

EXPLANATORY MEMORANDUM TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND
SUPPORT SCHEMES (REDUCTIONS FROM PAYMENTS) (ENGLAND)
REGULATIONS 2006

2006 No. 169

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 Article 1 of Commission Regulation (EC) No 1954/2005 amends the sequence (set out in Commission Regulation (EC) No 796/2004) in which reductions are made to aid payments to farmers under the Single Payment Scheme (SPS) and various other direct support schemes. This instrument implements in national law the decision to delay the implementation of those changes in England from the 2005 scheme year to the 2006 scheme year in accordance with Article 3 of Commission Regulation (EC) No 1954/2005.

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

3.1 Not applicable.

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 Article 3 of Commission Regulation (EC) No 1954/2005.

4.2 These Regulations are one of a series of instruments already in place implementing the reform of the Common Agricultural Policy (CAP). 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,

The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 S.I. 2005/218,

The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 S.I. 2005/219,

The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005 S.I. 2005/918,

The Common Agricultural Policy Single Payment and Support Schemes (Amendment) Regulations 2005 S.I. 2005/1087.

EU legislation:

- 4.3 The Community legislation referred to above applies to aid applications for direct support payments in respect of scheme years starting 01 January 2005.
- 4.4 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.
- 4.5 Links to each of the relevant European Regulations are listed below, for:

Commission Regulation 1954/2005 –
http://europa.eu.int/eur-lex/lex/Result.do?arg0=1954%2F2005&arg1=&arg2=&titre=titre&chlang=en&RechType=RECH_mot&Submit=Search

Commission Regulation 795/2004 –
http://europa.eu.int/eur-lex/lex/Result.do?arg0=795%2F2004&arg1=&arg2=&titre=titre&chlang=en&RechType=RECH_mot&Submit=Search

Commission Regulation 796/2004 –
http://europa.eu.int/eur-lex/lex/Result.do?arg0=796%2F2004&arg1=&arg2=&titre=titre&chlang=en&RechType=RECH_mot&Submit=Search

Commission Regulation 1973/2004 –
http://europa.eu.int/eur-lex/lex/Result.do?arg0=1973%2F2004&arg1=&arg2=&titre=titre&chlang=en&RechType=RECH_mot&Submit=Search

Council Regulation 1782/2003 –

http://europa.eu.int/eur-lex/lex/Result.do?arg0=1782%2F2003&arg1=&arg2=&titre=titre&chlang=en&RechType=RECH_mot&Submit=Search

5. Extent

This instrument applies to England only.

6. European Convention on Human Rights

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

7. Policy background

- 7.1 Before 01 January 2005, under the previous European CAP, farmers received subsidies according to how much they produced. In June 2003, however, European Union Agricultural Ministers agreed on fundamental reforms to such subsidies. New, common rules have been established under which farmers will be able to claim an income support payment (as set out in Council Regulation (EC) No. 1782/2003) that is no longer linked to production.
- 7.2 In the UK, the new income support payment is referred to as the *Single Payment Scheme* (SPS). Under this scheme, most pre-reform EU agricultural subsidies are rolled into one *single payment* to farmers.
- 7.3 By making and submitting a *single application* under the SPS, a farmer is obliged to meet the general conditions of the Scheme, which are set out in Council Regulation (EC) No 1782/2003. A *single application* also allows for payments to be made in relation to additional direct aid schemes (*Title IV schemes*) as implemented in England. *Title IV schemes* include aid for energy crops, protein crop premium and area payment for nuts, as designated under Titles IV and IVa of Council Regulation (EC) No 1782/2003.
- 7.4 Specific detailed implementing rules for the SPS are set out in Commission Regulation (EC) No 795/2004, cross-cutting rules covering the control requirements for all direct aids are set out in Commission Regulation 796/2004, and Commission Regulation 1973/2004 sets specific rules with regard to Title IV schemes and use of land set aside for the production of raw materials. Farmers may be subject to sanctions as specified in Commission Regulation (EC) No 796/2004 in respect of breaches of specific scheme rules, late submission of applications and non-declaration of agricultural land.
- 7.5 Further reductions that can be applied to direct aid payments include those:

- in respect of budgetary ceilings that apply to certain direct aid schemes (an altering annual amount, agreed as part of the reform negotiations and set at Member State level)
- due to modulation (a mechanism that re-directs a proportion of direct payments into agri-environment schemes and other rural development measures. The reduction is made up of Mandatory (EU) and Discretionary (National) modulation). Farmers are, however, exempt from EU modulation on the first €5,000 of their direct support payments.
- with regard to the breach of cross compliance conditions (cross compliance links the payment of direct payments to conformity with certain standards and requirements). Council Regulation (EC) No 1782/2004, in Annex III, lists 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” (GAEC)), within the framework set out in Annex IV of Council Regulation (EC) No 1782/2003.

7.6 Commission Regulation (EC) No 796/2004, in laying down the detailed rules for the implementation of cross compliance, modulation and the integrated administration and control system (IACS), provided for the sequence of the application of all these potential reductions to individual payments made in respect of SPS and the other direct support schemes.

7.7 Commission Regulation (EC) No 1954/2005, introduced on 30 November 2005, amended Commission Regulation (EC) No 796/2004 and established a change in the sequence of calculation of the reductions applied. The change was required in order to make it explicit to Member States that reductions would need to be applied in order to respect individual regime budgetary ceilings but in a sequence so as not to disadvantage individual farmers. The new sequence of reductions is mentioned in paragraphs 7.4 and 7.5, respectively (penalties for breaches of specific scheme rules, late submission penalties, non-declaration of agricultural land penalties, respect of budgetary ceilings, modulation and cross compliance penalties).

7.8 In order to accommodate the change in the calculation of reductions, there existed the likelihood that Member States would be required to adapt their IT and administrative systems for the aid schemes concerned, and in certain cases this would almost certainly have delayed the making of direct aid payments.

7.9 In order to avoid such delays, Member States that do not operate demand led schemes that have budgetary ceilings are authorised to defer application of the new sequence of the calculations of reductions, until the 2006 application year.

7.10 As we do not operate any of the demand led schemes with budgetary ceilings in the UK, changing the sequence in which reductions are made to payments to English farmers has no effect on the overall sums an individual would receive. The reductions operate as a series of multiplications of percentages. In this way they are (in their simplest sense) merely cumulative, irrespective of the order in which they apply (e.g. $5 \times 3 \times 2 = 30$, just as $2 \times 5 \times 3 = 30$). The IT and administrative changes required to implement the changes in the calculation of reductions would have undoubtedly impacted on the timing of payments to farmers in England. This instrument therefore retains the order of reductions as originally set out in Commission Regulation (EC) No 796/2004 for payments made under the SPS and various other direct aid schemes in England in respect of 2005.

7.11 Defra has engaged in discussion and exchanges with the public, industry and stakeholders throughout the period leading up to the implementation of SPS. Details can be found on the Defra website through the following links for:

consultations and views

<http://defraweb/farm/capreform/background/260603-riacon.htm>

stakeholder group meetings, set up in 2003

<http://defraweb/farm/capreform/background/index.htm#stakeholder>

background and announcements

<http://defraweb/farm/capreform/background/index.htm#june03>

7.12 Further background on the operation of the SPS in England can be found in the Explanatory Memoranda supporting the following Statutory Instruments: The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 and The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005. The relevant links are:

The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 – Explanatory Memorandum -

http://www.opsi.gov.uk/si/em2005/uksiem_20050219_en.pdf

The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 – Explanatory Memorandum –

8. Impact

- 8.1 A Regulatory Impact Assessment (RIA) has not been prepared for this instrument as there is no policy change involved and because no impact on the private, voluntary or public sector is envisaged. The Regulations implement rules set under European legislation necessary to support the SPS and in so doing impose no new burdens or costs upon the applicants to the scheme or its administration.
- 8.2 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.

29 March 2004 –

a partial RIA and Annex was published with regard to the proposed and possible measures of cross compliance in England.

2 April 2004 –

a partial RIA with regard to operating a national reserve, entitlement trading and initial allocation of entitlements was published.

1 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.

19 December 2005 –

an RIA on review of cross compliance operation in England was published.

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/index.htm>

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