

## **EXPLANATORY MEMORANDUM TO**

### **The Common Agricultural Policy Single Payment and Support Schemes (Amendment) Regulations (Northern Ireland) 2014**

**2014 No. 66**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. These Amendment Regulations set the closing date for trading applications to 2 May 2014 and also replace the current legislative requirement to process applications within a six week deadline.

#### **3. Background**

- 3.1. Payment entitlements which were established with the introduction of Single Farm Payment (SFP) in 2005, provide the basis for payment in each scheme year. Under the SFP scheme, payment is made to applicants' who are eligible farmers, who have payment entitlements registered to their farm business, which they align with the area of land they are claiming. Entitlements have a financial value and under EU legislation can be transferred (traded) from one farm business to another by sale or lease.
- 3.2. The rules governing the trading of payment entitlements under SFP are laid down in directly applicable EU legislation. At the same time, the 'principal' domestic Regulations, the Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2010 allow the Department to establish provisions relating to the SFP Scheme for Northern Ireland.
- 3.3. While entitlements can be transferred at any time during the year, the 'principal' regulations state that the transferor of a payment entitlement must notify the transfer to the Department at least six weeks before the transfer is due to take place or six weeks before the last date for lodging an application under the single payment scheme.
- 3.4. Therefore, if the transfer is to be included in an SFP claim in any year, the closing date for transfer applications is 2 April of that year, which is six weeks before the Single Application closing date of 15 May. If we receive an application after the closing date, the transfer cannot take place for that scheme year and there is no provision under EU or domestic legislation that allows for a late trading application to be considered.
- 3.5. The amendment is considered necessary following proposed reforms to the Common Agricultural Policy (CAP) from 2015 relating to payment

entitlements. As part of CAP reform, a decision will be taken as to whether existing payment entitlements should be retained or abolished and reallocated. If it is decided to abolish and reallocate entitlements in 2015, then the total value of entitlements held (or activated depending on a CAP Reform decision to be made by DARD) in the 2014 scheme year will be used to calculate the initial unit value of reallocated entitlements unless a flat rate is introduced in 2015. The value of entitlements held in 2014 can be increased by obtaining additional entitlements via a permanent transfer (sale or gift) prior to the 2014 trading closing date. Leased in entitlements revert back to the lessor for the purposes of calculating the initial unit value of reallocated entitlements under CAP Reform.

- 3.6. Consequently, this means that it is hugely significant whether transfer applications are received prior to the 2014 trading closing date. In previous years, transfer applications received after the closing date could be processed and take effect in the next scheme year but this will not be possible in 2014 if entitlements are reallocated in 2015.
- 3.7. The recent information that has been given on the 'active farmer' issue, has resulted in an increased interest in trading this year given that a substantial number of current SFP applicants may not meet the requirements to be allocated entitlements in 2015.
- 3.8. With the trading closing date of 2 April 2014, there is concern that the trading period is too tight and, in response to a significant increase in enquiries about trading, this would provide more time for farmers and landowners with an additional month compared with present statutory arrangements and would replace the current legislative requirement to process applications within the six week deadline.
- 3.9. Although farmers have been made aware that detailed CAP reform rules have not yet been finalised, and major policy decisions on CAP reform implementation have still to be taken, many farmers are considering trading their entitlements in 2014 for the reasons mentioned above.

#### **4. Consultation**

- 4.1. There has been no consultation specific to these Amendment Regulations.

#### **5. Equality Impact**

- 5.1. An Equality Impact Assessment is not required as the amendments to the Regulations will provide more time for farmers and landowners to consider their options regarding trading of entitlements.

#### **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment has not been carried out on these Regulations as they have no impact in terms of costs on business, charities or voluntary bodies.

#### **7. Financial Implications**

- 7.1. There are no financial implications.

## **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. The Regulations deal with the payment of LFACA 2013 and do not have any human rights implications, nor are they incompatible with EU law. The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1. Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1. The Amendment Regulations apply only to Northern Ireland. The closing date in GB remains unchanged at 2 April 2014 with a legal obligation to process applications within a six week deadline.
- 10.2. The closing date for trading in the ROI is 15 May, with no requirement to process applications within six weeks.

## **11. Additional Information**

- 11.1. It should be noted that, until a decision on the approach to entitlements in 2015 is made, farmers will continue to be uncertain about the future of the entitlements they hold and whether it would make good business sense either to transfer (in the case of the non productive landowner) or to purchase entitlements (in the case of an active farmer) before the 2014 claim period ends. Although the market will factor in the uncertainty and farmers/landowners are advised that they are always trading at their own risk.