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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke the Heather and Grass etc. (Burning) Regulations 1986 (the “1986 Regulations”) in relation to England and replace them with new provisions governing the burning of heather, rough grass, bracken, gorse and vaccinium.

Like the 1986 Regulations, these Regulations do not apply to private gardens or allotment gardens (though there is no longer an exclusion for pleasure grounds) (regulation 3) and certain of its provisions do not apply to railway land (regulation 4).

Like the 1986 Regulations, these Regulations prohibit burners from starting burns between sunset and sunrise, and require them to ensure that there are sufficient persons and equipment to control burns and to take all reasonable precautions to prevent injury or damage arising from burns (regulation 5). Burners are no longer required to notify others with an interest in the land on which the burning is to take place, or land adjacent to it, of their intention to burn.

Regulation 6(1)(a) prohibits burning without a licence outside the “burning season” (which is defined in regulation 2 and is longer for land in the uplands than for land outside it). This mirrors the 1986 Regulations. Regulation 6(1)(b) to (e) prohibits certain additional burning practices without a licence. Regulation 7 establishes a new procedure for applying for licences.

Regulation 8 is a new provision which gives Natural England the power, where it believes that burning has taken place in contravention of these Regulations, to require the occupier of the land concerned to notify Natural England of future burns for a period of up to two years. Regulation 9 makes provision for persons to make representations to a person appointed by the Secretary of State against the imposition of such a requirement.

Regulation 10 amends the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 so that the requirements of regulations 5 and 6(1) (a) are subject to cross-compliance under the Single Payment Scheme. Previously, the requirement to give notice of an intention to burn was also subject to cross-compliance.

The power to enter and inspect land for the purposes of these Regulations is governed by section 34 of the Hill Farming Act 1946, and section 20(2) of that Act provides that any person who contravenes any provision of these Regulations is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available on the OPSI website: [www.opsi.gov.uk](http://www.opsi.gov.uk).