

EXPLANATORY MEMORANDUM TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND
SUPPORT SCHEMES (AMENDMENT) REGULATIONS 2008

2008 No. 1139

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.

This instrument contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 These Regulations amend the Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 (SI 2005/219) (“the 2005 Regulations”). The 2005 Regulations provide for the administration in England of Council Regulation (EC) No 1782/2003 (the “Council Regulation”) which establishes common rules for direct support schemes under the common agricultural policy.

2.2 These Regulations introduce provisions to the 2005 Regulations which fix the day on which farmers must have at their disposal the parcels of land in respect of which they claim under the Single Payment Scheme (SPS). The date is 15th May of the scheme year in which the claim is made.

2.3 They also remove a redundant provision relating to secondary fruit and vegetable production under the SPS and provide for the continued exclusion of the production of permanent fruit and vegetable crops and nursery production from eligibility under the Scheme.

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

3.1 None

4. **Legislative Background**

4.1 These Regulations, which are made under section 2(2) of the European Communities Act 1972, substitute a new regulation 6 in the 2005 Regulations, which implements Article 44(3) of the Council Regulation. Article 44(3) concerns eligibility for payment, and provides, *inter alia*, for a minimum period during which a parcel of land must be at the farmer’s disposal in order for it to be eligible for payment.

4.2 These Regulations also substitute a new regulation 9 in the 2005 Regulations. This implements the derogation in Article 51 of the Council Regulation which was inserted by Council Regulation 1182/2007 (OJ No L 273, 17.10.2007, p1). This amendment introduced the possibility of claiming payment for land used for permanent fruit and vegetable crops and nurseries, but by a derogation, permitted member States to postpone application of the new provision. This is being exercised in England (and in other parts of the UK).

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

Land at farmer's disposal arrangements

7.1 As part of the process of simplifying arrangements under the SPS, Article 44(3) of the Council Regulation has been amended with the effect that Member States now need only fix a single day in the year on which farmers must have at their disposal land which they are claiming payment against. Prior to this amendment farmers were required to have parcels of land for which they were claiming at their disposal for a ten-month period. The new provision fixes this day as 15th May of the scheme year in which the claim is made.

Implementation of the SPS aspects of the reform of the EU Fruit and Vegetable regime

7.2 Political agreement on wide-ranging reform of the EU Fruit and Vegetable regime was reached in June 2007. The reforms contain a number of key elements which relate to the eligibility status under the SPS of land on which fruit, vegetable crops, ware potatoes and nursery crops are grown.

7.3 Firstly, a restriction has been lifted on the amount of land on which non-permanent fruit, vegetable and potato crops are grown that can be used to support a claim under the scheme. Accordingly, a derogation which previously allowed the growing of these crops as secondary crops for a 3 month period each year is now no longer required. These Regulations remove the provisions relating to the exercise of this derogation.

7.4 In addition to rendering these crops eligible under the SPS, the reforms do the same for permanent fruit and vegetable crops (principally orchards) and nursery crops. These crops have until now been ineligible under the scheme. Member States have the flexibility under Article 51 of the Council Regulation, as amended by Council Regulation 1182/2007 to decide when this should take place during a transition period up until 31 December 2010. In England we have decided that this land will become eligible under the SPS from the 2009 scheme year (which begins on 1 January 2009) and the new regulation 9 gives effect to this decision.

8. Impact

8.1 An impact assessment in relation to the horticulture amendments is available from the Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR. No impact assessment has been prepared in relation to the reduction in the period during which the farmer must have parcels of land at his disposal. This is because there is no additional burden on businesses, since the day selected, 15th May, was already within the time frame previously required when a longer period of 10 months was required for eligibility under Article 44(3) of the Council Regulation.

9. Contact

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