

EXPLANATORY MEMORANDUM TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND
SUPPORT SCHEMES (INTEGRATED ADMINISTRATION AND CONTROL
SYSTEM) REGULATIONS 2005

2005 No. 218

- 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

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

2. Description

- 2.1 This instrument sets out the Integrated Administrative and Control System (IACS) which must be conformed with under the new system of direct support schemes (including the Single Payment Scheme (SPS)) under the Common Agricultural Policy (CAP) to be introduced in January 2005. The controls are largely in keeping with those in place for previous direct subsidy schemes. Specific provisions include:

Designation of the authority responsible for co-ordinating and conducting checks and makes provision for determining the competent authority to whom a single application should be submitted,

Fixing the date by which a single application should be submitted,

Prescribe the minimum size of agricultural parcels in respect of which a single application may be made,

Providing for the reimbursement of a specified payment to be recoverable as a debt and specifying the interest rate that would apply to the recovery of debts,

Conferring powers of entry on authorised persons, requiring farmers to assist authorised persons and creating offences and penalties.

Setting arrangements between competent authorities to agree that certain functions (e.g. inspections) can be undertaken by another competent authority,

Provision for a debt to one competent authority to be deducted from payment made by another competent authority.

- 2.2 It also revokes and saves, as necessary, the previous Integrated Administrative and Control System Regulations 1993.

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

- 3.1 We have provided for a term of imprisonment for the offence of knowingly or recklessly providing false or misleading information for the purposes of obtaining a specified payment, to maintain consistency with other CAP legislation: the Common Agricultural Policy (Protection of Community Arrangements) Regulations S.I. 1992/314 which concerns trader schemes and the Dairy Produce Quotas Regulations S.I. 2002/457. There was no logical distinction for the difference in penalties and since the offences could involve similar sums of money it was inconsistent for there to be no provision for custodial sentencing by either the Magistrates or the Crown Court.
- 3.2 We have also expanded the offence to cover the making of a false declaration (in the application form) of land used for horticulture for the purposes of establishing a horticultural authorisation ("authorisation"). The authorisation enables farmers to use land eligible under the SPS for the production of certain fruit and vegetables. The number of authorisations granted is limited within a region. In some circumstances the benefit received by the farmer need not be directly claimed as a specified payment. For example, if he obtains an authorisation on the basis of a fraudulent claim but does not claim payment on the entitlement, the benefit he receives could be to sell the payment entitlement together with authorisation for a premium price in a subsequent year.
- 3.3 The Home Office and devolved administrations were consulted on the offence provisions.

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 2, 17, 23, 54 & 55 and Chapter 4, Title I) of Council Regulation (EC) No 1782/2003, (particularly Articles 2, 11, 14 & 73 and Part II) of Commission Regulation (EC) No 796/2004 and of Commission Regulation 1973/2004.
- 4.2 The Regulation is one of a series of instruments, that are already set in place, required to fully implement CAP reforms. Other instruments in the series are:

The Common Agricultural Policy Single Payment and Support Schemes (Appeals) (England) Regulations 2004 S.I.2004/2689,

The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 S.I. 2004/3196,

The Common Agricultural Policy Single Payment and Support Schemes (Set-aside) (England) Regulations 2004 S.I.2004/3385,

4.3 The Common Agricultural Policy Single Payment and Support Schemes (England) Regulations 2005 are being laid concurrently with the IACS Regulations.

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

EU legislation

4.5 Most of the Community legislation referred to above will apply to aid applications for direct support payments in respect of scheme years starting 01 January 2005, although some parts of the legislation are already in force.

4.6 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.

4.7 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=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

5. Extent

This instrument applies to all UK.

6. European Convention on Human Rights

Not applicable.

7. Policy background

- 7.1 Until now, under the current European CAP, farmers have received subsidies according to how much they produced. In June 2003, however, European Union Agricultural Ministers agreed on fundamental reforms to such subsidies.
- 7.2 Except under certain remaining schemes, farmers will no longer be subsidised on the basis of productivity. New, common rules have been established under which farmers will be able to claim *direct payments* (as set out in Council Regulation (EC) No. 1782/2003) that are no longer linked to production.
- 7.3 Removing the link between production and subsidy (known as *decoupling*) aims to free farmers to produce in response to market demand and not in response to subsidy incentives. This is related to a key aim of the CAP reforms, to encourage the use of more sustainable farming practices.
- 7.4 In the UK, the new arrangements under the reforms are referred to as the *Single Payment Scheme* (SPS). Under this scheme, most existing agricultural subsidies are rolled into one single payment to farmers.
- 7.5 Member States were given the option of delaying implementation of the SPS until 2007. In the UK, all four of the agricultural administrations have opted to implement the SPS at the earliest possible date, from 1 January 2005. In doing so, all payments and production will be decoupled. This is sometimes referred to as *full decoupling*.
- 7.6 The Scheme seeks to remove the incentive for farmers to maximise production. The environmental damage from intensive farming should, thus, be reduced. Farmers must, however, meet a number of standards including maintaining land in *good agricultural and environmental condition* (GAEC) which focuses on soils and habitats/landscape features. In addition, farmers who claim under the Scheme will be required to meet certain requirements under 19 EU Directives and Regulations relating to the environment, public, plant and animal health and animal welfare. Farmers are also required to maintain specific amounts of land that are set-aside from particular types of production. The Member State is also obliged, to prevent a substantial decline in the area of permanent pasture. Meeting all of these conditions is known as *cross-compliance*.
- 7.7 The consequence of non-compliance is that a farmer may have a reduction in his *Single Payment* (SP) (or in extreme circumstances may be excluded from the scheme altogether).

- 7.8 The instrument will affect all farmers in the UK who wish to establish direct payments rights under the SPS and subsequently claim upon them. It does so by establishing the administration and enforcement of IACS in the UK and revoking and saving provisions of the previous Regulations. The instrument underpins the information that must be declared on any application and how, where, and when applications are made.
- 7.9 By making and submitting a *single application* a farmer will be obliged to meet general conditions of the Scheme, as set out in Council Regulation (EC) No 1782/2003 and detailed implementing rules for declaration and conditionality as set out in Commission Regulation (EC) No 796/2004 and Commission Regulation 1973/2004. Farmers may also be subject to any sanctions as specified in those Regulations.
- 7.10 The IACS Regulations also apply to a *single application* made in relation to additional direct aid schemes (*Title IV schemes*) being implemented in England. *Title IV schemes* include, aid for energy crops, protein crop premium and area payment for nuts, as designated under Titles IV of Council Regulation (EC) No 1782/2003. The detailed rules for application to these schemes are set out in Commission Regulation 1973/2004, which also deals with the use of land set aside for the production of raw materials
- 7.11 Applicants to the Scottish Beef Calf scheme will also be required to submit a *single application*, but the IACS Regulations do not apply to that scheme.
- 7.12 Defra have engaged in discussion and exchange with the the public, industry and stakeholders, throughout the entire process leading to the implementation of SPS and the IACS to support it. This has included, on:
- 23 January 2003 –
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 -
consultation on the second stage reforms of CAP, concerning tobacco, olive oil, cotton and hops.
- 21 October 2003 -

consultation requesting views on options for CAP reforms of sugar.

12 November 2003 –

a public consultation was launched on the implementation of the dairy elements of CAP reform options for England.

29 March 2004 –

a consultation on proposed and possible measures for implementation of cross compliance in England.

02 April 2004 –

a request for views 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.

Details were also made available, providing an introduction, summary, background and environmental effects on the agreement reached by Agricultural Ministers in June 2003.

8. Impact

8.1 On business, charities or voluntary bodies: none.

No Regulatory Impact Assessment (RIA) has been undertaken on the IACS Regulations themselves. The Regulations implement rules set under European legislation necessary to control the new SPS and in so doing impose no new burdens or costs upon the applicants to the scheme or its administration.

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.

01 July 2004 –

a partial RIA covering the method for allocating entitlements to the SPS in England was issued.

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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