

**EXPLANATORY MEMORANDUM TO**  
**THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND**  
**SUPPORT SCHEMES (CROSS-COMPLIANCE) (ENGLAND)**  
**(AMENDMENT) REGULATIONS 2008**

**2008 No. 80**

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

**2. Description**

2.1 This instrument amends the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (SI 2005/3459).

2.2 There are two minor amendments relating to land not in agricultural production. These are: clarifying that land which was previously classed as set-aside (Article 4 of Council Regulation (EC) No 1782/2003) is subject to the same degree of environmental protection as other agricultural land not in production; making clear that the obligation to establish green cover includes maintaining that green cover (with an exception where dredgings are placed on that land from watercourses or field ditches).

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

3.1 None

**4. Legislative Background**

4.1 *General:*

This instrument is being made under section 2(2) of the European Communities Act 1972 (1972. c.68). It amends the Cross-compliance Regulations 2005, which implement certain provisions of Council Regulation (EC) 1782/2003 (Title II, Chapter 1 and Chapter 4)) and Commission Regulation (EC) 796/2004 (Title III, Chapter I and III) which lay down the framework for the system of agricultural subsidies under Pillar 1 of the Common Agricultural Policy and which set out the rules on cross compliance.

4.2 *EU legislation:*

The Community legislation referred to above has applied to aid applications for income support payments since 1 January 2005

**5. Extent**

5.1 This instrument applies to England only.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 Cross-compliance links the payment of direct payments under the current European CAP to compliance with certain standards and requirements. The relevant Articles of the EC Regulations and Directives from which the statutory management requirements (SMRs) are derived are laid down by Annex III of Council Regulation (EC) No 1782/2003. Member States are required to decide on the standards of good agricultural and environmental condition (GAEC). Those GAEC standards as well as provisions for the administration and enforcement of both GAEC standards and SMRs were originally laid down in SI 2004/3196. That SI was repealed and replaced by SI 2005/3459.
- 7.2 The aim of GAEC 12 is to ensure that agricultural land which is not in agricultural production is maintained in such a condition that it can be returned to production relatively easily and provide a modest degree of environmental protection.
- 7.3 As a result of an EU Agriculture and Fisheries Council decision the rate of set-aside for 2008 has been set at 0%. Farmers with set-aside 'entitlements' will not be required to take land out of production in order to receive a payment under the 2008 Single Payment Scheme. However, in order to provide some degree of environmental protection to land which farmers voluntarily keep in set-aside the obligations of GAEC 12 are being extended to cover that land. When land is in compulsory set-aside there are cross compliance obligations laid down in SI 2004/3385..
- 7.4 There has been no formal consultation on this SI because of the need to introduce it as quickly as possible following the publication of the set aside rate at the end of September. However, the changes have been agreed with Natural England and subject to an informal discussion with industry.

## **8. Impact**

- 8.1 An impact assessment has not been produced for this instrument because of the need to introduce it as quickly as possible. No adverse impact on the private or voluntary sectors is foreseen, however.

## **9. Contact**

- 9.1 Any queries about the contents of this memorandum should be addressed to: Gary Eldon, Sustainable Farm Management Team, Farming for the Future Programme, Area 8b, 9 Millbank, Department for Environment, Food and Rural Affairs, SW1P 3JR; email [gary.eldon@defra.gsi.gov.uk](mailto:gary.eldon@defra.gsi.gov.uk) ; telephone 020 7238 1187.