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STATUTORY INSTRUMENTS

2010 No. 2941

AGRICULTURE, ENGLAND

The Agriculture (Cross compliance) (No. 2)
Regulations 2009 (Amendment) Regulations 2010

<i>Made</i>	- - - -	<i>9th December 2010</i>
<i>Laid before Parliament</i>		<i>10th December 2010</i>
<i>Coming into force</i>	- -	<i>1st January 2011</i>

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Union, and makes these Regulations under the powers conferred by that section.

Citation, commencement and interpretation

1. These Regulations—
 - (a) may be cited as the Agriculture (Cross compliance) (No. 2) Regulations 2009 (Amendment) Regulations 2010, and
 - (b) come into force on 1st January 2011.

Amendment of the Agriculture (Cross compliance) (No. 2) Regulations 2009

2. The Agriculture (Cross compliance) (No. 2) Regulations 2009⁽³⁾ are amended in accordance with regulations 3 and 4.

Amendment of Schedule 1

3.—(1) Schedule 1 (standards of good agricultural and environmental condition) is amended as follows.

- (2) In the table in paragraph 1 (specified provisions)—

(1) [S.I. 1972/1811](#).
(2) [1972 c. 68](#).
(3) [S.I. 2009/3365](#).

- (a) in the entry relating to the Weeds Act 1959⁽⁴⁾, omit the table footnote to section 2 (relating to appeals);
 - (b) in the entry relating to the Water Resources Act 1991⁽⁵⁾—
 - (i) in the first column (provision), after “section 24(1)” insert “, so far as it relates to irrigation purposes”;
 - (ii) in the second column (subject) omit the words after “licence” to the end of the entry;
 - (c) in the entry relating to the Environmental Impact Assessment (Agriculture) (England) (No 2) Regulations 2006⁽⁶⁾—
 - (i) in the first column, after “regulation 4” insert “, so far as it relates to an uncultivated land project”;
 - (ii) in the first column, after “regulation 9” insert “, so far as it relates to an uncultivated land project”.
- (3) For paragraph 5 (management of land not in agricultural production) substitute—

“Management of land not in agricultural production

5.—(1) This paragraph applies in relation to agricultural land not in agricultural production during the single non-production period.

- (2) The single non-production period is such period within any calendar year—
 - (a) during which the land is continuously not in agricultural production, and
 - (b) that includes the date of the deadline for submission of the single application for that year in accordance with Article 11 of [Commission Regulation \(EC\) No 1122/2009](#)⁽⁷⁾.
- (3) Agricultural land is not in agricultural production unless—
 - (a) a crop has been planted on the land;
 - (b) preparatory work for a following crop such as ploughing or spraying has commenced on the land;
 - (c) the land is used for grazing (but this does not include grazing carried on for the purposes of sub-paragraph (4)); or
 - (d) the land is used for growing grass to be cut as feed.
- (4) A claimant must cut scrub, and must cut or graze rank vegetation, on all agricultural land not in agricultural production at least every 5 years.
- (5) In any 12-month period a claimant may not cut or graze scrub or rank vegetation on more than 50% of the agricultural land not in agricultural production except—
 - (a) to comply with paragraph 6 (control of weeds) or section 2 of the Weeds Act 1959;
 - (b) to manage the land to control an infestation of blackgrass (*Alopecurus myosuroides*), couch (*Agropyron repens*), creeping thistle (*Cirsium arvense*) or dock (*Rumex* species) for the first 15 months from the date of harvest;
 - (c) to establish grassy buffers alongside temporary or permanent watercourses to reduce or prevent surface run-off entering watercourses;
 - (d) to establish grassy areas to prevent erosion and run-off;

⁽⁴⁾ 1959 c. 54.

⁽⁵⁾ 1991 c. 57. Section 24(1) was amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 128.

⁽⁶⁾ S.I. 2006/2522.

⁽⁷⁾ OJ No L 316, 2.12.2009, p. 65, amended by Commission Regulation (EU) No 146/2010 (OJ No L 47, 24.2.2010, p. 1).

(e) to establish plots of up to approximately 2 hectares to accommodate ground nesting birds, especially stone curlews;

(f) to cut pollen and nectar mixtures sown to provide food resources for wildlife, in order to promote flowering.

(6) No person may cut or plough between 1st March and 31st July inclusive any vegetation on agricultural land not in agricultural production other than to carry out one of the operations listed in sub-paragraph (5)(a) to (f).

(7) No person may apply inorganic fertiliser, manure or slurry to agricultural land not in agricultural production, unless the land is known to be used as, and is managed as, a geese feeding area in winter.

(8) Nothing in sub-paragraphs (4) to (6) applies to the extent that it would contravene section 2(1) of the Ancient Monuments and Archaeological Areas Act 1979⁽⁸⁾.

(9) Nothing in sub-paragraphs (4) to (7) applies to the extent that it would contravene section 28E(1), 28P(6A), 28P(8) or 31 of the Wildlife and Countryside Act 1981⁽⁹⁾.

(4) In paragraph 6 (control of weeds), for sub-paragraph (f) (Japanese knotweed (*Reynoutria japonica*)), substitute—

“(f) Japanese knotweed (*Fallopia japonica*);”.

(5) In paragraph 7 (“hedgerows”), after “apply” insert “, but references in paragraph 8 also include hedgerows referred to in sub-paragraph (3A) of that paragraph”.

(6) In paragraph 8 (protection of hedgerows and watercourses)—

(a) after sub-paragraph (3) insert—

“(3A) Sub-paragraphs (1) to (3) apply to land on the side of a hedgerow which is facing away from a dwelling house where that hedgerow marks a boundary of the curtilage of that dwelling house.”;

(b) omit sub-paragraph (4).

Amendment of Schedule 2

4.—(1) Schedule 2 (circumstances where a breach of Schedule 1 is not non-compliance) is amended as follows.

(2) In paragraph 2—

(a) after “Any action carried out” insert “on the land”;

(b) for sub-paragraph (a) substitute—

“(a) by virtue of, or in connection with, any power or authorisation conferred by or under any enactment, provided that following the completion of the action the agricultural land will be in good agricultural and environmental condition for the purposes of Article 6(1) of Council Regulation (EC) No 73/2009⁽¹⁰⁾”;

(c) omit sub-paragraph (b).

⁽⁸⁾ 1979 c. 46. Section 2(1) was amended by paragraphs 16 and 17 of Schedule 2 to the Planning Act 2008 (c. 29).

⁽⁹⁾ 1981 c. 69. Sections 28E and 28P were substituted by section 75(1) of, and paragraph 1 of Schedule 9 to, the Countryside and Rights of Way Act 2000 (c. 37). Section 28P(6A) was inserted by section 55(1) and (3) of the Natural Environment and Rural Communities Act 2006 (c. 16). Section 31 was substituted by section 75(1) of, and paragraph 3 of Schedule 9 to, the Countryside and Rights of Way Act 2000.

⁽¹⁰⁾ OJ No L 30, 31.1.2009, p. 16, as last amended by Commission Regulation (EU) No 360/2010 (OJ No L 106, 28.4.2010, p. 1).

9th December 2010

Jim Paice
Minister of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Agriculture (Cross compliance) (No. 2) Regulations 2009 ([S.I. 2009/3365](#)) (“the 2009 Regulations”).

They amend the following provisions of Schedule 1 to the 2009 Regulations—

- (a) paragraph 1, to remove an unnecessary table footnote and to limit certain obligations relating to compliance with legislative requirements;
- (b) paragraph 5 (by replacement), to clarify the scope of the obligations relating to land not in agricultural production;
- (c) paragraph 6, to amend a scientific name;
- (d) paragraphs 7 and 8, to extend the scope of the obligations to certain hedgerows and to remove an obligation relating to watercourses and field ditches.

They amend Schedule 2 to the 2009 Regulations to extend the scope of the circumstances in which action will not amount to non-compliance.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.