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Rural Economy and Connectivity Committee Comataidh Eaconomaidh Dùthchail is Co- cheangailteachd

Subordinate Legislation considered by the Rural Economy and Connectivity Committee on 13 May 2020



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Contents

Executive Summary	1
Direct Payments (Crop Diversification Derogation) (Scotland) Regulations 2020	2
Purpose of the instrument	2
Delegated Powers and Law Reform Committee consideration	2
Rural Economy and Connectivity Committee consideration	3
Recommendation	3
Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020 [draft]	4
Purpose of the instrument	4
Delegated Powers and Law Reform Committee consideration	4
Rural Economy and Connectivity Committee consideration	4
Recommendation	5

Rural Economy and Connectivity Committee

Remit: To consider and report on matters relating to the rural economy within the responsibility of the Cabinet Secretary for the Rural Economy and Tourism and matters falling within the responsibility of the Cabinet Secretary for Transport, Infrastructure and Connectivity.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/rural-committee.aspx>



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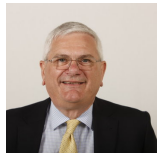
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Executive Summary

1. This report details the Rural Economy and Connectivity Committee's consideration of the following instruments —
 - Direct Payments (Crop Diversification Derogation) (Scotland) Regulations 2020
 - The Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020 [draft]

The Committee agreed to recommend to the Parliament that it approves the instruments.

Direct Payments (Crop Diversification Derogation) (Scotland) Regulations 2020

The Committee reports to the Parliament as follows—

2. On 29 April 2020, the [Direct Payments \(Crop Diversification Derogation\) \(Scotland\) Regulations 2020](#) (SSI 2020/135) was laid before the Parliament and was subject to the provisional (or made) affirmative resolution procedure. The provisional affirmative procedure is used to deal with emergency situations.
3. In relation to timings, the provisional affirmative procedure is relatively unusual: the instrument is already in force (it came into force on 1 May 2020), and will lapse unless the Parliament approves it within 28 days beginning with the day it was made (28 April 2020).

Purpose of the instrument

4. This instrument relates to the environment and climate change requirements for “greening” payments, a type of farm subsidy. The instrument will allow farmers in Scotland to not follow certain crop diversification requirements for the purposes of claiming greening payments in the claim year 2020. The removal of the requirement is called a “derogation”.
5. This derogation is considered necessary and justifiable by the Scottish Government, in order to address problems caused by extreme weather experienced across Scotland in recent months.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at its meeting on [5 May 2020](#).
7. The DPLRC noted that the power under which these Regulations are made (article 69(1) of the Direct Payments Regulation) can only be used to derogate from the Direct Payments Regulation where certain preconditions are met. It decided that it could not reach a view on whether the appropriate requirements were to place to allow the Scottish Government to make the derogation as these were policy matters. The DPLRC therefore suggested in its [report](#) that it would be more appropriate for the REC Committee to make this decision as it has greater policy expertise in this area.

Rural Economy and Connectivity Committee consideration

8. In advance of the Committee's consideration, John Finnie MSP asked for additional information to be obtained from the Scottish Government as to why no impact assessment had been made of what the proposed derogation would mean in practical terms (such as whether it could give rise to a glut of a single crop, resulting in price collapse and a subsequent request for additional support, or give rise to a shortage of other crops, resulting in a price hike for consumers). The Scottish Government's response was published as part of the [Committee's papers](#) for its meeting on 13 May 2020.
9. At its meeting on 13 May 2020, the Rural Economy and Connectivity Committee took evidence on this instrument from Fergus Ewing, Cabinet Secretary for Rural Economy and Tourism, and Scottish Government officials.
10. The Committee raised a number of points with the Cabinet Secretary. Members asked whether the weather circumstances justified the derogation, and why no impact assessment had been carried out (in light of the wider implications for crop supply and demand). The Cabinet Secretary's response was that the derogation was necessary as high rainfall and low sunshine levels between August 2019 and January 2020 meant that the three-crop rule would be impracticable for farmers. Scottish Government officials stated that the derogation is temporary, being for one year only, so they believed that its impact on the environment will be minimal.
11. The Committee also sought an assurance that future diversification schemes will be more relevant to Scottish farming than the three-crop rule. The Cabinet Secretary for Rural Economy and Tourism agreed to pursue this approach.
12. The Cabinet Secretary subsequently moved the following motion in his name—

S5M-21632— That the Rural Economy and Connectivity Committee recommends that the Direct Payments (Crop Diversification Derogation) (Scotland) Regulations 2020 (SSI 2020/135) be approved.
13. The Committee agreed the motion without division.
14. Full details of the Committee's consideration of the instrument can be found in the the [Official Report](#) of the meeting.

Recommendation

The Rural Economy and Connectivity Committee recommends to the Parliament that the Direct Payments (Crop Diversification Derogation) (Scotland) Regulations 2020 (SSI 2020/135) be approved.

Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020 [draft]

The Committee reports to Parliament as follows—

15. On 1 May 2019, the [Land Reform \(Scotland\) Act 2016 \(Supplementary Provision\) \(Coronavirus\) Regulations 2020 \[draft\]](#) were laid before the Parliament. The regulations were subject to the affirmative resolution procedure.

Purpose of the instrument

16. This instrument extends the amnesty period for agricultural holdings tenants, wishing to seek compensation for certain improvements, at way go (the end of tenancy).
17. The amnesty period (which started on 13 June 2017) was due to expire on 13 June 2020. The instrument extends this period by 6 months, so the amnesty will now expire on 12 December 2020.
18. The extension is due to the COVID-19 outbreak, which presents difficulties for landlords and tenants to meet face-to-face to discuss and inspect improvements.

Delegated Powers and Law Reform Committee consideration

19. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [12 May 2020](#) and agreed not to draw the Parliament's attention to the instrument on any grounds within its remit.

Rural Economy and Connectivity Committee consideration

20. At its meeting on 13 May 2020, the Rural Economy and Connectivity Committee took evidence on this instrument from Fergus Ewing, Cabinet Secretary for Rural Economy and Tourism, and Scottish Government officials.
21. The Cabinet Secretary subsequently moved the following motion in his name—

S5M-21670—That the Rural Economy and Connectivity Committee recommends that the Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020 [draft] be approved.
22. The Committee agreed the motion without division.

23. Full details of the Committee's consideration of the instrument can be found in the the [Official Report](#) of the meeting.

Recommendation

The Rural Economy and Connectivity Committee recommends to the Parliament that the Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020 [draft] be approved.

