

SCOTTISH STATUTORY INSTRUMENTS

2004 No. 278

AGRICULTURE

The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004

<i>Made</i>	- - - -	<i>9th June 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>10th June 2004</i>
<i>Coming into force</i>	- -	<i>3rd July 2004</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ^{F1}, and of all other powers enabling them in that behalf, hereby make the following Regulations:

F1 1972 c. 68. Section 2(2) was amended by the [Scotland Act \(c.46\)](#), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown by section 2(2) were transferred, so far as within devolved competence, to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Citation and commencement

1. These Regulations may be cited as the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004 and come into force on 3rd July 2004.

Interpretation

2.—(1) In these Regulations—

“applicant” means the person to whom a decision referred to in regulation 3 below is directed;
^{F2} ...

“date of notification of the decision” means the date of the letter from the Scottish Ministers to the applicant notifying the applicant of the decision which the applicant is seeking to have reviewed ^{F3} ... [^{F4}; and

“the SCMO Regulations” means the Regulations listed in the Schedule, as amended from time to time.]

(2) Any reference in these Regulations to a person to whom a decision is directed, an applicant for review or a person appealing to the Scottish Land Court includes a reference to any successor, executor, trustee in bankruptcy, receiver or liquidator of such a person or applicant.

*Status: Point in time view as at 28/02/2019.**Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004. (See end of Document for details)*F⁵(3)

- F2** Word in reg. 2(1) omitted (25.5.2015) by virtue of [The Common Agricultural Policy Non-IACS Support Schemes \(Appeals\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/167\)](#), regs. 1(1), **3(a)(i)**
- F3** Full stop in reg. 2(1) omitted (25.5.2015) by virtue of [The Common Agricultural Policy Non-IACS Support Schemes \(Appeals\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/167\)](#), regs. 1(1), **3(a)(ii)**
- F4** Words in reg. 2(1) inserted (25.5.2015) by [The Common Agricultural Policy Non-IACS Support Schemes \(Appeals\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/167\)](#), regs. 1(1), **3(a)(ii)**
- F5** Reg. 2(3) omitted (25.5.2015) by virtue of [The Common Agricultural Policy Non-IACS Support Schemes \(Appeals\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/167\)](#), regs. 1(1), **3(b)**

Application

3.—[^{F6}(1) These Regulations apply in relation to decisions made by or on behalf the Scottish Ministers under any of the SCMO Regulations, and directed to applicants whose principal trading address was in Scotland at the date of the decision to be reviewed.]

(2) Any such decision may be reviewed, and any decision on a review may be appealed, in accordance with the following provisions of these Regulations.

- F6** Reg. 3(1) substituted (25.5.2015) by [The Common Agricultural Policy Non-IACS Support Schemes \(Appeals\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/167\)](#), regs. 1(1), **4**

First stage review of decisions

4.—(1) An application may be made no later than 6 months from the date of notification of the decision to be reviewed, to the Scottish Ministers for a review of that decision.

(2) An application for review must be in writing and specify—

- (a) the name and address of the applicant, and where that person is not the person named in the decision the basis upon which that person is seeking review;
- (b) the subsidy scheme in relation to which the review is sought;
- (c) the decision of the Scottish Ministers which is to be reviewed and its date;
- (d) full details of the grounds upon which review is sought; and
- (e) the change sought to the decision.

(3) An application made under this regulation, or under regulation 7, may be made by fax or other means of electronic communication which is capable of reproduction.

(4) An application under this regulation, or under regulation 7, is to be treated as made if it is received by the Scottish Ministers, at the address specified by them for receipt of such applications.

(5) In relation to decisions amenable to review made on or after 1st April 2004 but before 3rd July 2004 an application may be made no later than 3rd January 2005 and any such application for review must satisfy the conditions of paragraph (2) above.

Procedure at first stage review

5.—(1) Where an application is made under regulation 4 above, the Scottish Ministers shall review the decision which is specified in it.

(2) In reviewing a decision the Scottish Ministers may—

- (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision);
- (b) invite the applicant to provide such further information relevant to the review as they consider appropriate; and
- (c) give the applicant an opportunity to give evidence and to make representations in person or through a representative.

Decision following first stage review

6.—(1) Following review of a decision in accordance with regulation 5 above the Scottish Ministers may—

- (a) confirm their decision;
- (b) amend or alter their decision in any respect which they consider appropriate; or
- (c) revoke their decision in its entirety and substitute a new decision.

(2) The Scottish Ministers must give their decision under paragraph (1) above in writing, setting out the facts upon which their decision is based and the reasons for their decision.

(3) The Scottish Ministers must, in the case of a decision which does not provide any remedy specified by the applicant in accordance with regulation 4(2)(e) above, offer the applicant an opportunity to have their decision under this regulation reviewed by persons appointed by them and must in such a case advise the applicant of the right of a second stage review provided by regulation 7(1) below.

Second stage review by persons appointed

7.—(1) An applicant to whom regulation 6(3) above applies may, no later than 60 days following the date of notification of the decision under regulation 6 above, make an application in writing to the Scottish Ministers to have that decision reviewed by persons appointed by the Scottish Ministers.

(2) Where the decision to be reviewed is a decision of a kind referred to in regulation 6(1)(b) or (c) above the applicant may supplement the original application made by the applicant under regulation 4(2) above as the nature of that decision may require.

(3) A fee of £100 is payable for all applications for review under this regulation.

(4) The fee referred to in paragraph (3) above is payable to Scottish Ministers and recoverable by them, in the event of default, as a debt.

Power of persons appointed

8.—(1) Where an application is made under regulation 7 above, the Scottish Ministers shall appoint such persons (who may include a member of the staff of the Scottish Ministers) as they consider appropriate to review the decision and the Scottish Ministers shall provide those persons with a copy of—

- (a) the application;
- (b) the decision under regulation 6 above; and
- (c) any document or note of evidence produced or taken in relation to a review under regulation 6 above.

(2) The persons appointed under this regulation shall review the decision and may—

- (a) consider any document or other evidence produced by the applicant or the Scottish Ministers (whether or not that document or evidence was available at the time of taking the decision under regulation 6 above);

- (b) invite the applicant and the Scottish Ministers to provide such further information relevant to the review as the persons appointed consider appropriate; and
 - (c) at the applicant's request, invite the applicant and the Scottish Ministers to give evidence and to make representations, to the persons appointed under this regulation, in person or through a representative.
- (3) Following their review of the matter the persons appointed shall report—
- (a) their findings in fact and law on the matter; and
 - (b) their recommendations as to the determination of the application, to the Scottish Ministers.
- (4) Having considered the matters reported to them under paragraph (3) above, the Scottish Ministers may—
- (a) confirm their decision;
 - (b) amend or alter their decision in any respect which they consider appropriate; or
 - (c) revoke their decision in its entirety and substitute a new decision.
- (5) In coming to their decision in accordance with paragraph (4) above, the Scottish Ministers must have regard to the findings and recommendations reported to them by the persons appointed under this regulation but are not bound to follow all or any part of such findings or recommendations.
- (6) The Scottish Ministers must give their decision under this regulation in writing and where they do not adopt the findings and recommendations reported to them shall set out—
- (a) the relevant facts upon which their decision is based;
 - (b) the reasons for their decision;
 - (c) their reasons for not following in whole or in part the findings or recommendations of the persons appointed; and
 - (d) the effect of their decision on the payment or non-payment of subsidy.
- (7) Where the Scottish Ministers decide in accordance with paragraph (4)(b) or (c) above, the fee referred to in regulation 7(3) above must be refunded to the applicant.
- (8) The Scottish Ministers may make such payment, by way of fee or reimbursement of expenses, to any of such persons appointed under paragraph (1) above, as appears to them to be appropriate.

Notification of decisions

9.—(1) A decision under regulations 6 and 8 above must be notified to the applicant as soon as practicable after it is made by recorded delivery post to the address shown on the application for review.

(2) In the case of a decision under regulation 8, the findings and recommendations of the persons appointed (along with intimation of the right of appeal under regulation 10(1) below) shall be notified along with the decision.

Appeal to the Scottish Land Court

10.—(1) Where an applicant is dissatisfied by a decision under regulation 8 above, that applicant may make an appeal against that decision on any issue of fact or law to the Scottish Land Court, in accordance with the following provisions.

(2) An appeal may be made no later than 60 days following the date of notification of the decision under regulation 8.

(3) An appeal shall be in such form as may be prescribed from time to time by the Rules of the Scottish Land Court.

- (4) An appeal shall specify—
- (a) what finding of fact, if any, is sought in substitution for any of the findings set out in the decision;
 - (b) what, if any, additional finding of fact is sought;
 - (c) the documents or witnesses to be relied on in relation to the matters set out in sub paragraphs (a) and (b) above;
 - (d) the findings or propositions of law contained in the decision which are to be challenged;
 - (e) the propositions of law relied on in support of the appeal; and
 - (f) the legislative provisions and judicial authorities to be referred to in relation to the appeal.

Procedure in the Scottish Land Court

11.—(1) The Scottish Land Court may hear evidence or submissions on matters of fact or law not specified in accordance with regulation 10 above on such terms and conditions as to expenses or otherwise as it considers appropriate but shall not do so in respect of any matter referred to in regulation 10(4)(a) to (c) above unless it is satisfied that there are special circumstances to justify doing so.

(2) The Chairman of the Scottish Land Court may make appropriate arrangements for the hearing of appeals under these Regulations.

(3) The arrangements referred to in paragraph (2) above shall include the delegation, to the Chairman or any member of the Court, of the power to determine the whole or any part of an appeal.

- (4) In determining an appeal, the Scottish Land Court may—
- (a) confirm the decision of the Scottish Ministers under regulation 8 above;
 - (b) amend or alter that decision in any respect which it considers appropriate; or
 - (c) substitute for that decision any decision which it considers appropriate, and any such determination of the Scottish Land Court is, subject to any case stated in accordance with section 1(7) of the Scottish Land Court Act 1993 ^{F7}, binding upon the Scottish Ministers and the applicant.

F7 1993 c. 45.

Reimbursement of fee following successful appeal

12. In the event that, as a result of an appeal under regulation 10 above, the Scottish Land Court determines in accordance with regulation 11(4)(b) or (c) above, the Scottish Ministers must reimburse the fee paid in accordance with regulation 7(3) above.

St Andrew's House, Edinburgh

ROSS FINNIE
A member of the Scottish Executive

Status: Point in time view as at 28/02/2019.**Changes to legislation:** There are currently no known outstanding effects for the The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004. (See end of Document for details)

F8 SCHEDULE

Regulations 2(1) and 3

The SCMO Regulations in respect of which decisions are amenable to review and appeal

F8 Sch. substituted (25.5.2015) by [The Common Agricultural Policy Non-IACS Support Schemes \(Appeals\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/167\)](#), regs. 1(1), 5

Regulation (EEC) No 100/72 of the Commission laying down detailed rules on the denaturing of sugar for animal feed;

Commission Regulation (EEC) No 1361/76 laying down certain detailed rules for applying the export refund on rice and on mixtures of rice;

Commission Regulation (EEC) No 189/77 laying down detailed rules for the application of the system of minimum stocks in the sugar sector;

Commission Regulation (EEC) No 1842/81 laying down detailed rules for implementing Regulation (EEC) No 1188/81 relating to general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages;

Commission Regulation (EEC) No 2180/81 laying down rules implementing restrictions on investment aids for pig production;

Commission Regulation (EEC) No 3423/81 on communication by the Member States of data concerning exports of cereal and rice products as food aid;

Commission Regulation (EEC) No 3556/87 laying down additional detailed rules for the application of the system of advance-fixing certificates in the case of certain cereal sector products exported in the form of pasta falling within subheadings 19021100 and 190219 of the combined nomenclature;

Commission Regulation (EEC) No 3164/89 laying down detailed rules for the application of special measures in respect of hemp seed;

Commission Regulation (EC) No 3330/94 on the tariff classification of certain poultry cuts and amending Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff;

Commission Regulation (EC) No 1439/95 laying down detailed rules for the application of Council Regulation (EEC) No 3013/89 as regards the import and export of products in the sheepmeat and goatmeat sector;

Commission Regulation (EC) No 1517/95 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice;

Commission Regulation (EC) No 2810/95 on the tariff classification of pig carcasses and half carcasses and amending Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff;

Commission Regulation (EC) No 440/96 opening and providing for the administration of Community tariff quotas for certain mixtures of malt sprouts and barley screenings;

Commission Regulation (EC) No 1831/96 opening and providing for the administration of Community tariff quotas bound under GATT for certain fruit and vegetables and processed fruit and vegetable products from 1996;

Commission Regulation (EC) No 2390/98 laying down detailed rules for the application of Council Regulation (EC) No 1706/98 as regards the arrangements for importing certain cereal substitute products and processed cereal and rice products originating in the African, Caribbean

and Pacific States or in the overseas countries and territories and repealing Regulation (EEC) No 2245/90;

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 Council Regulation (EC) No 820/97;

Commission Regulation (EC) No 1825/2000 laying down detailed rules for the application of Regulation (EC) No 1760/2000 of the European Parliament and of the Council as regards the labelling of beef and beef products;

Commission Regulation (EC) No 1488/2001 laying down rules for the application of Council Regulation (EC) No 3448/93 as regards the placement of certain quantities of certain basic products listed in Annex I to the Treaty establishing the European Community under the inward processing arrangements without prior examination of the economic conditions;

Commission Regulation (EC) No 2133/2001 opening and providing for the administration of certain Community tariff quotas and tariff ceilings in the cereals sector and repealing Regulations (EC) No 1897/94, (EC) No 306/96, (EC) No 1827/96, (EC) No 1970/96, (EC) No 1405/97, (EC) No 1406/97, (EC) No 2492/98, (EC) No 2809/98 and (EC) No 778/1999;

Commission Regulation (EC) No 2298/2001 laying down detailed rules for the export of products supplied as food aid;

Commission Regulation (EC) No 2535/2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas;

Commission Regulation (EC) No 315/2002 on the survey of prices of fresh or chilled sheep carcasses on representative markets in the Community;

Commission Regulation (EC) No 2004/2002 relating to the procedure for determining the meat and fat content of certain pigmeat products;

Commission Regulation (EC) No 546/2003 on certain notifications regarding the application of Council Regulations (EEC) No 2771/75, (EEC) No 2777/75 and (EEC) No 2783/75 in the eggs and poultrymeat sectors;

Commission Regulation (EC) No 1082/2003 laying down detailed rules for the implementation of Regulation (EC) No 1760/2000 of the European Parliament and of the Council as regards the minimum level of controls to be carried out in the framework of the system for the identification and registration of bovine animals;

Commission Regulation (EC) No 1342/2003 laying down special detailed rules for the application of the system of import and export licences for cereals and rice;

Commission Regulation (EC) No 2305/2003 opening and providing for the administration of a Community tariff quota for imports of barley from third countries;

Commission Regulation (EC) No 2336/2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin;

Commission Regulation (EC) No 595/2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector;

Commission Regulation (EC) No 917/2004 on detailed rules to implement Council Regulation (EC) No 797/2004 on actions in the field of beekeeping;

Commission Regulation (EC) No 1345/2005 laying down detailed rules for the application of the system of import licences for olive oil;

Commission Regulation (EC) No 1993/2005 on the adjustment of the export refunds on malt under Article 15(4) of Council Regulation (EC) No 1784/2003;

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Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004. (See end of Document for details)

[Commission Regulation \(EC\) No 937/2006](#) opening and providing for the administration of a Community tariff quota of corn gluten originating in the United States of America;

[Commission Regulation \(EC\) No 952/2006](#) laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system;

[Commission Regulation \(EC\) No 967/2006](#) laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota;

[Commission Regulation \(EC\) No 969/2006](#) opening and providing for the administration of a Community tariff quota for imports of maize from third countries;

[Commission Regulation \(EC\) No 972/2006](#) laying down special rules for imports of Basmati rice and a transitional control system for determining their origin;

[Commission Regulation \(EC\) No 1301/2006](#) of 31st August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences;

[Commission Regulation \(EC\) No 1505/2006](#) implementing Council Regulation (EC) No 21/2004 as regards the minimum level of checks to be carried out in relation to the identification and registration of ovine and caprine animals;

[Commission Regulation \(EC\) No 1557/2006](#) laying down detailed rules for implementing Council Regulation (EC) No 1952/2005 as regards registration of contracts and the communication of data concerning hops;

[Commission Regulation \(EC\) No 1643/2006](#) laying down detailed rules for the application of granting of assistance for the export of beef and veal products which may benefit from a special import treatment in a third country;

[Commission Regulation \(EC\) No 1670/2006](#) laying down certain detailed rules for the application of Council Regulation (EC) No 1784/2003 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks;

[Commission Regulation \(EC\) No 1731/2006](#) on special detailed rules for the application of export refunds in the case of certain preserved beef and veal products;

[Commission Regulation \(EC\) No 1741/2006](#) laying down the conditions for granting the special export refund on boned meat of adult male bovine animals placed under the customs warehousing procedure prior to export;

[Commission Regulation \(EC\) No 1850/2006](#) laying down detailed rules for the certification of hops and hop products;

[Commission Regulation \(EC\) No 1918/2006](#) opening and providing for the administration of tariff quota for olive oil originating in Tunisia;

[Commission Regulation \(EC\) No 1964/2006](#) laying down detailed rules for the opening and administration of an import quota for rice originating in Bangladesh, pursuant to [Council Regulation \(EEC\) No 3491/90](#);

[Commission Regulation \(EC\) No 1979/2006](#) opening and providing for the administration of tariff quotas for preserved mushrooms imported from third countries;

[Commission Regulation \(EC\) No 88/2007](#) laying down special detailed rules for the application of the system of export refunds on cereals exported in the form of pasta products falling within CN codes 19021100 and 190219;

[Commission Regulation \(EC\) No 341/2007](#) opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries;

[Commission Regulation \(EC\) No 433/2007](#) laying down the conditions for granting special export refunds for beef and veal;

[Commission Regulation \(EC\) No 445/2007](#) laying down certain detailed rules for the application of Council Regulation (EC) No 2991/94 laying down standards for spreadable fats and of [Council Regulation \(EEC\) No 1898/87](#) on the protection of designations used in the marketing of milk and milk products;

[Commission Regulation \(EC\) No 504/2007](#) laying down detailed rules for the application of the arrangements for additional import duties in the milk and milk products sector;

[Commission Regulation \(EC\) No 533/2007](#) opening and providing for the administration of tariff quotas in the poultrymeat sector;

[Commission Regulation \(EC\) No 536/2007](#) opening and providing for the administration of a tariff quota for poultrymeat allocated to the United States of America;

[Commission Regulation \(EC\) No 539/2007](#) opening and providing for the administration of tariff quotas in the egg sector and for egg albumin;

[Commission Regulation \(EC\) No 616/2007](#) opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries;

[Council Regulation \(EC\) No 1234/2007](#) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products;

[Commission Regulation \(EC\) No 1299/2007](#) on the recognition of producer groups for hops;

[Commission Regulation \(EC\) No 1359/2007](#) laying down the conditions for granting special export refunds on certain cuts of boned meat of bovine animals;

[Commission Regulation \(EC\) No 1375/2007](#) on imports of residues from the manufacture of starch from maize from the United States of America;

[Commission Regulation \(EC\) No 1384/2007](#) laying down detailed rules for the application of Council Regulation (EC) No 2398/96 as regards opening and providing for the administration of certain quotas for imports into the Community of poultrymeat products originating in Israel;

[Commission Regulation \(EC\) No 1385/2007](#) laying down detailed rules for the application of Council Regulation (EC) No 774/94 as regards opening and providing for the administration of certain Community tariff quotas for poultrymeat;

[Commission Regulation \(EC\) No 1454/2007](#) laying down common rules for establishing a tender procedure for fixing export refunds for certain agricultural products;

[Council Regulation \(EC\) No 3/2008](#) on information provision and promotion measures for agricultural products on the internal market and in third countries;

[Commission Regulation \(EC\) No 133/2008](#) on imports of pure-bred breeding animals of the bovine species from the third countries and the granting of export refunds thereon;

[Commission Regulation \(EC\) No 273/2008](#) laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards methods for the analysis and quality evaluation of milk and milk products;

[Commission Regulation \(EC\) No 376/2008](#) laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products;

[Commission Regulation \(EC\) No 382/2008](#) on rules of application for import and export licences in the beef and veal sector;

[Commission Regulation \(EC\) No 412/2008](#) opening and providing for the administration of an import tariff quota for frozen beef intended for processing;

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Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004. (See end of Document for details)

[Commission Regulation \(EC\) No 431/2008](#) opening and providing for the administration of an import tariff quota for frozen meat of bovine animals covered by CN code 0202 and products covered by CN code 02062991;

[Commission Regulation \(EC\) No 507/2008](#) laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre;

[Commission Regulation \(EC\) No 508/2008](#) on the definition, applicable to the granting of export refunds, of hulled grains and pearled grains of cereals;

[Commission Regulation \(EC\) No 543/2008](#) laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat;

[Commission Regulation \(EC\) No 566/2008](#) laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less;

[Commission Regulation \(EC\) No 589/2008](#) laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs;

[Commission Regulation \(EC\) No 617/2008](#) laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks;

[Commission Regulation \(EC\) No 657/2008](#) laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments;

[Commission Regulation \(EC\) No 748/2008](#) on the opening and administration of an import tariff quota for frozen thin skirt of bovine animals falling within CN code 02062991;

[Commission Regulation \(EC\) No 826/2008](#) laying down common rules for the granting of private storage aid for certain agricultural products;

[Commission Regulation \(EC\) No 903/2008](#) on special conditions for granting export refunds on certain pigmeat products;

[Commission Regulation \(EC\) No 951/2008](#) fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty;

[Commission Regulation \(EC\) No 1041/2008](#) laying down certain detailed rules for granting of assistance for the export of beef and veal which may benefit from a special import treatment in Canada;

[Commission Regulation \(EC\) No 1067/2008](#) opening and providing for the administration of Community tariff quotas for common wheat of a quality other than high quality from third countries and derogating from Council Regulation (EC) No 1234/2007;

[Commission Regulation \(EC\) No 1249/2008](#) laying down detailed rules on the implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof;

[Commission Regulation \(EC\) No 1276/2008](#) on the monitoring by physical checks of exports of agricultural products receiving refunds or other amounts;

[Commission Regulation \(EC\) No 1295/2008](#) on the importation of hops from third countries;

[Commission Regulation \(EC\) No 1312/2008](#) fixing the conversion rates, the processing costs and the value of the by-products for the various stages of rice processing;

[Commission Regulation \(EC\) No 147/2009](#) on defining the destination zones for exports refunds, export levies and certain export licences for cereals and rice;

[Commission Regulation \(EC\) No 296/2009](#) on detailed rules for administrative assistance with the exportation of certain cheeses subject to quota restrictions that qualifies for special treatment on importation into the United States of America;

[Commission Regulation \(EC\) No 388/2009](#) laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the import and export system for products processed from cereals and rice;

[Commission Regulation \(EC\) No 437/2009](#) opening and providing for the administration of a Community import tariff quota for young male bovine animals for fattening;

[Commission Regulation \(EC\) No 438/2009](#) opening and providing for the administration of Community tariff quotas for bulls, cows and heifers other than for slaughter of certain Alpine and mountain breeds;

[Commission Regulation \(EC\) No 442/2009](#) opening and providing for the administration of Community tariff quotas in the pigmeat sector;

[Commission Regulation \(EC\) No 610/2009](#) laying down detailed rules for the application of the tariff quota for beef and veal originating in Chile;

[Commission Regulation \(EC\) No 612/2009](#) on laying down common detailed rules for the application of the system of export refunds on agricultural products;

[Commission Regulation \(EC\) No 828/2009](#) laying down detailed rules of application for the marketing years 2009/2010 to 2014/2015 for the import and refining of sugar products of tariff heading 1701 under preferential agreements;

[Commission Regulation \(EC\) No 891/2009](#) opening and providing for the administration of certain Community tariff quotas in the sugar sector;

[Commission Regulation \(EC\) No 933/2009](#) laying down detailed rules for the application of Council Regulation (EC) No 779/98 as regards opening and providing for the administration of certain quotas for imports into the Community of poultrymeat products originating in Turkey;

[Commission Regulation \(EC\) No 1064/2009](#) opening and providing for the administration of a Community import tariff quota for malting barley from third countries;

[Commission Regulation \(EC\) No 1130/2009](#) laying down common detailed rules for verifying the use and/or destination of products from intervention;

[Commission Regulation \(EC\) No 1187/2009](#) laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products;

[Commission Regulation \(EU\) No 1272/2009](#) laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention;

[Commission Regulation \(EU\) No 234/2010](#) laying down certain detailed rules for the application of Council Regulation (EC) No 1234/2007 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals;

[Commission Regulation \(EU\) No 479/2010](#) laying down rules for the implementation of Council Regulation (EC) No 1234/2007 as regards Member States' notifications to the Commission in the milk and milk products sector;

[Commission Regulation \(EU\) No 578/2010](#) on the implementation of Council Regulation (EC) No 1216/2009 as regards the system of granting export refunds for certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds;

[Commission Regulation \(EU\) No 642/2010](#) on rules of application (cereal sector import duties) for Council Regulation (EC) No 1234/2007;

Status: Point in time view as at 28/02/2019.

Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004. (See end of Document for details)

Commission Regulation (EU) No 817/2010 laying down detailed rules pursuant to Council Regulation (EC) No 1234/2007 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport;

Commission Regulation (EU) No 1085/2010 opening and providing for the administration of certain annual tariff quotas for importing sweet potatoes, manioc, manioc starch and other products falling within CN codes 0714 90 11 and 0714 90 19 and amending Regulation (EU) No 1000/2010;

Commission Regulation (EU) No 1178/2010 laying down detailed rules for implementing the system of export licences in the egg sector;

Commission Regulation (EU) No 1255/2010 laying down detailed rules for the application of the import tariff quotas for ‘baby beef’ products originating in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia;

Commission Regulation (EU) No 90/2011 laying down detailed rules for implementing the system of export licences in the poultrymeat sector;

Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors;

Commission Implementing Regulation (EU) No 789/2011 opening the procedure for the allocation of export licences for cheese to be exported to the United States of America in 2012 under certain GATT quotas;

Commission Implementing Regulation (EU) No 1273/2011 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice;

Commission Implementing Regulation (EU) No 1288/2011 on the notification of wholesale prices for bananas within the common organisation of agricultural markets;

Commission Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector;

Commission Implementing Regulation (EU) No 1354/2011 opening annual Union tariff quotas for sheep, goats, sheepmeat and goatmeat;

Commission Implementing Regulation (EU) No 480/2012 opening and providing for the management of a tariff quota for broken rice of CN code 10064000 for production of food preparations of CN code 19011000;

Commission Implementing Regulation (EU) No 481/2012 laying down rules for the management of a tariff quota for high-quality beef;

Commission Implementing Regulation (EU) No 511/2012 on notifications concerning producer and interbranch organisations and contractual negotiations and relations provided for in Council Regulation (EC) No 1234/2007 in the milk and milk products sector;

Commission Delegated Regulation (EU) No 880/2012 supplementing Council Regulation (EC) No 1234/2007 as regards transnational cooperation and contractual negotiations of producer organisations in the milk and milk products sector;

Commission Implementing Regulation (EU) No 1223/2012 laying down detailed rules for the application of an import tariff quota for live bovine animals of a weight exceeding 160 kg and originating in Switzerland provided for in the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;

Commission Implementing Regulation (EU) No 82/2013 laying down detailed rules for the application of an import tariff quota of dried boneless beef originating in Switzerland;

Commission Implementing Regulation (EU) No 456/2013 laying down transitional measures as regards milk import quotas under Regulation (EC) No 2535/2001, and beef import quotas under Regulations (EC) No 412/2008 and (EC) No 431/2008, by reason of the accession of Croatia to the European Union;

Commission Implementing Regulation (EU) No 457/2013 derogating from Regulations (EC) No 412/2008 and (EC) No 431/2008 as regards beef import quotas for the period running from 1st July 2013 to 30th June 2014;

Commission Implementing Regulation (EU) No 593/2013 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat;

Commission Implementing Regulation (EU) No 807/2013 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the survey of prices of certain bovine animals on representative Union markets;

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007;

Council Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products;

Commission Implementing Regulation (EU) No 1373/2013 laying down detailed rules for implementing the system of export licences in the pigmeat sector;

Commission Implementing Regulation (EU) No 266/2014 on the division between deliveries and direct sales of national milk quotas fixed for 2013/2014 in Annex IX to Council Regulation (EC) No 1234/2007;

Commission Implementing Regulation (EU) No 411/2014 opening and providing for the administration of a Union import tariff quota for fresh and frozen beef and veal originating in Ukraine;

Commission Implementing Regulation (EU) No 412/2014 opening and providing for the administration of Union import tariff quotas for eggs, egg products and albumins originating in Ukraine;

Commission Implementing Regulation (EU) No 413/2014 opening and providing for the administration of Union import tariff quotas for poultrymeat originating in Ukraine;

Commission Implementing Regulation (EU) No 414/2014 opening and providing for the administration of Union import tariff quotas for fresh and frozen pigmeat originating in Ukraine;

Commission Implementing Regulation (EU) No 416/2014 opening and providing for the administration of import tariff quotas for certain cereals originating in Ukraine;

Regulation (EU) No 510/2014 of the European Parliament and of the Council laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009;

Commission Implementing Regulation (EU) No 776/2014 fixing the quantitative limit for exports of out-of-quota sugar and isoglucose until the end of the 2014/2015 marketing year;

Commission Implementing Regulation (EU) No 1033/2014 fixing the representative prices and additional import duties applicable to molasses in the sugar sector from 1st October 2014;

[^{F9}Commission Delegated Regulation (EU) 2016/1238 supplementing Regulation (EU) 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage, as last amended by Commission Delegated Regulation (EU) 2018/149;]

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[^{F10}Commission Delegated Regulation (EU) 2017/40 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014;

Commission Implementing Regulation (EU) 2017/39 on rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments.]]

- F9** Words in sch. inserted (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), regs. 1(1), **39(2)**
- F10** Words in sch. inserted (1.8.2017) by [The Milk and Other Products \(Pupils in Educational Establishments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/178\)](#), regs. 1, **6(2)**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for a review of certain decisions of the Scottish Ministers in relation to decisions made under any of the Common Agricultural Policy (“CAP”) support schemes listed in the Schedule to the Regulations.

They apply in relation to decisions directed to applicants whose principal trading address was in Scotland at the date of the decision to be reviewed or appealed (regulation 3).

The procedure for review is by application made no later than 6 months from the date of notification of the decision to be reviewed (regulation 4).

The review in the first instance will be conducted by the Scottish Ministers. Certain powers are given to the Scottish Ministers in relation to such reviews (regulation 5(2)).

Scottish Ministers must following a review give their decision in a form specified by regulation 6.

Where an applicant is dissatisfied by such a decision, the applicant may apply to the Scottish Ministers to have their decision further reviewed by persons appointed by them (regulation 7(1)) and a fee of £100 is payable in respect of such an application (regulation 7(3)).

The Scottish Ministers may appoint such persons as they consider appropriate to conduct this second stage review, and may appoint a member of their staff for this purpose (regulation 8(1)).

Persons appointed under regulation 8 must review the decision of the Scottish Ministers and have certain powers to consider additional information and to invite representations from the applicant and the Scottish Ministers (regulation 8(2)).

Following their review of the decision the persons appointed by the Scottish Ministers must report their findings in fact and law and any recommendations which they wish to make to the Scottish Ministers (regulation 8(3)).

The Scottish Ministers then require to make a decision having regard to the findings and recommendations reported to them by the persons appointed (regulation 8(4) and (5)).

The Scottish Ministers require to give their decision in writing and to give full details of the facts and reasons for their decision (regulation 8(6)).

Where the Scottish Ministers decide that an applicant has been successful in whole or in part in the review they must refund the fee of £100 (regulation 8(7)).

The Scottish Ministers may make payments to persons appointed by them under regulation 8 (regulation 8(8)).

Decisions and the existence of the right of appeal must be notified in accordance with regulation 9.

Where an applicant is dissatisfied with a decision following review under regulation 9 that person may appeal against that decision on any issue of fact or law to the Scottish Land Court in accordance with regulation 10.

Regulation 11 sets out certain aspects of the internal procedures of the Scottish Land Court. Regulation 11(4) sets out the orders which may be made by the Scottish Land Court following consideration of the appeal. It may confirm the decision of the Scottish Ministers or amend or alter the decision which has been appealed or substitute that decision with one of its own. Regulation 12 requires reimbursement of the fee required by regulation 7(3) in the event that the appeal to the Scottish Land Court is successful.

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