

EXPLANATORY MEMORANDUM TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND
SUPPORT SCHEMES REGULATIONS 2005

2005 No. 219

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament at the Command of Her Majesty.

2. Description

2.1 The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 enable the Secretary of State to establish provisions of the single payment scheme as they relate to England under the legislation giving effect to the reformed common agricultural policy (“CAP”). Regulation 12(3) and 15 apply to the whole of the UK.

Among the provisions that this instrument sets out are –

- i) the regions that will apply for allocating entitlements to the single payment scheme in order to prevent large scale redistribution of historic subsidy receipts between farmers.
- ii) the trajectory of the progressive modifications that will be applied to entitlements under the scheme in order to move smoothly from a system that is largely based on historic receipts during the reference period of 2000-2002 to a flat rate payment per hectare by 2012.
- iii) details of the operation of the 10 month period during which the land must be at the claimants disposal in order to claim payment.
- iv) provisions for the incorporation of the dairy premium and additional payment into the single payment scheme.
- v) the minimum size of holding that will be eligible under the scheme.
- vi) designation of the Secretary of State as the competent authority for sending out the single application form to farmers.
- vii) additional national modulation rate (a reduction to farmer’s payments) to fund existing or future measures under the current Rural Development Regulations, at 2% in 2005 and 6% in 2006.
- viii) Those relating to the Aid for Energy Crops which is one of the other new direct payment schemes brought in under the reforms in addition to the single payment scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Not applicable

4. Legislative background

4.1 The Regulations are made under section 2(2) of the European Communities Act 1972. This is one of a series of statutory instruments that will fully implement the reforms of the CAP. They implement certain provisions of Council Regulation (EC) No 1782/2003, Commission Regulation (EC) No 795/2004 , Commission Regulation (EC) No 796/2004 and Commission Regulation (EC) No 1973/2004.

The other statutory instruments in the series implementing the reforms of the CAP are:

The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 S.I No. 3196

The Common Agricultural Policy Single Payment and Support Schemes (Appeals) (England) Regulations 2004 S.I No. 2689

The Common Agricultural Policy Single Payment Scheme (Set-aside) (England) Regulations 2004 SI No. 3385

The Common Agricultural Policy Single Payment and Support Schemes (IACS) Regulations 2005 SI No. 218.

These IACS Regulations are the only SPS legislation with a UK wide application. Devolved administrations are implementing all other SPS legislation domestically.

Links to each of the relevant European Regulations are listed below, for:

Council Regulation 1782/2003 –

http://europa.eu.int/servlet/portail/RenderServlet?search=DocNumber&lg=en&nb_docs=25&domain=Legislation&coll=&in_force=NO&an_doc=2003&nu_doc=1782&type_doc=Regulation

Commission Regulation 795/2003 –

http://europa.eu.int/servlet/portail/RenderServlet?search=DocNumber&lg=en&nb_docs=25&domain=Legislation&coll=&in_force=NO&an_doc=2004&nu_doc=795&type_doc=Legislation

Commission Regulation 796 / 2003 –

http://europa.eu.int/servlet/portail/RenderServlet?search=DocNumber&lg=en&nb_docs=25&domain=Legislation&coll=&in_force=NO&an_doc=2004&nu_doc=796&type_doc=Regulation

Commission Regulation 1973/2004 –
[http://europa.eu.int/servlet/portail/RenderServlet?search=DocNumber&lg=en
&nb_docs=25&domain=Legislation&coll=&in_force=NO&an_doc=2004&nu
_doc=1973&type_doc=Regulation](http://europa.eu.int/servlet/portail/RenderServlet?search=DocNumber&lg=en&nb_docs=25&domain=Legislation&coll=&in_force=NO&an_doc=2004&nu_doc=1973&type_doc=Regulation)

5. Extent

- 5.1 This instrument applies to England only except for regulation 12(3) (which relates to the relevant competent authority) the and the revocations and savings provided for by regulation 15 which apply to the United Kingdom.]

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy background

- 7.1 The instrument will affect all farmers in England who wish to claim direct payments, including the single payment (the majority).
- 7.2 The instrument has the potential to affect all types of agricultural production directly, both those historically in receipt of subsidy (such as cereals or beef producers), those for whom direct payments are newly introduced in 2004 (such as dairy producers) and those who have received no direct payments in the past (such as horticultural producers).
- 7.3 The Single Payment Scheme replaces a range of subsidy schemes that were previously paid under the CAP. Unlike the previous subsidies the single payment is “de-coupled” in that payment is not dependent upon the farmer maintaining any specified level or type of production.
- 7.4 But in order to receive the full payment the farmer will have to meet a number of Cross Compliance conditions, which include specified environmental conditions and animal health and welfare standards.
- 7.5 The most important provisions contained in this instrument are those that relate to the way in which payments will be calculated. Member States have discretion to allocate entitlements to the single payment according to a number of methods. A formal consultation exercise was launched on 22 July 2003 which included this aspect. In light of the responses to this and extensive stakeholder engagement via correspondence or in meetings with Minister’s and officials, Ministers made the decision that ultimately a flat rate payment will apply in England in each of the three regions (the moorland within the upland Severely Disadvantaged Areas, land in the upland SDA but outside the moorland line and all land outside the upland SDA). Farmers within a region will, by 2012, receive the same rate for each hectare of eligible land. But the rate will be different in each region.

- 7.6 In order to give farmers time to adapt their businesses to this new system, there will be a transition period ending in 2012 during which payments will contain a reducing element that is linked to their individual historic subsidy receipts during the reference period.
- 7.7 The method of allocation was the subject of both a formal consultation in July 2003 (to which there were over 800 responses) and lengthy stakeholder engagement during the autumn of 2003 and spring 2004. Opinion was essentially split between the majority of the farming community (particularly the tenanted sector) favouring an historic approach to allocation, and the environmental lobby wanting an immediate move to a flat rate of payment per hectare (also favoured by landowning organisations). The final decision was based on the coherence with the Policy Commission On The Future Of Farming And Food report and the Government's Sustainable Farming and Food Strategy launched in 2002, in particular with the emphasis on bringing the industry closer to the market and on the increasing importance of environmentally-sensitive farming; consistency with the wider objectives for the CAP, including greater simplicity, transparency, and minimal bureaucracy; and the need to attract the widest possible support of the stakeholder community, for ongoing payments to farming which, the Government believes, requires us to move towards a system in which public money is delivering public goods. The decision was made and communicated to the European Commission on 31 July 2004, thereby meeting the requirement in Article 63(3) of Council Regulation 1782 / 2003 to notify them by 1 August 2004.
- 7.8 Much of the detail of the Single Payment Scheme is covered by the European legislation and will be implemented administratively, through the use of the application form, scheme literature and information brochures giving details of how the scheme will operate.
- 7.9 Defra have continually engaged in discussion and exchange throughout the entire process leading to the implementation of SPS and the IACS to support it, on:
- 23 January 2003 –
Defra held a public consultation on the Commission's proposals.
 - 13 February 2003 –
a review of the overgrazing and unsuitable supplementary feeding cross compliance controls in England.
 - 22 July 2003 –
a public consultation was launched on the various options available to Member States under the agreement.
 - 15 October 2003 -
on second stage reforms of CAP, concerning tobacco, olive oil, cotton and hops.
 - 21 October 2003 -

on options for CAP reforms of sugar.

12 November 2003 –
on the implementation of the dairy elements of CAP reform options for England.

29 March 2004 –
consultation on proposed and possible measures for implementation of cross compliance in England.

02 April 2004 –
on options under the SPS in England in regard to operating a national reserve, entitlement trading and the initial allocation of entitlements.

In addition, there are two stakeholder group meetings that were set up in 2003:

one is chaired by Lord Whitty, Parliamentary Under Secretary (Lords) for Farming, Food and Sustainable Energy at Defra and takes place on a quarterly basis.

the other is chaired by Defra's Director of European Union and International Policy and takes place on a monthly basis.

Defra have made a number of public announcements concerning CAP reform, during 2004, on; 12 February, 22 April, 22 July and 02 November.

8. **Impact**

8.1 On business, charities or voluntary bodies: please see attached Regulatory Impact Assessments on the [method of allocating entitlements](#) and the [National Reserve, entitlement trading and the initial allocation of entitlements](#). Several other RIAs have, however, been conducted in association with other elements of the SPS:

10 July 2002 –

following publication of a Commission discussion document on CAP reform, an initial Regulatory Impact Assessment (RIA) was undertaken. The RIA assessed the effects and implications of the proposals on agricultural businesses and on UK farmers, production, consumers, and the national administration of the CAP.

22 January 2003 –

the Commission published draft legislation for a reformed CAP. An RIA on those proposals was produced.

26 June 2003 –

the Agriculture Council reached agreement on CAP reform and an RIA on the agreement was issued.

31 October 2003 –

a revised economic analysis was carried out on the distributive effects of the two systems of calculating subsidy entitlements for farmers in England.

10 July 2004 –

Lord Whitty signed an RIA of options for the implementation of cross compliance - Good Agricultural and Environmental Condition.

8.2 On the Exchequer: no impact.

8.3 Details of RIAs, consultations, announcements and further information can be found on Defra's website through the following link (*note: many consultation summary responses and partial RIAs are included under the heading of the relevant consultation*): <http://defraweb/farm/capreform/background/260603-riacon.htm>

9. **Contact**

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