



## NATIONAL ASSEMBLY FOR WALES

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### STATUTORY INSTRUMENTS

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## 2005 No. 360 (W.29)

### AGRICULTURE, WALES

## The Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2005

### EXPLANATORY NOTE

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

These Regulations make provision in Wales for the administration of Council Regulation (EC) No. 1782/2003 (O.J. No. L270, 21.10.2003, p.1) ("the Council Regulation"), Commission Regulation (EC) No. 795/2004 (O.J. No. L 141, 30.4.2004, p.1), Commission Regulation (EC) No 796/2004 (O.J. No. L141, 30.4.2004, p.18) and Commission Regulation (EC) No. 1973/2004 (O.J. No. L345, 20.11.2004, p1) ("Commission Regulation 1973/2004"), in relation to establishing a new system of direct support schemes (including the Single Payment Scheme) under the Common Agricultural Policy which came into force on 1 January 2005.

In relation to the Single Payment Scheme ("the Scheme") these Regulations:

- (a) Provide that Wales is a single region for the purposes of the Scheme and provide that the National Assembly is the competent authority for the purposes of, administering the Scheme in Wales, and sending out in the first year of application of the Scheme, application forms to farmers (regulations 3 and 4);
- (b) prescribe the minimum size of a holding in respect of which the establishment of entitlements may be requested (regulation 5);
- (c) fixes the beginning and end of the period in which the farmer can choose a date for the beginning of the 10 month period for which parcels declared corresponding to the eligible hectares are to be at the farmers disposal (regulation 6);
- (d) exercise the derogation in Article 62 of the Council Regulation to include in full, the amounts resulting from the dairy premium and the additional payments and due to farmers in Wales, in the Single Payment Scheme starting from 2005 (regulation 7);
- (e) provide that secondary crops may be cultivated on eligible hectares during a period of not more than three months beginning each year on 15 August (regulation 8);
- (f) provide that payment entitlements established in Wales are only used and transferred within Wales and that the transfer of payment entitlements is communicated, by the transferor, to the National Assembly, no later than six weeks before the last day for submission of the single application but also no earlier than six weeks before the transfer is due to take place (regulation 9);

Regulation 10 requires the National Assembly to deduct a sum equal to a specified proportion (1.5% in the year 2005, and 0.5% in the year 2006) from the total amount of direct payments to be paid to a farmer. The amounts deducted are to be applied as additional support for rural development measures.

Regulations 11 to 13 apply where an applicant uses areas covered by the aid provided for in Article 88 of the Council Regulation (aid for energy crops) for the growing of agricultural raw materials under Article 24 of Commission Regulation 1973/2004 and provide as follows -

- (a) the National Assembly is the competent authority for the purposes of Chapter 8 of Commission Regulation 1973/2004 (Aid for energy crops) (regulation 11(2));
- (b) the minimum cultivated area for such raw material is 0.1 hectares (regulation 12(1));
- (c) the National Assembly must notify the farmers concerned where it excludes any agricultural raw material from aid for energy crops (regulation 12(2));
- (d) for the requirements for the weighing of such raw materials to which Article 25(2)(b) of Commission Regulation 1973/2004 applies (regulation 12(3));
- (e) for the method of denaturing to be applied to cereals, oilseeds and oil produced by processing oilseeds where they are to be used for any of the purposes specified in Article 25(4) of Commission Regulation 1973/2004 (regulation 12(4));
- (f) for the last date on which a contract may be deposited with the National Assembly to be the last day for submitting the relevant single application and for the 9th February of the following year to be the last day by which certain information may be provided to the National Assembly (regulation 12(5) and (6)).

Regulation 13 lays down the records that must be kept by processors in respect of any such raw materials purchased by them and the period for which such records should be kept.

Regulation 15 revokes various Regulations with savings.

A regulatory appraisal on the effect of the Single Payment Scheme has been prepared and is available for inspection at the offices of the National Assembly for Wales, Department of Environment, Planning and Countryside, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ.

**2005 No. 360 (W.29)**

**AGRICULTURE, WALES**

**The Common Agricultural Policy Single Payment and Support Schemes  
(Wales) Regulations 2005**

*Made*

*22 February 2005*

*Coming into force*

*1 March 2005*

The National Assembly for Wales being 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 Community, in exercise of the powers conferred upon it by that section hereby makes the following Regulations.

**Title, commencement and application**

1.-(1) These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2005. They come into force on 1 March 2005 and subject to paragraph (2), apply to Wales.

(2) Regulations 14(1), (2), (6) and in so far as it relates to paragraph (6) of regulation 14, regulation 14(8), shall apply to the extent to which the National Assembly is the relevant competent authority in relation to holdings for the purposes of the IACS regulations(3).

**Interpretation**

2.-(1) In these Regulations -

"Commission Regulation 795/2004" means Commission Regulation (EC) No. 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(4);

"Commission Regulation 796/2004" means Commission Regulation (EC) No. 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in the Council Regulation(5);

"Commission Regulation 1973/2004" means Commission Regulation (EC) No. 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials(6);

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(1) S.I.1999/2788.

(2) 1972 c.68.

(3) The power of the National Assembly for Wales to make, as a body designated in relation to the common agricultural policy of the European Community, regulations which extend to holdings which include land situated within the United Kingdom but outside Wales is confirmed by paragraph 2(b) of Schedule 2 to S.I. 1999/2788.

(4) O.J. No. L 141, 30.4.2004, p1, as last amended by Commission Regulation (EC) No 1974/2004 (O.J. No. L 345, 20.11.2004, p.85).

(5) O.J. No. L 141, 30.4.2004, p18.

(6) O.J. No. L 345, 20.1.2004, p.1.

"Council Regulation" means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support under the common agricultural policy and establishing certain support schemes for farmers<sup>(1)</sup>;

"direct payment" has the meaning given to it in Article 2(d) of the Council Regulation;

"farmer" has the meaning given to it in Article 2(a) of the Council Regulation;

"holding" has the meaning given to it in Article 2(b) of the Council Regulation;

"IACS Regulations" means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005<sup>(2)</sup>;

"relevant competent authority" has the meaning given to it in regulation 5 of the IACS Regulations;

"the National Assembly" means the National Assembly for Wales;

"single application" has the meaning given to it in Article 2(11) of Commission Regulation 796/2004;

"single payment scheme" means the support scheme established under Title III of the Council Regulation;

(2) Other expressions used in these Regulations shall be construed in accordance with the Council Regulation, Commission Regulation 795/2004, Commission Regulation 796/2004 and Commission Regulation 1973/2004.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

### **Regional Implementation**

3. Wales is a single region for the purposes of Article 58 of the Council Regulation.

### **Administration and Applications**

4. The National Assembly is the competent authority for the purposes of administering the single payment scheme in Wales. The National Assembly is also the competent authority for the purposes of the initial application requirements for the single payment scheme which are specified in Article 34 of the Council Regulation.

### **Minimum size of holding**

5. For the purposes of Article 12(6) of Commission Regulation 795/2004, the minimum size of a holding for which the establishment of entitlements may be requested is 0.3 hectares.

### **10 month period**

6. For the purposes of Article 24(2) of Commission Regulation 795/2004, a farmer must choose a date for the beginning of the 10 month period referred to in Article 44(3) of the Council Regulation within a period beginning on 1 October of the calendar year of the year preceding the year of submitting an application under the single payment scheme and ending on 30 April of the year of application.

### **Dairy premium and additional payments**

7. In accordance with Article 62 of the Council Regulation the amounts resulting from dairy premium and additional payments, provided for in Articles 95 and 96 of the Council Regulation, which are due to farmers in Wales, are to be included in full, in the single payment scheme for Wales, starting from 2005.

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(1) O.J. No. L 270, 21.10.2003, p. 1, as last amended by Council Regulation (EC) No 864/2004 (O.J. No. L 161, 30.4.2004, p.48 as corrected by a corrigendum at O.J. No. L 206, 9.6.2004, p.20).

(2) S.I. 2005/218.

## **Horticulture**

8.-(1) Subject to paragraph (2), in accordance with Article 51(b) second paragraph of the Council Regulation, secondary crops may be cultivated on the eligible hectares during a period of not more than three months beginning each year on 15 August.

(2) Paragraph (1) does not apply to the year beginning on 1 January 2005.

## **Transfers**

9.-(1) Pursuant to the third sub paragraph of Article 46(1) of the Council Regulation, payment entitlements under the single payment scheme attributable to, and established in, Wales by virtue of Article 58 of the Council Regulation, may only be used or transferred within Wales.

(2) For the purposes of Article 25(3) of Commission Regulation 795/2004, a transferor of a payment entitlement must communicate the transfer to the National Assembly no later than, six weeks before the last day for submission of the single application, but also no earlier than, six weeks before the transfer is to take place.

## **Additional modulation**

10.-(1) For the purposes of calculating the total amount of direct payments to be paid to a farmer for any year, the National Assembly will deduct a sum equal to the specified proportion of the relevant amount and will apply the sum so deducted by way of funds for one or more of the relevant purposes(1).

(2) In this regulation -

"the relevant amount" means the amount which would have been granted to the farmer in respect of the year concerned but for the application of Article 10(1) of the Council Regulation;

"the relevant purposes" means the purposes of any payment made pursuant to any measure which implements any provisions of Articles 22 to 24 inclusive (agri-environment and animal welfare), and Article 31 (afforestation) of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund(2).

"the specified proportion" means-

- (a) in respect of 2005, 1.5%, and
- (b) in respect of 2006, 0.5%.

## **Aid for energy crops**

11.-(1) Regulations 12 and 13 apply where an applicant uses areas covered by the aid provided for in Article 88 of the Council Regulation for the growing of agricultural raw materials under Article 24 of Commission Regulation 1973/2004 and references to raw materials shall be construed accordingly.

(2) The National Assembly is the competent authority for the purposes of Chapter 8 of Commission Regulation 1973/2004 (Aid for energy crops).

(3) In this regulation "applicant" has the meaning given to it in Article 23 of Commission Regulation 1973/2004.

## **Provisions relating to raw material**

12.-(1) For the purposes of Article 43(2) of Commission Regulation 1973/2004, the minimum cultivated area for any raw material referred to in Article 24 of that Regulation is 0.1 hectares.

(2) Where the National Assembly excludes any agricultural raw material from aid for energy crops in accordance with Article 43(1) of Commission Regulation 1973/2004, the National Assembly must notify the farmers concerned stating, with reasons, the details and duration of the exclusion.

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(1) Additional modulation is permitted under Article 1 of Commission Regulation (EC) No 1655/2004 (O.J. No. L 298, 23.9.2004, p.3.) in Member States which applied reductions to direct payments under Article 4 of Council Regulation 1259/1999 (O.J. No. L 160, 26.6.1999, p.113). Such reductions were applied in Wales from 2001 to 2004 under the Common Agricultural Policy Support Schemes (Modulation) (Wales) Regulations 2000 (S.I. 2000/3294 (W.216), amended by S.I. 2001/3680 (W.301) and 2004/2662) (W.233).

(2) O.J. No. L 160, 26.6.1999, p. 80 as last amended by Council Regulation (EC) No. 583/2004 (O.J. No. L91, 30.3.2004, p.1.).

(3) Raw materials to which Article 25(2)(b) of Commission Regulation 1973/2004 applies must be weighed by an operator of public weighing equipment holding a certificate issued under section 18 of the Weights and Measures Act 1985(1).

(4) For the purposes of Article 25(4) of Commission Regulation 1973/2004, cereals, oilseeds, and oil produced by processing oilseeds, to which that paragraph applies, must be denatured by dyeing them with a brightly coloured dye.

(5) For the purposes of Article 34(1) of Commission Regulation 1973/2004, the last day on which a contract to which that paragraph applies may be deposited with the National Assembly is the last day for submission of the relevant single application.

(6) For the purposes of Article 34(3) of Commission Regulation 1973/2004, the last day on which a first processor to whom that paragraph applies may provide the National Assembly with the information specified in that paragraph is the 9 February of the year following the year in which the relevant single application is made.

(7) In this regulation -

- (a) "relevant single application" means the single application in which aid for energy crops is being claimed on the areas used for the growing of agricultural raw materials to which the contract referred to in paragraph (5), or the information referred to in paragraph (6), relates (as the case may be); and
- (b) "first processor" has the meaning given to it in Article 23 of Commission Regulation 1973/2004.

### **Keeping and retention of records**

**13.**-(1) For the purposes of Article 39 of Commission Regulation 1973/2004 on any day during which a processor purchases, processes, destroys, sells or otherwise dispose of any raw materials he or she must make a record showing (as the case may be) -

- (a) the quantities of the different raw materials purchased by him or her for processing;
- (b) the quantities of raw materials processed by him or her together with the quantities and types of end products, co-products and by-products obtained from the processing;
- (c) the quantities of wastage of raw materials during the processing;
- (d) the quantities of raw materials destroyed, together with the reason for such destruction;
- (e) the quantities and types of products sold or otherwise disposed of by him or her and the price obtained; and
- (f) the names and addresses of any subsequent buyers or processors to whom he or she sells such raw materials or products of processing.

(2) A processor shall retain the records referred to in paragraph (1) for four years from -

- (a) where the records relate to the purchasing, processing, wastage, destruction, sale or other disposal of raw materials, the date on which he or she purchases, processes, wastes, destroys, sells or otherwise disposes of the raw materials, as the case may be; and
- (b) where the records relate to the sale or other disposal of products obtained from the processing of raw materials, the date on which such products were sold or otherwise disposed of, as the case may be.

### **Revocations and savings**

**14.**-(1) Subject to paragraph (2), the Common Agricultural Policy Support Schemes (Modulation)(Wales) Regulations 2000(2), regulation 2(1) of the Abolition of the Intervention Board for Agricultural Produce (Consequential Provisions)(Wales) Regulations 2001(3) and the Common Agricultural Policy Support Schemes (Modulation)(Wales)(Amendment) Regulations 2004(4) are revoked.

(2) The Common Agricultural Policy Support Schemes (Modulation)(Wales) Regulations 2000 continue to apply for the purposes of direct payments in respect of scheme years which began before 2005.

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(1) 1985 c.72.

(2) S.I. 2000/3294 (W.216), as amended by S.I. 2001/3680 (W.301), and S.I. 2004/2662 (W.233).

(3) S.I. 2001/3680 (W.301).

(4) S.I. 2004/2662 (W.233).

(3) Subject to paragraphs (4) and (5), and in so far as they apply to Wales, the Arable Area Payments Regulations 1996<sup>(1)</sup>, the Arable Area Payments (Amendment) Regulations 1997<sup>(2)</sup>, the Arable Area Payments (Amendment) Regulations 1998<sup>(3)</sup>, the Arable Area Payments (Amendment) Regulations 1999<sup>(4)</sup> and the Sheep Annual Premium and Suckler Cow Premium Quotas Regulations 2003<sup>(5)</sup>, are revoked.

(4) Regulation 12 of the Arable Area Payments 1996 (delivery notifications for non food raw materials) shall continue to apply in respect of farmers, collectors and first processors who make the declaration or provide the information mentioned in that regulation (as the case may be) after the coming into force of these Regulations.

(5) Paragraph (1), (4) and (5) of regulation 14 of the Arable Area Payments Regulations 1996 (keeping and retention of records by a collector and a processor) shall continue to apply in respect of processors who purchased, after the coming into force of these Regulations, Annex I raw materials.

(6) Subject to paragraph (8), the Regulations specified in the Schedule are revoked to the extent there specified, in so far as the National Assembly is the relevant competent authority in relation to the holding for the purposes of the IACS Regulations.

(7) In this regulation "Annex I raw materials", "farmer" and "processor" have the meanings given to them in the Arable Area Payments Regulations 1996.

(8) The Regulations revoked by paragraph (3) and (6) shall continue to apply in respect of applications for direct payments in respect of calendar years preceding 2005.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(6)</sup>

22 February 2005

*D. Elis-Thomas*

The Presiding Officer of the National Assembly

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(1) S.I. 1996/3142.

(2) S.I. 1997/2969.

(3) S.I. 1998/3169.

(4) S.I. 1999/8.

(5) S.I. 2003/2261.

(6) 1998 c.38.

# SCHEDULE

## Revocations

Regulation 14(6)

<i>Regulations revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Sheep Annual Premium Regulations 1992	S.I. 1992/2677	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1994	S.I. 1994/2741	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1995	S.I. 1995/2779	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1996	S.I. 1996/49	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1997	S.I. 1997/2500	The whole Regulations
Extensification Payment Regulations 2001	S.I. 2001/864	The whole Regulations
The Slaughter Premium (Wales) Regulations 2001	S.I. 2001/1332 (W.82)	The whole regulations
Suckler Cow Premium Regulations 2001	S.I. 2001/1370	The whole regulations
Beef Special Premium Regulations 2001	S.I. 2001/2503	Regulations 10 to 14
The Sheep Annual Premium (Amendment)(Wales) Regulations 2003	S.I. 2003/151 (W.21)	The whole regulations

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