
WELSH STATUTORY INSTRUMENTS

2006 No. 3101 (W.285)

AGRICULTURE, WALES

**The Common Agricultural Policy Single Payment Scheme
(Set-aside) (Wales) (Amendment) Regulations 2006**

Made - - - - 21 November 2006

Coming into force - - 1 December 2006

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. The title of these Regulations is the Common Agricultural Policy Single Payment Scheme (Set-aside) (Wales) (Amendment) Regulations 2006. They come into force on 1 December 2006 and apply in relation to Wales.

Interpretation

2. In these Regulations, “the principal Regulations” (“*y prif Reoliadau*”) means the Common Agricultural Policy Single Payment Scheme (Set-aside) (Wales) Regulations 2005⁽³⁾

Amendment of Regulation 2(1) of the principal Regulations

3. Regulation 2(1) is amended in accordance with paragraphs (a) — (d)—
- (a) at the end of the definition of “Commission Regulation 795/2004” insert “as last amended by Commission Regulation (EC) 1291/2006”⁽⁴⁾;
 - (b) at the end of the definition of “Commission Regulation 1973/2004” insert “as last amended by Commission Regulation (EC) 1250/2006”⁽⁵⁾;

(1) S.I. 2005/2766

(2) 1972 c. 68.

(3) S.I. 2005/45

(4) O.J. No. L 236, 31.08.2006, p 20.

(5) O.J. No. L 227, 19.08.2006, p 23.

- (c) at the end of the definition of “Council Regulation” insert “as last amended by Council Regulation (EC) No 953/2006”(6);
- (d) at the end of the definition of “the Cross Compliance Regulations 2004” insert “as amended by the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2005”(7).

Amendment of regulation 6 of the principal Regulations

4. In Regulation 6(5) of the principal Regulations, for the words “31 January” substitute the words “9 February”.

Amendment of Schedule 1 to the principal Regulations

5.—(1) Schedule 1 to the principal Regulations is amended in accordance with paragraphs (2) to (8):

(2) After paragraph 7(3) insert—

“(4) In each field or part of a field to which any of the options mentioned in paragraph 1(1) is applied, a farmer will by virtue of this provision be treated as exempt from a requirement to establish a green cover by the start of the current green cover season in any of the circumstances specified in sub-paragraphs (5) to (7).

(5) The first circumstance is where —

- (a) the farmer has taken all reasonable steps to establish a green cover by the start of the green cover season;
- (b) the green cover failed and the farmer could not reasonably have prevented that failure; and
- (c) the farmer left the failed green cover to allow natural regeneration.

(6) The second circumstance is where the farmer—

- (a) sowed a crop on that land before 1 October in the previous year for harvesting on or after that date;
- (b) harvested that crop on or after that date and before the start of the green cover season; and
- (c) allowed natural regeneration following the harvest.

(7) The third circumstance is where—

- (a) the farmer sowed a crop on that land before 1 October in the previous year for harvesting on or after that date;
- (b) the crop failed such that it was incapable of yielding a harvest before the start of the green cover season and the farmer could not reasonably have prevented that failure; and
- (c) the farmer allowed natural regeneration following the harvest.

(8) A farmer must, in respect of the field or part of a field where he or she allowed natural regeneration as referred to in sub-paragraphs (5) to (7), comply with the conditions set out in this Part of this Schedule which relate to the natural regeneration option.

(9) Where a farmer is treated as exempt by virtue of sub-paragraph (4) he or she may nevertheless establish a green cover after the start of the green cover season by sowing—

(6) O.J. No. L175, 29.06.2006, p1

(7) S.I. 2005/3367 (W.264)

- (a) seed of a relevant kind; or
- (b) a relevant mixture of seed.

(10) Such a farmer must, in respect of the field or part of a field where such green cover is established, comply with such of the conditions set out in this Part of this Schedule which relate—

- (a) where the seed sown is seed of a relevant kind, to the sown green cover option; and
- (b) where the seed sown is a relevant mixture of seed, to the wild bird cover option.”.

(3) In paragraph 9 for the number “15” substitute the number “17”.

(4) In paragraph 11(2), for the word “paragraph” substitute the word “sub-paragraph”.

(5) In paragraph 12 substitute “12(1)” for “12” and after that paragraph insert the following —

“(2) A farmer may at any time on or after 1 May cultivate organic land set aside from production for the purpose of controlling weeds.

(3) In this paragraph —

“Compendium of UK Organic Standards” means the July 2005 edition of the *Compendium of UK Organic Standards*, published by the Department for Environment, Food and Rural Affairs;

“Council Regulation (EEC) No 2092/1991” (“*Rheoliad y Cyngor (EEC) Rhif 2092/1991*”) means Council Regulation (EEC) No 2092/1991(8) on organic production of agricultural products and foodstuffs as last amended by Commission Regulation (EC) No 780/2006(9);

“Organic land” (“*tir organig*”) means land which —

- (a) is managed in accordance with the organic production method under Council Regulation (EEC) No 2092/1991 as it relates to land which is fully organic, or land which is in conversion under that Council Regulation, as read (in both cases) with any additional provisions set out in the *Compendium of UK Organic Standards*; and
- (b) is subject to the inspection system under Article 9 of Council Regulation (EEC) No 2092/1991.”.

(6) In paragraph 13 sub paragraph (4) is deleted.

(7) In paragraph 14(2)(a), for the words “paragraphs 11(3) and 13(4)” substitute the words “paragraph 11(3)”.

(8) After paragraph 15 add the following —

“Application of pesticides to land set aside from production

16.—(1) Subject to sub-paragraph (2) and paragraph 17, a farmer must not apply pesticides to land set aside from production during the current set-aside period.

(2) A farmer may at any time on or after 15 July apply pesticides, but not pesticides which are biocides, for the purpose of making preparations for sowing.

(3) In this paragraph —

- (a) “pesticides” (“*plaleiddiaid*”) means any substance, preparation or organism prepared or used for destroying any pest; and

(8) O.J. No. L 198, 22.7.1991, p 1 — 15.

(9) O.J. No. L 137, 25.5.2006, p 9 — 14.

- (b) “pest” (“*pla*”) means any organism harmful to plants or to wood or other plant products, any undesired plant and any harmful creature.

Application of herbicides to land set aside from production

17.—(1) During the current set-aside period a farmer may before 15 April apply a herbicide to land set aside from production where —

- (a) it is of a type which either —
- (i) is absorbed into a plant primarily through the leaves and stem; or
 - (ii) has been approved under regulation 5 of the Control of Pesticides Regulations 1986⁽¹⁰⁾ or under regulations 5, 7, 8 or 11 of the Plant Protection Products Regulations 2005⁽¹¹⁾ and its application is in accordance with that approval; and
- (b) the application of it —
- (i) is not likely to damage significantly the green cover on the land; or
 - (ii) is done prior to replacing a green cover in accordance with paragraph 13(1); or
 - (iii) is done by a spot treatment or with a wick application; or
 - (iv) is done in order to create a strip of land on which a farmer need not establish a green cover by virtue of paragraph 7(2), or to keep such a strip bare.

(2) A farmer may at any time on or after 15 April in the current set aside period apply herbicide to land set aside from production.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹²⁾.

21 November 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

⁽¹⁰⁾ S.I. 1986/1510
⁽¹¹⁾ S.I. 2005/1435
⁽¹²⁾ 1998 c. 38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which apply in relation to Wales amend the Common Agricultural Policy Single Payment Scheme (Set-aside) (Wales) Regulations 2005 (S.I.2005/45 W.4) (“the principal Regulations”).

The principal Regulations make provision in Wales for the administration of Council Regulation (EC) No. 1782/2003 (O.J. No. L. 270, 21.10.2003, p.1) (“the Council Regulation”), Commission Regulation (EC) No 795/2004 (O.J. No. L. 141, 30.4.2004, p.1) and Commission Regulation (EC) No 1973/2004 (O.J. No. L. 345, 20.11.2004, p.1) in relation to the obligation to set aside land under the Single Payment Scheme for farmers (“the Scheme”). The Scheme came into force on 1 January 2005.

In particular these Regulations amend Schedule 1 to the principal Regulations in relation to the good agricultural and environmental conditions that apply to land set aside under the Scheme as follows —

- (i) they add further exemptions from the requirement to establish a green cover by the commencement of the current green cover season (regulation 5(2));
- (ii) they add a provision allowing farmers to cultivate land set aside from production on or after 1 May which is organic land, for the purposes of controlling weeds (regulation 5(5));
- (iii) they remove the restriction on grazing after the set-aside period where the green cover has been replaced (regulation 5(6));
- (iv) they add two new paragraphs prohibiting the use of pesticides and herbicides on land set aside from production except in the circumstances set out (regulation 5(8)).