

**EXPLANATORY MEMORANDUM TO THE  
COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT  
SCHEMES (AMENDMENT) REGULATIONS 2005**

**2005 No. 1087**

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 Regulations 2005 (S.I. 2005/219), which came into force on 1 March 2005 and which is available on the HMSO website with its accompanying Explanatory Memorandum.
- 2.2 The purpose of S.I. 2005/219 is to enable the Secretary of State to establish provisions of the single payment scheme as they relate to England under legislation giving effect to the reformed common agricultural policy (“CAP”).

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

- 3.1 None

**4. Legislative Background**

- 4.1 This instrument is being made to amend S.I. 2005/219, which came into force on 1 March 2005. Among the provisions of this instrument was a provision, regulation 9, which, in accordance with Article 51(b) of the Council Regulation 1782/2003, enabled secondary crops to be cultivated on eligible hectares during a period of not more than three months. The three months beginning each year on the 15<sup>th</sup> August but not in the year beginning on 1<sup>st</sup> January 2005.

The amendments are intended to:

- Update the references to the Community instruments in S.I. 2005/219 to references to the Community instruments as amended at the date these Regulations are made;
- amend regulation 9 of S.I. 2005/219 to take account of an amendment to the Community legislation which enables Member States by way of a derogation to decide for the year 2005 to apply the second subparagraph of Article 51(b).

**5. Extent**

- 5.1 This instrument applies to England only.

**6. European Convention on Human Rights**

6.1 Not applicable.

## **7. Policy background**

- 7.1 The policy background to the Explanatory Memorandum to S.I. 2005/219 is laid out at paragraph 2.2.
- 7.2 The amendments contained within this instrument do not represent a change in policy, but are intended to update references to EC legislation to cover recent amendments, and take account of these in relation to the eligibility of land used to grow horticulture for the single payment scheme.
- 7.3 During the CAP reform negotiations, the horticulture sector was concerned that farmers from other sectors could move into horticultural production using their Single Payment to gain a competitive advantage. To address this possibility the Council Regulation 1782/2003 provides at Article 51 that there are certain crops which, if grown, render land ineligible on which to claim the Single Payment – the so-called “negative list” crops. However, where the Scheme is implemented regionally on a flat-rate or hybrid model, as is the case in England, then farmers may grow negative list crops, within certain limits, and still remain eligible for the Single Payment (Article 60).
- 7.4 In addition, the Council Regulation 1782 / 2003 provided at Article 51(b) ,from 2006 (at the time of laying S.I. 2005/219), for Member States to allow a farmer to grow secondary (fruit vegetable and potato) crops for a limited period of 3 months beginning each year on 15 August. )
- 7.5 The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 which came into force on 1 March enabled the Secretary of State to make provisions covering a number of areas of the Single Payment Scheme including the derogation for secondary crops from 2006 outlined above.
- 7.6 The Council Regulation 1782/2003 has now been amended such that the derogation can apply from 2005, and it is now necessary to amend SI 2005/219 to take account of the amendment of the Council Regulation so that English farmers have the option to cultivate such crops in 2005.

## **8. Impact**

A full Regulatory Impact Assessment has not been prepared for this amendment as there is no policy change involved and because no impact on the private, voluntary or public sector is foreseen. A full Regulatory Impact assessment was completed for The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 and is available at the [HMSO website](#).

## **9. Contact**

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