SCOTTISH STATUTORY INSTRUMENTS

2020 No. 244

AGRICULTURE

The Direct Payments to Farmers (Controls) (Coronavirus) (Scotland) Regulations 2020

Made - - - -	*18th August 2020*
Laid before the Scottish Parliament	*20th August 2020*
Coming into force - -	*30th September 2020*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by Article 62(2)(a) and (b) of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council of 13 December 2013 on the financing, management and monitoring of the common agricultural policy(**a**), and all other powers enabling them to do so.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Direct Payments to Farmers (Controls) (Coronavirus) (Scotland) Regulations 2020 and come into force on 30 September 2020.

(2) These Regulations extend to Scotland.

(3) In these Regulations, "claim year 2020" is to be interpreted in accordance with section 1(7) of the Direct Payments to Farmers (Legislative Continuity) Act 2020(**b**).

Amendment of Commission Implementing Regulation (EU) No. 809/2014

2.—(1) Commission Implementing Regulation (EU) No. 809/2014(**c**) is amended in accordance with paragraphs (2) to (8).

(2) In Article 24(4), at the end insert as a new sub-paragraph—

> "By way of derogation from the first sub-paragraph, no physical inspection is required in respect of claim year 2020. The competent authority will draw a definitive conclusion from the use of photo-interpretation of satellite or aerial ortho-images or other relevant evidence including such evidence provided by the beneficiary at the request of the competent authority.".

(**a**) Regulation (EU) No. 1306/2013 ("the Horizontal Regulation") was incorporated into domestic law, insofar as it relates to the CAP direct payment schemes for claim year 2020, by the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c.2). Article 62(2) was amended by regulation 7(4)(b) of S.I. 2020/90. The term "appropriate authority" in relation to Scotland means the Scottish Ministers as per Article 2(1)(m), as read with Article 2(1)(k) of the Horizontal Regulation. Article 2(1)(k) and (m) was inserted by regulation 2(a)(iii) of S.I. 2020/90.

(**b**) 2020 c.2.

(**c**) Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance. This Regulation was incorporated into domestic law, insofar as it relates to the CAP direct payment schemes for claim year 2020, by the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c.2), and was amended by S.I. 2020/90.

(3) In Article 26(4), at the end insert as a new sub-paragraph—

"In respect of claim year 2020, the requirement for additional visits under this paragraph may be met by the use of new technologies or other relevant evidence.".

(4) After Article 30, insert—

"*Article 30a*

Control rates for area-related schemes in claim year 2020

1. By way of derogation from Article 30, the control samples for the on-the-spot checks in respect of claim year 2020 must cover at least:

(a) 3% of all beneficiaries applying for the basic payment scheme in accordance with Chapter 1 of Title III of Regulation (EU) No 1307/2013;

(b) 3% of all beneficiaries applying for the payment for young farmers in accordance with Chapter 5 of Title III of Regulation (EU) No 1307/2013;

(c) 3% of all beneficiaries of area-related payments under voluntary coupled support in accordance with Chapter 1 of Title IV of Regulation (EU) No 1307/2013.

2. When applying the control rates set out in points (a) and (c) of paragraph 1, priority must be given to areas other than those of permanent grassland and/or permanent crops.".

(5) After Article 31, insert—

"*Article 31a*

Control rate for the greening payment in claim year 2020

1. By way of derogation from Article 31, the control sample for on-the-spot checks for the greening payment in respect of claim year 2020 is 3% of all beneficiaries required to observe the agricultural practices beneficial for the climate and the environment.

2. The control rate in paragraph 1 must include at least 3% of all beneficiaries having areas covered with permanent grasslands that are environmentally sensitive in areas covered by Council Directive 92/43/EEC(**a**) or Directive 2009/147/EC of the European Parliament and of the Council(**b**) and further sensitive areas referred to in Article 45(1) of Regulation (EU) No 1307/2013.

3. When applying the control rate set out in paragraph 1, priority must be given to areas other than those of permanent grassland and/or permanent crops.".

(6) In Article 33a, after paragraph 2 insert—

"**3.** Paragraphs 1 and 2 do not apply in respect of claim year 2020.".

(7) In Article 35, at the end insert as a new sub-paragraph—

"The first sub-paragraph does not apply in respect of results of checks carried out in accordance with Articles 30a and 31a. Where an increase in control rates in accordance with the first sub-paragraph should have been applied in claim year 2020, that increase must be applied in claim year 2021.".

(8) In Article 68—

(a) in paragraph (1), after the second sub-paragraph insert as a new sub-paragraph—

"For the purposes of on-the-spot checks in respect of claim year 2020, the first sub-paragraph applies as if for "1%" there were substituted "0.5%.",

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(**a**) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p.7).

(**b**) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p.7).

(b) in paragraph (4), at the end insert the following sub-paragraph—

"The first sub-paragraph does not apply for the purpose of on-the-spot checks in respect of claim year 2020. Where an increase in control rates in accordance with the first sub-paragraph should have been applied in claim year 2020, that increase must be applied in claim year 2021.".

ROSEANNA CUNNINGHAM
A member of the Scottish Government

St Andrew's House,
Edinburgh
18th August 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Commission Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance in order to make changes to inspection requirements and reduce control rates for direct payment schemes in Scotland for claim year 2020, to address the effects of the coronavirus pandemic.

The Regulations allow for physical checks to be replaced by other forms of evidence, including new technologies and provide that any requirement to increase the inspection rate for claim year 2020 due to a high level of non-compliance in the previous year is deferred to claim year 2021.

The Regulations also reduce the control rate for inspections for the basic payment scheme (from 5% to 3%), for young farmer payments (from 5% to 3%) and for area-related payments under voluntary coupled support (from 5% to 3%). The control rate for inspections for greening payments is reduced from 5% to 3%, and for cross compliance checks is reduced from 1% to 0.5%.

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£4.90

S202008181015 08/2020 19585

http://www.legislation.gov.uk/id/ssi/2020/244

ISBN 978-0-11-104608-1

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