

## **EXPLANATORY MEMORANDUM TO THE**

### **THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT SCHEMES (CROSS COMPLIANCE) (ENGLAND) REGULATIONS 2004**

**2004 No. 3196**

#### **1. Introductory information**

1.1 *Title of the Instrument*

The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004.

1.2 *Laying authority and purpose*

This explanatory memorandum is laid before Parliament at the Command of Her Majesty.

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

1.3 *Department responsible*

Department for Environment, Food and Rural Affairs.

#### **2. Description**

2.1 This instrument sets out the standards of good agricultural and environmental condition, which are part of “cross compliance”, which must be met by farmers under the new system of direct support schemes (including the Single Payment Scheme) under the Common Agricultural Policy (CAP) to be introduced in January 2005. The standards largely relate to the protection of soils, habitats and landscape features.

2.2 It also sets out provisions necessary for the inspection and enforcement of the cross compliance.

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

3.1 Paragraph 17(4) of the Schedule to the Regulations refers to three volumes of maps showing the “severely disadvantaged area” of England, which is coloured pink. The severely disadvantaged area forms part of the English Less Favoured Areas. The Department has provided a copy of a map showing all the Less Favoured Areas in the UK, printed at a considerably smaller scale than the maps referred to in paragraph 17(4) of the Schedule. The Department

would be happy, if the Committee wish, to provide a paper copy of the full-scale version of the maps. The official maps of the English Less Favoured Areas are in three volumes containing 235 pages of coloured A3 maps at a scale of 1:50,000.

- 3.2 The location of Less Favoured Areas in England can also be found using the interactive map at the website of Multi-Agency Geographic Information for the Countryside. The interactive map can display the less favoured area status of any land in England with a co-ordinate accuracy of 1 metre at a scale of 1:25,000. This service (available at no cost) can be found at: [www.magic.gov.uk](http://www.magic.gov.uk).

#### **4. Legislative Background**

- 4.1 *General:* The Regulations are made under section 2(2) of the European Communities Act 1972 (1972 c. 68). They implement certain provisions (particularly Articles 3 to 7 and Annex IV) of Council Regulation (EC) No 1782/2003 and (particularly Articles 3 & 4, 41–48 and 65–67) of Commission Regulation (EC) No 796/2004.

- 4.2 *EU legislation:*

4.2.1 Most of the Community legislation referred to above will apply to aid applications for direct support payments in respect of scheme years starting 1 January 2005, although some parts of the EC legislation referred to in paragraph 4.1 above are already in force.

4.2.2 No Transposition Note is necessary. A European Council common position on the Mid-term review of the CAP was reached on 26 June 2003, and the proposal was adopted on 29 September 2003.

- 4.3 *Legislation relevant to the Schedule*

Breaches of several of the standards in the Schedule to the Regulations may also involve the commission of offences under existing legislation. The Annex to this Memorandum contains a table cross-referring the relevant provisions. For the avoidance of doubt, the civil standard of proof will be applied in the enforcement of standards in the Regulations.

#### **5. Extent**

This instrument applies to England only.

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

Not applicable.

## **7. Policy background**

- 7.1 Until now, under the current European CAP, farmers have been subsidised according to how much they produce. From 1 January 2005 this system will change, and there will be new rules for direct support under the CAP. Except under certain remaining schemes, farmers will no longer be subsidised on the basis of productivity. Instead, common rules have been established under which farmers will now be able to claim direct but “decoupled” payments (as set out in Council Regulation (EC) No. 1782/2003).
- 7.2 Cross compliance links the payment of direct payments to compliance with certain standards and requirements. The Council Regulation in Annex III lists “statutory management requirements” in areas of Community law that farmers must meet to provide minimum levels of environmental and public health, animal and plant health, and animal welfare. In addition, the Member State must set out standards of “good agricultural and environmental condition”. The schedule to the Regulations sets out those standards. Often the requirements and standards do not ask more than to meet existing legislation or follow ‘common sense’ farming practice. Most farmers will be meeting many of the standards and requirements already.
- 7.3 The instrument will affect all farmers in England who wish to claim direct payments, including the single payment (a large majority).
- 7.4 The Regulations also make provision for the administration and enforcement of cross compliance in England.
- 7.5 The Rural Payments Agency, an Executive Agency of the Department for Environment, Food and Rural Affairs, will be the Competent Control Authority for cross compliance, bearing responsibility for carrying out the controls and checks in relation to cross compliance requirements or standards, with the power to delegate to other relevant authorities.
- 7.6 In respect of the standards in the Schedule, there were 463 responses to the public consultation on proposed cross compliance measures in early 2004. The farming and environmental lobbies, including specialist press, still hold strong and generally polarised views. Stakeholder positions have been made clear and taken into account, particularly in balancing environmental concerns with farming practicalities, from an early stage. The general media have not taken significant interest in the issue.
- 7.7 This change is politically important because farmers have strong feelings about any change to support schemes, particularly one such as this which could affect their income, and are vocal in any complaints. Some sectors (e.g. dairy) are under a lot of economic pressure at the present time; this introduction of different rules could be viewed, reasonably or not, as exacerbating the situation. In addition, it is the first time that farmers could have their subsidy from direct support schemes reduced for failing to meet baseline standards.

- 7.8 Further details of the policy intentions behind the cross compliance requirements can be found in the attached Regulatory Impact Assessment. The cross compliance standards and requirements are summarised in the *Cross Compliance Handbook for England*, which is available on the Defra website <http://www.defra.gov.uk/farm/capreform/pdf/Cross-compliance-3011.pdf>

## **8. Impact**

- 8.1 On business, charities or voluntary bodies: on 10 July 2004 Lord Whitty signed a *Regulatory Impact Assessment of options for the implementation of cross compliance - Good Agricultural and Environmental Condition*. Which is also available on the Defra website. <http://defraweb/corporate/regulat/ria/default.htm>
- 8.2 On the Exchequer: no impact.

## **9. Contact**

Rachel Solomon Williams  
Sustainable Agriculture Strategy Division

Area 8B, 9 Millbank  
C/o 17 Smith Square  
London SW1P 3JR

020 7238 4962 / GTN 238 4962  
rachel.solomon-williams@defra.gsi.gov.uk

## ANNEX

**Table cross-referencing paragraphs in the Schedule to offence provisions**

<b>Paragraph in the Schedule</b>	<b>Offence provision</b>
Paragraph 4	Regulation 6 of the Crop Residues (Burning) Regulations 1993 (SI 1993/1366)
Paragraph 5	Regulation 6 of the Crop Residues (Burning) Regulations 1993 (SI 1993/1366)
Paragraph 8(1)	Section 2(1) of the Weeds Act 1959 (1959 c. 54)
Paragraph 11	Regulation 7 of the Hedgerows Regulations 1997 (SI 1997/1160, amended by SI 2003/2155)
Paragraph 15(1), (2) & (3)	Respectively, regulations 19, 23(1) & 24(9) of the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (England) Regulations 2001 (SI 2001/3966)
Paragraph 16(2) & (3)	Respectively, regulation 22(1) & (2) of the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (SI 1999/2228)
Paragraph 17(1), (2) & (3)	Section 20(2) of the Hill Farming Act 1946 (1946 c. 73) (9&10 Geo 6). The section provides that an offence is committed if a subordinate instrument is breached, in this case the relevant provisions are based on those in the Heather and Grass etc (Burning) Regulations 1986 (SI 1986/428, last amended by SI 2003/1615)
Paragraphs 18(1), 19(1) and 20	Respectively, section 28P(1), (6) & (8) of the Wildlife and Countryside Act 1981 (1981 c. 69), as amended by the Countryside and Rights of Way Act 2000 (2000 c. 37), section 75(1) and Schedule 9, para 1.
Paragraph 21	Section 31(5) of the Wildlife and Countryside Act 1981 (1981 c. 69), as amended by the Criminal Justice Act 1982 (1982 c. 48), sections 37 & 46.
Paragraph 23	Section 210 of the Town and Country Planning Act 1990 (1990 c. 8)
Paragraph 24(1) & (2)	Respectively, section 2(1) & (6) of the Ancient Monuments and Archaeological Areas Act 1979 (1979 c.46)
Paragraph 25(1) & (2)	Respectively, sections 17(1) and 24(4) of the Forestry Act 1967 (1967 c.10)
Paragraphs 26(a) & (b) and 28	Respectively, sections 131A(1), 137 and 134(4) of

	the Highways Act 1980 (1980 c. 66), as amended by the Rights of Way Act 1990 (1990 c. 24)
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