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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 18**

**AGRICULTURE**

**The Direct Payments to Farmers (Legislative Continuity)  
(Scotland) (Miscellaneous Amendments) Regulations 2020**

*Approved by the Scottish Parliament*

<i>Made</i>	- - - -	<i>30th January 2020</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>at 9.30 a.m. on 31st January 2020</i>
<i>Coming into force</i>	- -	<i>at 11.00 p.m. on 31st January 2020</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 3(3)(a) and (9) of the Direct Payments to Farmers (Legislative Continuity) Act 2020<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Direct Payments to Farmers (Legislative Continuity) (Scotland) (Miscellaneous Amendments) Regulations 2020.

(2) These Regulations come into force on exit day and paragraph 1(1) of schedule 5 to the European Union (Withdrawal Agreement) Act 2020<sup>(2)</sup> does not apply.

(3) These Regulations extend to Scotland only.

**Amendments to the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014**

2.—(1) The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014<sup>(3)</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “beneficiary” insert—

““claim year” has the meaning given in section 1(7) of the Direct Payments to Farmers (Legislative Continuity) Act 2020<sup>(4)</sup>,”

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(1) 2020 c.2. Section 3(3) confers this power on devolved authorities. The term “devolved authority” is defined in section 3(10) and includes the Scottish Ministers.  
(2) 2020 c.1.  
(3) S.S.I. 2014/325, as amended by S.S.I. 2015/58, S.S.I. 2015/194, S.S.I. 2015/215 and S.S.I. 2018/122. S.S.I. 2019/60 made prospective amendments which have not yet come into force.  
(4) 2020 c.2.

(b) after paragraph (2), insert—

“(2A) References in these Regulations to the Horizontal Delegated Regulation, the Horizontal Implementing Regulation and the Horizontal Regulation are, to the extent that they relate to direct payments for claim year 2020, references to those Regulations as they exist in domestic law.”.

(3) In regulation 5 (powers of authorised persons), at the beginning of paragraph (5)(b) insert “except for matters relating to direct payments for claim year 2020,”.

### **Amendments to the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015**

3.—(1) The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015(5) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “Bank Holiday” insert—

““claim year” has the meaning given in section 1(7) of the Direct Payments to Farmers (Legislative Continuity) Act 2020(6),”

(b) after paragraph (1), insert—

“(1A) References in these Regulations to the Horizontal Delegated Regulation, the Horizontal Implementing Regulation and the Horizontal Regulation are, to the extent that they relate to direct payments for claim year 2020, references to those Regulations as they exist in domestic law.”.

(3) In regulation 4 (minimum eligible area of holding), omit “(b) and (2)”.

(4) In regulation 7 (short rotation coppice), omit “and (2)(c)”.

(5) In regulation 14(1) (windfall profit), after “Delegated Regulation” insert “, as those Regulations had effect immediately before exit day”.

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

(7) In regulation 19 (powers of authorised persons), at the beginning of paragraph (5)(b) insert “except for matters relating to direct payments for claim year 2020,”.

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

(a) in paragraph (2)(b), for “or the coordinating body” substitute “, the coordinating body, or, in respect of claim year 2020, the relevant authority”,

(b) for paragraph (3) substitute—

“(3) In this regulation—

“the relevant 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(7).”.

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(5) S.S.I. 2015/58, as amended by S.S.I. 2015/194, S.S.I. 2015/215, S.S.I. 2016/104, S.S.I. 2016/178, S.S.I. 2017/98, S.S.I. 2017/317 and S.S.I. 2018/122. S.S.I. 2019/60 made prospective amendments which have not yet come into force.

(6) 2020 c.2.

(7) S.I. 2014/3260.

## **Amendments to the Rural Payments (Appeals) (Scotland) Regulations 2015**

4.—(1) The Rural Payments (Appeals) (Scotland) Regulations 2015<sup>(8)</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “beneficiary”, insert—

““claim year” has the meaning given in section 1(7) of the Direct Payments to Farmers (Legislative Continuity) Act 2020<sup>(9)</sup>,”

(b) after paragraph (1), insert—

“(1A) References in these Regulations to the Horizontal Delegated Regulation, the Horizontal Implementing Regulation and the Horizontal Regulation are, to the extent that they relate to direct payments for claim year 2020, references to those Regulations as they exist in domestic law.”.

(3) After regulation 10 insert—

### **“Transitional provision for decisions on or after exit day in respect of any direct payments claim year other than 2020**

**10A.**—(1) For the purposes of these Regulations, a “relevant decision” includes a decision made—

(a) on or after exit day,

(b) in respect of any claim year other than the claim year 2020, and

(c) in accordance with any EU legislation governing the CAP direct payments schemes specified in any of the paragraphs of the Schedule, so far as that EU legislation had effect immediately before exit day.

(2) In this regulation—

“EU legislation governing the CAP direct payments schemes” means the EU legislation listed in section 1(3) of the Direct Payments to Farmers (Legislative Continuity) Act 2020<sup>(10)</sup>.”.

St Andrew’s House,  
Edinburgh  
30th January 2020

*FERGUS EWING*  
A member of the Scottish Government

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<sup>(8)</sup> S.S.I. 2015/194, as amended by S.S.I. 2018/391. S.S.I. 2019/60 made prospective amendments which have not yet come into force.

<sup>(9)</sup> 2020 c.2.

<sup>(10)</sup> 2020 c.2.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 3(3)(a) and (9) of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c.2) in order to address failures of retained EU law governing the CAP direct payments scheme for the claim year 2020 and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation which relate to the direct payments scheme for the claim year 2020 (which runs from 1 January 2020 to 31 December 2020).

No Business and Regulatory Impact Assessment has been prepared in relation to these Regulations as no, or no significant, impact upon business, charities or voluntary bodies is foreseen.