

EXPLANATORY MEMORANDUM TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND
SUPPORT SCHEMES (CROSS-COMPLIANCE) (ENGLAND)
(AMENDMENT) REGULATIONS 2007

2007 No. 2500

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 These regulations amend the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (SI 2005/3459), as amended (“the Cross-compliance Regulations”). They authorise the Secretary of State to exempt farmers from requirements relating to waterlogged soil in exceptional weather conditions for a reasonable time (rather than 2 months as was previously the case).

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

3.1 *Timing:*

The regulations are being laid before Parliament fewer than 21 days before they come into force.

The Regulations are needed to allow a continuation of the current suspension of the Single Payment Scheme cross-compliance standard which prohibits farmers from accessing their fields with machinery when soils are waterlogged in order to protect the soil from damage. The Cross-compliance Regulations permit suspension of the standard for a period of only two months.

A suspension was first announced on 11 July then subsequently renewed. Under the Cross-compliance Regulations, it must lapse on 10 September. A draft SI extending the Secretary of State’s power to suspend the standard was prepared earlier in the summer but was not made because the weather showed signs of improving. This decision was made after consultation with Natural England, the Environment Agency and the Met Office.

Unseasonal weather conditions have, however, continued longer than predicted. Although less severe than earlier in the summer they have prevented soils from drying out as expected. This has, in some areas, delayed harvest and the preparation of the land for autumn planting. It is unrealistic to expect farmers to stop harvesting, or give them some way of applying for an exemption to the cross-compliance standard given the current soil conditions.

The Regulations will therefore provide a means to extend the suspension in respect of those areas, or individuals, continuing to suffer from waterlogged soils. Farmers taking advantage of the suspension will continue to be required to keep a record of any damage to the soil caused by the use of machinery when waterlogged, and to take any remedial action as soon as practicable.

4. Legislative Background

4.1 General:

This instrument is being made under section 2(2) of the European Communities Act 1972 (1972. c.68). It amends the Cross-compliance Regulations, which implement certain provisions of Council Regulation (EC) 1782/2003 (Title II, Chapter 1 and Chapter 4)) and Commission Regulation (EC) 796/2004 (Title III, Chapter I and III) which lay down the framework for the system of agricultural subsidies under Pillar 1 of the Common Agricultural Policy and which set out the rules on cross-compliance.

4.2 EU legislation:

The Community legislation referred to above has applied to aid applications for income support payments since 1 January 2005

5. Extent

5.1 This instrument applies to England only.

6. European Convention on Human Rights

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

7. Policy background

7.1 Cross-compliance links the payment of direct payments under the current European CAP to compliance with certain standards and requirements. The relevant Articles of the EC Regulations and Directives from which the statutory management requirements (SMRs) are derived are laid down by Annex III of Council Regulation (EC) No 1782/2003. Member States are required to decide on the standards of good agricultural and environmental condition (GAEC). Those GAEC standards as well as provisions for the administration and enforcement of both GAEC standards and SMRs were originally laid down in SI 2004/3196. That SI was repealed and replaced by SI 2005/3459.

7.2 The standard of Good Agricultural and Environment Condition, GAEC 3, prohibits farmers from carrying out mechanical operations or using motorised vehicles on waterlogged soils. The standard was put in place to protect soils

from compaction and structural damage caused by using vehicles when the soil is too wet. The Cross-compliance Regulations allowed the Secretary of State to vary or suspend the requirement during exceptional weather conditions for a period of up to two months, taking into account the economic impact of the weather conditions and the environmental effects of any variation or suspension of the requirements. These Regulations allow the Secretary of State to suspend this requirement for a reasonable period.

- 7.3 In view of the exceptional weather conditions facing farmers during harvest, a temporary suspension of the requirement was put in place on 11 July to allow farmers to access their crops. The two month rule, however, means that the suspension must lapse on 10 September. A draft SI was prepared earlier in the summer as a precaution against the need to extend the suspension period further, but a decision against laying the SI earlier was taken after the weather showed signs of improving, in consultation with Natural England, the Environment Agency and the Met Office.
- 7.4 The weather has, however, subsequently been wetter than the Met Office forecast which, on top of the wettest May-July period for England & Wales since 1767, has meant that soils in many places continue to remain near-saturated. These conditions are continuing to delay harvest and preparation of the land for autumn planting. The further suspension of GAEC 3 will allow farmers in the worst affected areas to continue to access their land.
- 7.5 It is expected that any further suspension would continue to require farmers using the exemption to update their Soil Protection Review (a basic soil management plan required under cross-compliance) with the details of any resultant damage, and take any remedial action as soon as practicable.

8. Impact

- 8.1 An impact assessment has not been produced for this instrument because of the need to introduce it as quickly as possible to deal with the continuing effects of recent weather conditions. No adverse impact on the private or voluntary sectors is foreseen, however.

9. Contact

- 9.1 Any queries about the contents of this memorandum should be addressed to: James Jansen, Sustainable Farm Management Team, Farming for the Future Programme, Area 8b, 9 Millbank, Department for Environment, Food and Rural Affairs, SW1P 3JR; email james.jansen@defra.gsi.gov.uk; telephone 020 7238 4962.