
STATUTORY INSTRUMENTS

2004 No. 3385

**The Common Agricultural Policy Single Payment
Scheme (Set-aside) (England) Regulations 2004**

Exchange of eligible and ineligible land

5.—(1) In a situation specified in sub-paragraph (a), (b) or (c) of the first paragraph of Article 33 of Commission Regulation 795/2004, a farmer may apply to the Secretary of State for land not otherwise eligible for set-aside entitlement to be counted as eligible for set-aside entitlement.

(2) Subject to paragraph (3), the application shall be in such form as the Secretary of State may reasonably require, and, where the farmer intends to exchange the land in respect of which the application is made for other land which is eligible for set-aside entitlement (including land counted as eligible for set-aside entitlement as a result of an application granted under this regulation), he shall give particulars of that land, as well as the land in respect of which the application is made, in his application.

(3) Where a farmer holds any of the land in respect of which his application is made, or any land that he intends to exchange for that land, as a tenant, he shall obtain the written consent of his landlord to the exchange, and the application shall include a declaration by the applicant that such consent has been obtained.

(4) The Secretary of State may approve the application made under paragraph (1) if she is satisfied —

- (a) that the relevant sub-paragraph of the first paragraph of Article 33 of Commission Regulation 795/2004 specified in the farmer's application applies in relation to the land in respect of which the application has been made;
- (b) where the application has been made on the basis of sub-paragraph (c) of the first paragraph of Article 33 of Commission Regulation, with the reasons given by the farmer for wanting to exchange ineligible land for eligible land on his holding; and
- (c) that —
 - (i) where the land in respect of which the application is made is to be exchanged for other eligible land, the area of land in respect of which the application is made does not exceed the area of the land which is to be exchanged by more than 5%; or
 - (ii) where there is to be no exchange of land, the approval of the application will not result in a significant increase in the total area of land eligible for set-aside entitlements.

(5) Where approval is given under paragraph (4) but any declaration included in, or information given by the farmer in connection with the application was false in any material particular, the Secretary of State may revoke such approval.

(6) In this regulation “eligible for set-aside entitlement”, in relation to land, has the meaning given by the first paragraph of Article 54(2) of the Council Regulation.