Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Agricultural Subsidies (Appeals) (Scotland) Amendment Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 117

AGRICULTURE

The Agricultural Subsidies (Appeals) (Scotland) Amendment Regulations 2005

Made - - - -	*2nd March 2005*
Laid before the Scottish Parliament - - - -	*3rd March 2005*
Coming into force - -	*25th March 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:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Agricultural Subsidies (Appeals) (Scotland) Amendment Regulations 2005 and shall come into force on 25th March 2005.

(2) In these Regulations, "the principal Regulations" means the Agricultural Subsidies (Appeals) (Scotland) Regulations 2004(**2**).

Commencement Information

I1 Reg. 1 in force at 25.3.2005, see **reg. 1(1)**

Amendment of the Agricultural Subsidies (Appeals)(Scotland) Regulations 2004

2. The principal Regulations are amended in accordance with regulations 3 to 6 below.

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (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. Those functions were modified in relation to holdings which are wholly or partly in Scotland by the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 2004 (S.I.2004/3324) and the Scotland Act 1998 (Modification of Functions) Order 2004 (S.I. 2004/2980).

(**2**) S.S.I. 2004/381.

Commencement Information

I2 Reg. 2 in force at 25.3.2005, see **reg. 1(1)**

Amendment of regulation 2

3. In regulation 2(1) (interpretation)–

(a) after "Commission Regulation 2237/2003"(**3**) insert–

> ""Commission Regulation 795/2004" means Commission Regulation (EC) No. 795/2004(**4**) 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, as amended by Commission Regulation (EC) No. 1974/2004(**5**);
>
> "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 (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(**6**), as amended by Commission Regulation (EC) No. 239/2005(**7**);"; and

(b) for the definition of "IACS scheme" substitute–

> ""IACS scheme" means–
>
> (a) one of the Community schemes set out in Article 1.1 of Council Regulation 3508/1992(**8**); or
>
> (b) one of the Community schemes specified in Article 17 of Council Regulation 1782/2003(**9**);".

Commencement Information

I3 Reg. 3 in force at 25.3.2005, see **reg. 1(1)**

Amendment of regulation 3

4. In regulation 3 (application in relation to IACS matters), for "Integrated Administration and Control System Regulations 1993(**10**)" substitute "Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(**11**)".

(**3**) O.J. No. L 339, 24.12.2003, p.52.
(**4**) O.J. No. L 141, 30.4.2004, p.1, corrected by a corrigendum at O.J. L 291, 14.9.2004, p.18.
(**5**) O.J. No. L 345, 20.11.2004, p. 85.
(**6**) O.J. No. L 141, 30.4.2004, p. 18.
(**7**) O.J. No. L 42, 12.2.2005, p.3.
(**8**) Council Regulation (EC) No. 3508/1992 was repealed by Article 153(1) of Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes for farmers and amending certain Regulations, but by virtue of Article 153(1) it continues to apply to applications for direct payments in respect of calendar years preceding 2005.
(**9**) O.J. No. L 270, 21.10.2003, p.1, amended by Council Regulations (EC) No. 21/2004 (O.J. No. L 5, 9.1.2004, p.8), (EC) No. 583/2004 (O.J. No. L 91, 30.3.2004, p.1) and (EC) No. 864/2004 (O.J. No. L 161, 30.4.2004, p.48).
(**10**) S.I. 1993/1317, amended by S.I. 1994/1134, 1999/1148, 2000/2573 and 2004/189.
(**11**) S.I. 2005/218.

Commencement Information

I4 Reg. 4 in force at 25.3.2005, see **reg. 1(1)**

Amendment of regulation 4

5. In regulation 4 (decisions amenable to review and appeal)–

(a) in paragraph (b) after "to", insert "postpone,";

(b) after paragraph (b) insert–

"(ba) a decision under or in accordance with Council Regulation 1782/2003, Commission Regulation 795/2004 or Commission Regulation 796/2004, by the Scottish Ministers to refuse, reduce or recover (in whole or in part) any payment under an IACS scheme for any IACS year insofar as the grounds of appeal have not already formed part of grounds of appeal under any of paragraphs (bb) to (be) below;

(bb) a decision by the Scottish Ministers–

(i) to refuse, reduce or withdraw (in whole or in part) any payment entitlement (including any set-aside or special entitlement) under Article 12 of Commission Regulation 795/2004 in accordance with Title III of Council Regulation 1782/2003;

(ii) to refuse (in whole or in part) a request under Article 40 of Council Regulation 1782/2003 to have an applicant's reference amount calculated on the basis that the applicant's production was adversely affected by force majeure or exceptional circumstances or agri-environment commitments;

(iii) to refuse or withdraw entirely any national reserve entitlement in relation to an application under or in accordance with Article 42 of Council Regulation 1782/2003; or

(iv) to refuse, reduce or withdraw (in whole or in part) any other payment entitlement (including any set-aside or special entitlement) under or in accordance with Council Regulation 1782/2003, Commission Regulation 795/2004 or Commission Regulation 796/2004, under an IACS scheme for any IACS year;

(bc) a decision under or in accordance with Council Regulation 1782/2003, or Commission Regulation 795/2004 by the Scottish Ministers to refuse the transfer (in whole or in part) of any payment entitlement (including any set-aside or special entitlement), under an IACS scheme for any IACS year;

(bd) a decision by the Scottish Ministers in relation to a holding under or in accordance with the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004(**12**);

(be) any decision by the Scottish Ministers under or in accordance with Council Regulation 1782/2003, Commission Regulation 795/2004, Commission Regulation 796/2004 or Commission Regulation 2237/2003 in respect of part of a holding outwith Scotland or legislation implementing any of those instruments in any other part of the United Kingdom;"; and

(c) in paragraph (g), after "of" insert ", or paragraph 6 of Part II of Schedule 2 to,".

(**12**) S.S.I. 2004/518.