POLICY NOTE

THE RURAL SUPPORT (IMPROVEMENT) (MISCELLANEOUS AMENDMENT) (SCOTLAND) (NO. 2) REGULATIONS 2025

SSI 2025/XXX

The above instrument ("2025 Regulations") was made in exercise of the powers conferred by section 2 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, which provides that the Scottish Ministers may make modifications that they consider would simplify or improve the operation of the provisions of the CAP legislation rather than the additional complexity that would be introduced utilising the Agriculture and Rural Communities (Scotland) Act 2024. The instrument is subject to *affirmative procedure*. This instrument is made under powers in section 2 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 and Article 46(9) of Regulation (EU) No 1307/2013. Some of those powers are subject to affirmative procedure and others to negative procedure. Section 33 of the Interpretation and Legislative Reform (Scotland) Act 2010 permits certain powers to be combined. The instrument is subject to affirmative procedure by virtue of section 33(3) of that Act.

The 2025 Regulations will come into force on the 31 December 2025 apart from those provisions relating to the Scottish Suckler Beef Support Scheme ("SSBSS") derogation from the eligibility calving interval conditionality requirement for applicants claiming ten or fewer calves in a Scheme year which will come into force on the 1 January 2026 for the 2026 scheme year and subsequent scheme years.

Summary Box

Purpose of the instrument. The 2025 Regulations:

EFA improvements and changes:

To increase the number of businesses required to undertake EFA, increase the area of land managed as EFA and widen the options and choices available for those undertaking EFA. This will be achieved by the following changes:

- To remove both 75% exemptions contained in Regulation 1307/2013 Article 46 Section 4(a) and 4(b)
- Changing the EFA options – increasing field margin requirement from 1m to 3m, adding permitted species to EFA requirements, adding four new options to Article 46(2) of 1307/2013
- Remove requirement to submit an EFA map
- Remove need to have a fertiliser and lime plan (permanent grassland)
- Changing the percentage of land subject to EFA (in 2026 the EFA % will remain at 5% but this is to be increased to 7% from 2027).

Scottish Suckler Beef Support Scheme ("SSBSS") improvements and changes:

To reduce the conditionality requirement faced by smaller businesses claiming support under the SSBSS. This will be achieved by implementing a derogation from the eligibility

calving interval conditionality requirement for applicants claiming ten or fewer calves in a Scheme year which will come into force on the 1 January 2026 for the 2026 scheme year and subsequent scheme years.

To extend the end of the SSBSS application submission period to allow submissions to be made up to 14 January following the end of the relevant calendar year starting with the first extension from 31 December 2025 to 14 January 2026.

Policy Objectives

Greening:

The purpose of Tier 2 Enhanced is a payment that supplements the Base payment.

Enhanced has the clear purpose of incentivising and supporting agricultural businesses to undertake best practices and/or actions that actively improve nature and climate outcomes, that are consistent with the transition towards sustainable and regenerative farming, and align with the five guiding environmental principles. Many of these practices and actions will improve business efficiency and productivity.

Enhanced has been designed from the outset to promote the protection of the environment and contribute towards sustainability.

Enhanced will reward behaviours, practices and measures aligned to this aim, which are broad enough to allow all types of agricultural businesses to take part while delivering against the overarching objectives of the Vision for Agriculture.

With the passing of the Agriculture and Rural Communities (Scotland) Act 2024 ("ARC Act") and the publication of the Vision for Scottish Agriculture and Agricultural Reform Route Map, the timeline for establishing a new Scottish agricultural policy is now clear. To deliver on the Route Map commitments, which include the phased approach to transitioning between the SRDP and new support, it is necessary to introduce changes to Greening as a proxy for Tier 2 enhanced support.

Without the changes made by the 2025 Regulations, Greening would be unable to support the commitment to Tier 2 support set out in the Route Map.

The Scottish Ministers have committed to providing a replacement for legacy SRDP schemes, as set out in the Vision for Agriculture, the Route Map and the ARC Act. Greening support is required to be modified to align with the Route Map phased transition from legacy CAP schemes into the proposed new support framework.

SSBSS:

From 2025, a new calving interval condition was introduced to the Scottish Suckler Beef Support Scheme (SSBSS). This condition is supported by evidence that demonstrates shorter calving intervals are linked to reduced greenhouse gas emissions. The payment eligibility

requirements of the new calving interval condition state that from 1 January 2025, calves will only be eligible for a SSBSS payment if:

- their dam has a calving interval threshold of 410 days or less, or
- if the calf is the first registered birth associated with that dam.

The 410-day interval will remain in place in 2026; however, Scottish Ministers have committed to the introduction of a small herd derogation for the calving interval condition. This derogation will apply to any businesses claiming 10 calves or fewer in a scheme year. This will mean that those claiming support for 10 calves or fewer in 2026 will not need to meet the calving interval requirement. This change, which is subject to legislation, will also apply in future years. The policy rationale for this change is to take a balanced approach to delivering environmental conditionality whilst supporting smaller businesses.

Scottish Ministers have also committed to extend the end of the SSBSS application submission period to allow submissions to be made up to 14 January following the end of the relevant calendar year starting with the first extension from 31 December 2025 to 14 January 2026 and thereafter also for subsequent scheme years. This will give applicants extra time to make their applications without any delay to payments and it will avoid closing the application period during the festive time, when it may be difficult to finalise applications at a time when the Scottish Government's ability to provide support is likely to be lower.

The objective is to realise these commitments through the 2025 Regulations.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the CAP Greening SSI (The Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2025) is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Statement required by the European Union (Withdrawal) Act 2018

The Minister for Agriculture and Connectivity, Jim Fairlie has made the following statement required by paragraph 16(2) and (3) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018 Regulation 3 of the Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2025 ("the instrument") amends regulation 17A, regulation 18, schedule 2 and schedule 3 of the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 ("2015 Regulations").

In my view there are good reasons for the amendments made by the instrument to the 2015 Regulations, which was made under section 2(2) of the European Communities Act 1972. I have concluded that the making of these amendments is a reasonable course of action.

Regulation 17A of the 2015 Regulations requires farmers to prepare a nitrogen fertiliser and lime plan in relation to parcels of permanent grassland, and the instrument removes that requirement as the introduction of the Whole Farm Plan of future audits covers soil health and analysis and this regulation would be a duplication of work.

Regulation 18 and schedule 2 of the 2015 Regulations makes provision relating to the requirements for ecological focus areas and this instrument makes a number of changes to those requirements, including the addition of new areas which qualify as ecological focus areas, increasing the field margin requirement from 1 metre to 3 metres, adding permitted crop species to EFA requirements.

Schedule 3 of the 2015 regulations sets out the eligibility criteria for bovine animals for support under the Scottish Suckler Beef Support Scheme, and this instrument introduces a derogation from the calving interval requirement for certain businesses making smaller claims.

This instrument also amends Schedule 3 of the 2015 regulations to extend the application window for Scottish Suckler Beef Support Scheme payments, allowing submissions to be made up to 14 January following the end of the relevant calendar year.

I consider the amendments made by the instrument to the 2015 Regulations to be appropriate in order to incentivise and support agricultural businesses to undertake best practices to improve nature and climate outcomes and contribute towards environmental sustainability , to support businesses making smaller claims by removing the calving interval requirement in certain cases and to improve the operation of the Scottish Suckler Beef Support Scheme by allowing submissions to be made up to 14 January following the end of the relevant calendar year.

EU Alignment Consideration

It is Scottish Government policy to ensure broad alignment to EU CAP objectives. The 2025 Regulations increases the number of businesses required to undertake Ecological Focus Area activities (EFAs), updates some existing EFAs, adds four new EFA options and for 2027 onwards increases the percentage of land required to be subject to EFA activity.

Continuing Greening with these amendments aligns with existing EU CAP processes. Consideration of EU alignment has been framed as adhering to the key policy objectives of the EU CAP, where practicable.

The relatively minor and technical nature of the SSBSS changes do not contravene this Scottish Government policy to ensure broad alignment to EU CAP objectives.

Consultation

Consultations were held previously on the current CAP/SRDP schemes, the Stability and Simplicity commitment, the 2020 Act, and the ARC Act.

The purpose of this SSI is to amend existing greening requirements to deliver a greater policy outcome in terms of climate mitigation and improved biodiversity and to make improvements to the operation of the SSBSS.

The Scottish Government made a commitment to co-design new schemes and will continue to engage with stakeholders through mechanisms including the Agricultural Reform

Implementation Oversight Board (ARIOB), wider Agriculture Reform Programme (ARP) and during the passage of secondary legislation made under the ARC Act.

Impact Assessments

The CAP was formally approved by the European Commission and the SRDP was developed in conjunction with stakeholders, consulted on and impact assessed. SRDP schemes apply across Scotland, both the mainland and islands. When the 2014-2020 programme was developed a Strategic Environmental Assessment (SEA), a Business and Regulatory Impact Assessment (BRIA) and an Equality Impact Assessment (EQIA) were carried out.

The updates to Greening and SSBSS have both been subject to a Business and Regulatory Impact Assessment (BRIA), and an Equality Impact Assessment (EQIA), an Island Communities Impact Assessment (ICIA) and a Fairer Scotland Duty Assessment. A Strategic Environmental Impact Assessment (SEA) was screened out for this single SSI however a programme level SEA incorporating the changes in this SSI has been commissioned with a publication date ahead of the SSI laying date. A Child Rights and Wellbeing Impact Assessment (CRWIA) has also been completed.

Financial Effects

The *Cabinet Secretary for Rural Affairs, Land Reform and Islands* confirms that a BRIA has been completed to address the financial impact upon businesses. There are minor financial impacts on the Scottish Government in terms of IT updates required to accommodate delivery of the updated Greening scheme which are captured within the BRIA.

Scottish Government
Directorate for Agriculture and Rural Economy (ARE)

October 2025