmer whether or not specifically used for agricultural activities.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision under section 30(3) of the Scotland Act 1998. It concerns functions related to the implementation of a European Union legislative instrument on the common agricultural policy, which apply to an agricultural area or an agricultural activity by reference to a holding, and prerogative and other executive functions under section 53(2)(a) of that Act.

By virtue of article 2 of this Order, so far as exercisable in relation to a farmer whose holding within the United Kingdom is situated wholly or partly in Scotland (a “Scottish farmer”, as defined in article 1 of this Order), those functions should be treated for the purposes of the Scotland Act 1998 as being functions which are exercisable in or as regards Scotland.

This includes functions which relate to Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (“the EU Regulation”). It also includes prerogative and other executive functions which are exercisable in relation to a Scottish farmer.

This Order makes clear the powers of the Scottish Parliament and the Scottish Ministers under the EU Regulation in relation to a Scottish farmer as a consequence of the reform of the common agricultural policy of the European Union.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.