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SCOTTISH STATUTORY INSTRUMENTS

2005 No. 143

AGRICULTURE

The Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2005

Made - - - -	*9th March 2005*
Laid before the Scottish Parliament - - - -	*10th March 2005*
Coming into force - -	*18th April 2005*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

PROSPECTIVE

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Common Agricultural Policy Single Farm Payment and Support Schemes (Scotland) Regulations 2005 and shall come into force on 18th April 2005.

(2) Subject to paragraph (3), these Regulations extend to Scotland only.

(3) In so far as this paragraph, regulations 2, 16(3) and 27 of, and Schedule 5 to, these Regulations extend beyond Scotland, they do so only as a matter of Scots law.

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. For the purposes of implementing Council Regulation (EC) No. 1782/2003 establishing common rules for direct support under the common agricultural policy and establishing certain support schemes for farmers (O.J. No. L 270, 21.20.2003, p.1) that competence was modified by the Scotland Act 1998 (Modification of Functions) Order 2004 (S.I. 2004/2980) and the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 2004 (S.I. 2004/3324).

Commencement Information

I1 Reg. 1 in force at 18.4.2005, see **reg. 1(1)**

Interpretation

2.—(1) In these Regulations–

"the Act of Accession" means the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(**2**);

"the Cattle Tracing Regulations" means–

(a) the Bovine Animals (Records, Identification and Movement) Order 1995(**3**),

(b) the Cattle Identification Regulations 1998(**4**),

(c) the Cattle Database Regulations 1998(**5**), and

(d) the Cattle (Identification of Older Animals) (Scotland) Regulations 2001(**6**);

"Commission Regulation 795/2004" means Commission Regulation (EC) No. 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(**7**), as amended by Commission Regulation (EC) No 1974/2004(**8**);

"Commission Regulation 796/2004" means Commission Regulation (EC) No. 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation 1782/2003(**9**), as amended by Commission Regulation (EC) No. 239/2005(**10**);

"Commission Regulation 1973/2004" means Commission Regulation (EC) No. 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials(**11**);

"Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund(**12**), amended by Commission Regulation (EC) No. 1783/2003(**13**), the Act of Accession(**14**), Council Regulation (EC) No. 567/2004(**15**) and Council Regulation (EC) No. 583/2004(**16**);

"Council Regulation 1782/2003" means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support under the common agricultural policy and

(**2**) O.J. L 236, 23.09.2003, p.33.
(**3**) S.I. 1995/12, partially revoked by S.I. 1998/871.
(**4**) S.I. 1998/871, amended by S.I. 1998/1796, 1998/2969 and 1999/1339.
(**5**) S.I. 1998/1796, amended by S.S.I. 2002/22.
(**6**) S.S.I. 2001/1 as amended by S.S.I. 2002/22.
(**7**) O.J. No. L 141, 30.4.2004, p.1.
(**8**) O.J. No. L 345, 20.11.2004, p.85.
(**9**) O.J. No. L 141, 30.4.2004, p.18.
(**10**) O.J. No. L 42, 12.2.2005, p.3.
(**11**) O.J. No. L 345, 20.1.2004, p.1.
(**12**) O.J. No. L 160, 26.6.1999, p.80.
(**13**) O.J. No. L 270, 21.10.2003, p.70.
(**14**) See Annex II of the Act of Accession, part 6, paragraph 26.
(**15**) O.J. No. L 90, 27.3.2004, p.1.
(**16**) O.J. No. L 91, 30.3.2004, p.1.

establishing certain support schemes for farmers(**17**), as amended by Council Regulation (EC) No. 21/2004(**18**), Council Regulation (EC) No. 583/2004(**19**) and Council Regulation (EC) No. 864/2004(**20**);

"Council Regulation 820/97" means Council Regulation (EC) No 820/97 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products(**21**);

"Council Regulation 1251/1999" means Council Regulation (EC) No. 1251/1999 establishing a support system for producers of certain arable crops, as amended(**22**);

"the Cross-Compliance Regulations" means the Common Agricultural Policy Single Payment and Support Schemes (Cross-Compliance) (Scotland) Regulations 2004(**23**);

"direct payment" has the meaning given to it in Article 2(d) of Council Regulation 1782/2003;

"electronic communication" has the same meaning as in the Electronic Communications Act 2000(**24**);

"farmer" has the meaning given to it in 2(a) of Council Regulation 1782/2003;

"green cover" means a green cover established or, as the case may be, falling to be established in accordance with Schedule 1;

"IACS Regulations" means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(**25**);

"land set aside for non-food purposes" means land set aside pursuant to Article 55(b) of Council Regulation 1782/2003 under the conditions laid down in Chapter 16 of Commission Regulation 1973/2004 for the provision of materials for the manufacture within the European Community of products not primarily intended for human or animal consumption, and any reference to a farmer setting aside land for that purpose shall be construed accordingly;

"land set aside from production" means land set aside pursuant to Article 54(3) of Council Regulation 1782/2003 (other than land set aside for non-food purposes), and any reference to a farmer setting aside land from production shall be construed accordingly;

"organic waste" means waste material produced by or from animals or plants as a by product of agricultural production, including animal bedding;

"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 requiring the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97(**26**);

"relevant competent authority" has the meaning given to it in regulation 5 of the IACS Regulations;

"set aside period" means the period from 15th January to 31st August (inclusive) in any given year;

(**17**) O.J. No. L 270, 21.20.2003, p.1.
(**18**) O.J. No. L 5, 9.1.04, p.8.
(**19**) O.J. No. L 91, 30.3.04, p.1.
(**20**) O.J. No. L 206, 9.6.04, p.20.
(**21**) O.J. No. L 117, 7.5.97, p.1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (O.J. No. L 204, 11.8.00, p.1).
(**22**) O.J. No. L 160, 26.6.1999, p.1, as amended by Council Regulations (EC) No. 2704/1999 (O.J. No. L327, 21.12.1999, p.12), (EC) No. 1672/2000 (O.J. No. L 193, 29.7.2000, p.13), (EC) No. 1038/2003 (O.J. No. L 145, 31.5.2001, p.16) and (EC) No. 1782/2003 (O.J. No L 270, 21.10.2003, p.1).
(**23**) S.S.I. 2004/518.
(**24**) 2000 c. 7.
(**25**) S.I. 2005/218.
(**26**) O.J. No. L 204, 11.8.00, p.1.

"single application" has the meaning given to it in Article 2(11) of Commission Regulation 796/2004;

"single farm payment scheme" means the single payment support scheme established under Title III of Council Regulation 1782/2003; and

"watercourse" includes a canal and field ditch.

(2) Except in Part 6 of, and Schedule 4 to, these Regulations, in these Regulations "holding" has the meaning given to it in Article 2(b) of Council Regulation 1782/2003.

(3) Except in regulation 27, in these Regulations "farmer" has the meaning given to it in Article 2(a) of Council Regulation 1782/2003, "collector" has the meaning given by Article 144(b) of Commission Regulation 1973/2004, and "processor" has the same meaning as in that Regulation.

(4) Expressions used in these Regulations which are not defined in these Regulations shall be construed in accordance with Council Regulation 1782/2003, Commission Regulation 795/2004, Commission Regulation 796/2004 and Commission Regulation 1973/2004.

(5) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

(6) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

Commencement Information
I2 Reg. 2 in force at 18.4.2005, see **reg. 1(1)**

PART 2

Single Farm Payment Scheme

Regional application

3. Scotland shall be a region for the purposes of Article 58 of Council Regulation 1782/2003.

Commencement Information
I3 Reg. 3 in force at 18.4.2005, see **reg. 1(1)**

Applications

4.—(1) The Scottish Ministers shall be the competent authority for the purposes of Article 34(1) of Council Regulation 1782/2003 (which requires the competent authority to send application forms to farmers).

(2) The deadline for the purposes of Article 40(3) of Council Regulation 1782/2003 (which requires the member State to fix a deadline for farmers notifying a case of force majeure or exceptional circumstances) shall be that notification is made to the relevant competent authority responsible for determining the particular single application in question before 16th May 2005.

(3) An application for a reference amount pursuant to Article 42 of Council Regulation 1782/2003 (which provides for the establishment of a national reserve) shall be made to the relevant competent authority responsible for determining the particular single application in question before

16th May in respect of the IACS year (within the meaning of the IACS Regulations) commencing on that date.

Commencement Information
I4 Reg. 4 in force at 18.4.2005, see **reg. 1(1)**

Minimum size of holding

5. For the purposes of Article 12(6) of Commission Regulation 795/2004, the minimum size of a holding for which the establishment of payment entitlements may be requested shall be 0.3 hectare.

Commencement Information
I5 Reg. 5 in force at 18.4.2005, see **reg. 1(1)**

10 month period

6. For the purposes of Article 24(2) of Commission Regulation 795/2004, the period in which the beginning of the 10 month period referred to in Article 44(3) of Council Regulation 1782/2003 shall be fixed, shall be the period beginning on 1st October of the calendar year of the year preceding the year of lodging an application under the single farm payment scheme and ending on 30th April of the year of application.

Commencement Information
I6 Reg. 6 in force at 18.4.2005, see **reg. 1(1)**

Dairy premium and additional payments

7. In accordance with Article 62 of Council Regulation 1782/2003 the amounts resulting from dairy premium and additional payments, provided for in Articles 95 and 96 of that Regulation, shall be included, in full, in the single farm payment scheme starting from 2005.

Commencement Information
I7 Reg. 7 in force at 18.4.2005, see **reg. 1(1)**

Horticulture

8.—(1) Subject to paragraph (2), in accordance with Article 51(b) second paragraph of Council Regulation 1782/2003, secondary crops may be cultivated on the eligible hectares during a period of not more than 3 months beginning each year on 15th August.

(2) Paragraph (1) shall not apply to the year beginning on 1st January 2005.

Commencement Information
I8 Reg. 8 in force at 18.4.2005, see **reg. 1(1)**