

**EXPLANATORY MEMORANDUM TO  
THE FINANCE ACT 1993, SECTION 86(2), (SINGLE PAYMENT SCHEME) ORDER  
2005**

**2005 No.409**

- 1.** This explanatory memorandum has been prepared by the Inland Revenue and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Description**

This instrument adds a new type of asset, payment entitlements under the single payment scheme, to the list of assets which are qualifying assets for the purposes of roll-over relief from tax on capital gains. The single payment scheme is introduced by Council Regulation (EC) No 1782/2003. It is a system of support payments for farmers under the EU Common Agricultural Policy.

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

None.

**4. Legislative Background**

These Regulations are made by the Treasury under powers conferred by section 86(2) of the Finance Act 1993. The power was amended by section 43(3) of the Finance Act 2002. The power is to amend section 155 of the Taxation of Chargeable Gains Act 1992 which lists classes of assets which qualify for roll-over relief or relief in the case of depreciating assets (hold-over relief).

**5. Extent**

This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

The Paymaster General has made the following statement:

In my view the provisions of the Finance Act 1993, Section 86(2), (Single Payment Scheme) Order 2005 are compatible with the Convention rights.

**7. Policy background**

- 7.1 On 1st January 2005 the European Union introduced the single payment scheme of subsidy for farmers in member States. An entitlement to payments under the scheme is a tradeable asset and capital gains arising on disposal of an entitlement will be subject to tax.

- 7.2 The purpose of roll-over relief from tax on capital gains is to support enterprise by removing a possible tax barrier to anyone carrying on a trade who wishes to replace assets used for the purposes of the trade. Liability to tax on gains arising on disposals of qualifying business assets may be postponed, provided replacement qualifying business assets are acquired and the other relevant qualifying conditions are met.
- 7.3 This instrument ensures farmers will be able to claim capital gains tax roll-over relief in relation to disposals and acquisitions of payment entitlements used for the purposes of their trade.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is negligible. Claims to capital gains tax roll-over relief involving payment entitlements under the single payment scheme will be checked by Inland Revenue officers under existing compliance procedures.

## **9. Contact**

Cathy Wilson at the Inland Revenue Tel: 020 7147 2778 or e-mail: [cathy.wilson@ir.gsi.gov.uk](mailto:cathy.wilson@ir.gsi.gov.uk) can answer any queries regarding the instrument.