

2005 No. 219

AGRICULTURE, ENGLAND

The Common Agricultural Policy Single Payment and Support Schemes Regulations 2005

<i>Made</i> - - - -	<i>1st February 2005</i>
<i>Laid before Parliament</i>	<i>7th February 2005</i>
<i>Coming into force</i> - -	<i>1st March 2005</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred upon her by that section hereby makes the following Regulations.

Title, commencement and application

1.—(1) These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes Regulations 2005, shall come onto force on 1st March 2005 and, subject to paragraph (2), shall apply to England only.

(2) Regulations 12(3) and 15(1), (2), (6), (7) and, in so far as it relates to paragraph (6) of regulation 15, (8) shall apply to the United Kingdom.

Interpretation

2.—(1) In these Regulations—

“Commission Regulation 795/2004” means Commission Regulation (EC) No. 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(c);

“Commission Regulation 796/2004” means Commission Regulation (EC) No. 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in the Council Regulation(d);

“Commission Regulation 1973/2004” means Commission Regulation (EC) No. 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1782/2003 as

(a) S.I. 1972/1811.

(b) 1972 c.68; the function of the Minister of Agriculture of making regulations under section 2(2) was transferred to the Secretary of State by the Minister of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(c) O.J. No. L 141, 30.4.2004, p.1, as last amended by Commission Regulation (EC) No 1974/2004 (O.J. No. L 345, 20.11.2004, p.85).

(d) O.J. No. L 141, 30.4.2004, p18.

regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials(a);

“Council Regulation” means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support under the common agricultural policy and establishing certain support schemes for farmers(b);

“direct payment” has the meaning given to it in Article 2(d) of the Council Regulation;

“farmer” has the meaning given to it in Article 2(a) of the Council Regulation;

“holding” has the meaning given to it in Article 2(b) of the Council Regulation;

“IACS Regulations” means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(c);

“moorland” means all the land that is both—

- (a) in the severely disadvantaged area, and
- (b) shown coloured pink in the three volumes of maps entitled “Moorland Map of England 1992” each volume being marked with the number of the volume, dated 20th February 2001, signed on behalf of the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Department for Environment, Food and Rural Affairs at Ergon House, Horseferry Road, London SW1P 2AL;

“relevant competent authority” has the meaning given to it in regulation 5 of the IACS Regulations;

“single application” has the meaning given to it in Article 2(11) of Commission Regulation 796/2004;

“single payment scheme” means the support scheme established under Title III of the Council Regulation;

“the severely disadvantaged area” means all the land, excluding the Isles of Scilly, shown coloured pink in the three volumes of maps entitled “Volume of maps of less- favoured areas in England”, each volume being marked with the number of the volume, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Department for Environment, Food and Rural Affairs at Ergon House, Horseferry Road, London SW1P 2AL.

(2) Other expressions used in these Regulations shall be construed in accordance with the Council Regulation, Commission Regulation 795/2004, Commission Regulation 796/2004 and Commission Regulation 1973/2004.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

Regions

3. In accordance with Article 58 of the Council Regulation, there shall be three regions in England and they shall be—

- (a) moorland;
- (b) the severely disadvantaged area, excluding moorland; and
- (c) all other land.

Applications

4. The Secretary of State is the competent authority for the purposes of Article 34(1) of the Council Regulation (which requires the competent authority to send application forms to farmers).

(a) O.J. No. L 345, 20.1.2004, p.1.

(b) O.J. No. L 270, 21.10.2003, p.1, as last amended by Council Regulation (EC) No. 864/2004 (O.J. No. L 161, 30.4.2004, p.48 as corrected by a corrigendum at O.J. No. L 206, 9.6.2004, p.20).

(c) S.I. 2005/218

Minimum size of holding

5. For the purposes of Article 12(6) of Commission Regulation 795/2004, the minimum size of a holding for which the establishment of payment entitlements may be requested shall be 0.3 hectares.

10 month period

6. For the purposes of Article 24(2) of Commission Regulation 795/2004, a farmer shall choose a date for the beginning of the 10 month period referred to in Article 44(3) of the Council Regulation within a period beginning on 1st October of the calendar year of the year preceding the year of submitting an application under the single payment scheme and ending on 30th April of the year of application.

Dairy premium and additional payments

7. In accordance with Article 62 of the Council Regulation the amounts resulting from dairy premium and additional payments, provided for in Articles 95 and 96 of the Council Regulation, shall be included at a regional level, in full, in the single payment scheme starting in 2005.

Progressive modifications of entitlements

8.—(1) For the purposes of Article 63(3) of the Council Regulation entitlements established in accordance with Article 59(3) of that Regulation shall be subject to progressive modifications in accordance with this regulation and Schedule 1.

(2) Subject to the provisions of Article 41 of the Council Regulation (which relates to the national ceiling for reference amounts), the unit value of the farmer's entitlement, in each year specified in column 1 of Schedule 1, is the sum of the relevant proportions in column 2 and column 3 of Schedule 1 where—

- (a) column 2 is the proportion of the farmer's entitlement consisting of the regional unit value of the entitlement calculated in accordance with Article 59(3) first sub-paragraph of the Council Regulation; and
- (b) column 3 is the proportion of the farmer's entitlement consisting of the farmer's reference amounts where he is entitled to receive entitlements calculated in accordance with Article 59(3) second sub-paragraph of the Council Regulation.

Horticulture

9.—(1) Subject to paragraph (2), in accordance with Article 51(b) second paragraph of the Council Regulation, secondary crops may be cultivated on the eligible hectares during a period of not more than three months beginning each year on 15th August.

(2) Paragraph (1) shall not apply to the year beginning on 1st January 2005.

Transfers

10. For the purposes of Article 25(3) of Commission Regulation 795/2004, a transferor of a payment entitlement shall communicate the transfer to the relevant competent authority responsible for determining the particular single application in question and shall do so—

- (a) no later than six weeks before the transfer is to take place; and
- (b) no later than six weeks before the last day for submission of the single application.

Additional modulation

11.—(1) For the purposes of calculating the total amount of direct payments to be paid to a farmer for any year, the Secretary of State shall deduct a sum equal to the specified proportion of

the relevant amount and shall apply the sum so deducted by way of funds for one or more of the relevant purposes(a).

(2) In this regulation—

“the relevant amount” means the amount which would have been granted to the farmer in respect of the year concerned but for the application of Article 10(1) of the Council Regulation;

“the relevant purposes” means the purposes of any payment made pursuant to any measure which implements any provision of Articles 10 to 12 inclusive (early retirement), 13 to 21 inclusive (less-favoured areas and areas with environmental restrictions), 21a to 21d inclusive (meeting standards), 22 to 24 inclusive (agri-environment and animal welfare), 24a to 24d inclusive (food quality) and 31 (afforestation) of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund(b);

“the specified proportion” means—

(a) in respect of 2005, 2%, and

(b) in respect of 2006, 6%.

Aid for energy crops

12.—(1) Regulations 13 and 14 apply where an applicant uses areas covered by the aid provided for in Article 88 of the Council Regulation for the growing of agricultural raw materials under Article 24 of Commission Regulation 1973/2004 and references to raw materials shall be construed accordingly.

(2) Subject to paragraph (3), the Secretary of State is the competent authority for the purposes of Chapter 8 of Commission Regulation 1973/2004 (Aid for energy crops).

(3) In the case of an applicant the competent authority shall be the relevant competent authority responsible for determining the particular single application in question.

(4) In this regulation “applicant” has the meaning given to it in Article 23 of Commission Regulation 1973/2004.

Provisions relating to raw material

13.—(1) For the purposes of Article 43(2) of Commission Regulation 1973/2004, the minimum cultivated area for any raw material referred to in Article 24 of that Regulation shall be 0.1 hectares.

(2) Where the Secretary of State excludes any agricultural raw material from aid for energy crops in accordance with Article 43(1) of Commission Regulation 1973/2004, the Secretary of State must notify the farmers concerned stating, with reasons, the details and duration of the exclusion.

(3) Raw materials to which Article 25(2)(b) of Commission Regulation 1973/2004 applies shall be weighed by an operator of public weighing equipment holding a certificate issued under section 18 of the Weights and Measures Act 1985(c).

(4) For the purposes of Article 25(4) of Commission Regulation 1973/2004, cereals, oilseeds and oil produced by processing oilseeds, to which that paragraph applies, shall be denatured by dyeing them with a brightly coloured dye.

(a) Additional modulation is permitted under Article 1 of Commission Regulation (EC) No. 1655/2004 (O.J. No. L 298, 23.9.2004, p.3.) in Member States which applied reductions to direct payments under Article 4 of Council Regulation 1259/1999 (O.J. No. L 160, 26.6.1999, p.113). Such reductions were applied in England from 2001 to 2004 under the Common Agricultural Policy Support Schemes (Modulation) Regulations 2000 (S.I. 2000/3127, amended by S.I. 2001/3686 and 2004/2330).

(b) O.J. No. L 160, 26.6.1999, p.80 as last amended by Council Regulation (EC) No. 583/2004 (O.J. No. L 91, 30.3.2004, p.1).

(c) 1985 c.72.

(5) For the purposes of Article 34(1) of Commission Regulation 1973/2004, the last day on which a contract to which that paragraph applies may be deposited with the Secretary of State shall be the last day for submission of the relevant single application.

(6) For the purposes of Article 34(3) of Commission Regulation 1973/2004, the last day on which a first processor to whom that paragraph applies may provide the Secretary of State with the information specified in that paragraph shall be the 9th February of the year following the year in which the relevant single application is made.

(7) In this regulation—

- (a) “relevant single application” means the single application in which aid for energy crops is being claimed on the areas used for the growing of agricultural raw materials to which the contract referred to in paragraph (5), or the information referred to in paragraph (6), relates (as the case may be); and
- (b) “first processor” has the meaning given to it in Article 23 of Commission Regulation 1973/2004.

Keeping and retention of records

14.—(1) For the purposes of Article 39 of Commission Regulation 1973/2004 on any day during which a processor purchases, processes, destroys, sells or otherwise disposes of any raw materials he shall make a record showing (as the case may be)—

- (a) the quantities of the different raw materials purchased by him for processing;
- (b) the quantities of raw materials processed by him together with the quantities and types of end products, co-products and by-products obtained from the processing;
- (c) the quantities of wastage of raw materials during the processing;
- (d) the quantities of raw materials destroyed together with the reason for such destruction;
- (e) the quantities and types of products sold or otherwise disposed of by him and the price obtained; and
- (f) the names and addresses of any subsequent buyers or processors to whom he sells such raw materials or products of processing.

(2) A processor shall retain the records referred to in paragraph (1) for four years from—

- (a) where the records relate to the purchasing, processing, wastage, destruction, sale or other disposal of raw materials, the date on which he purchases, processes, wastes, destroys, sells or otherwise disposes of the raw materials, as the case may be; and
- (b) where the records relate to the sale or other disposal of products obtained from the processing of raw materials, the date on which such products were sold or otherwise disposed of, as the case may be.

Revocations and savings

15.—(1) Subject to paragraph (2), the Common Agricultural Policy Support Schemes (Modulation) Regulations 2000(a), regulation 7(16) of the Intervention Board for Agricultural Produce (Abolition) Regulations 2001(b) and the Common Agricultural Policy Support Schemes (Modulation) (Amendment) Regulations 2004(c) are revoked.

(2) The Common Agricultural Policy Support Schemes (Modulation) Regulations 2000 shall continue to apply to direct payments in respect of scheme years which began before 2005.

(3) Subject to paragraphs (4) and (5), the Regulations specified in Schedule 2, so far as they apply to England, are revoked to the extent there specified.

(a) S.I. 2000/3127 as amended by S.I. 2001/3686 and S.I. 2004/2330.

(b) S.I. 2001/3686.

(c) S.I. 2004/2330.

(4) Regulation 12 of the Arable Area Payments Regulations 1996^(a) (delivery notifications for non-food raw materials) shall continue to apply in respect of farmers, collectors and first processors who make the declaration or provide the information mentioned in that regulation (as the case may be) after the coming into force of these Regulations.

(5) Paragraphs (1), (4) and (5) of regulation 14 of the Arable Area Payments Regulations 1996 (keeping and retention of records by a collector and a processor) shall continue to apply in respect of processors who purchased, after the coming into force of these Regulations, Annex I raw materials.

(6) Subject to paragraph (8), the Regulations specified in Schedule 3 are revoked to the extent there specified, in so far as the Secretary of State is the relevant competent authority in relation to the holding for the purposes of the IACS Regulations.

(7) In this regulation “Annex I raw materials”, “farmer” and “processor” have the meanings given to them in the Arable Area Payments Regulations 1996.

(8) The Regulations revoked by paragraphs (3) and (6) shall continue to apply in respect of applications for direct payments in respect of calendar years preceding 2005.

1st February 2005

Whitty
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) S.I. 1996/3142 as amended by S.I. 1997/2969, S.I. 1998/3169 and S.I. 1999/8.

SCHEDULE 1

Regulation 8

Progressive modifications of entitlements

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Year</i>	<i>Proportion of the entitlement consisting of the regional unit value (Article 59(3), first sub-paragraph of the Council Regulation)</i>	<i>Proportion of the entitlement consisting of the farmer's reference amount (Article 59(3) second sub-paragraph of the Council Regulation)</i>
2005	10%	90%
2006	15%	85%
2007	30%	70%
2008	45%	55%
2009	60%	40%
2010	75%	25%
2011	90%	10%
2012	100%	0%

SCHEDULE 2

Regulation 15(3)

Revocations

<i>Regulations revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Arable Area Payments Regulations 1996	S.I. 1996/3142	The whole Regulations
The Arable Area Payments (Amendment) Regulations 1997	S.I. 1997/2969	The whole Regulations
The Arable Area Payments (Amendment) Regulations 1998	S.I. 1998/3169	The whole Regulations
The Arable Area Payments (Amendment) Regulations 1999	S.I. 1999/8	The whole Regulations
The Sheep Annual Premium and Suckler Cow Quotas Regulations 2003	S.I. 2003/2261	The whole Regulations

SCHEDULE 3

Regulation 15(6)

Revocations

<i>Regulations revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Sheep Annual Premium Regulations 1992	S.I. 1992/2677	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1994	S.I. 1994/2741	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1995	S.I. 1995/2779	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1996	S.I. 1996/49	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 1997	S.I. 1997/2500	The whole Regulations
The Slaughter Premium Regulations 2000	S.I. 2000/3126	The whole Regulations
The Sheep Annual Premium (Amendment) Regulations 2001	S.I. 2001/281	The whole Regulations
Extensification Payment Regulations 2001	S.I. 2001/864	The whole Regulations
Suckler Cow Premium Regulations 2001	S.I. 2001/1370	The whole Regulations
Beef Special Premium Regulations 2001	S.I. 2001/2503	Regulations 10 to 14
The Slaughter Premium (Amendment) Regulations 2001	S.I. 2001/3906	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in England make provision in England 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), Commission Regulation (EC) No. 796/2004 (O.J. No. L 141, 30.4.2004, p.18) and Commission Regulation (EC) No. 1973/2004 (O.J. No. L 345, 20.11.2004, p.1) (“Commission Regulation 1973/2004”) in relation to establishing a new system of direct support schemes (including the Single Payment Scheme) under the Common Agricultural Policy which came into force on 1 January 2005.

In relation to the Single Payment Scheme these Regulations:

- (a) provide for and define regions in England (regulation 3);
- (b) provide that the Secretary of State is the competent authority for the purposes of sending out in the first year of application of the single payment scheme an application form to farmers (regulation 4);
- (c) prescribe the minimum size of a holding in respect of which the establishment of entitlements may be requested (regulation 5);
- (d) fixes the beginning and end of the period in which the farmer can choose a date for the beginning of the 10 month period for which parcels declared corresponding to the eligible hectares shall be at the farmer’s disposal (regulation 6);
- (e) exercise the derogation in Article 62 of the Council Regulation to include the amounts resulting from the dairy premium and the additional payments at a regional level, in full, in the single payment scheme starting in 2005 (regulation 7);
- (f) exercise the derogation in Article 63(3) of the Council Regulation to progressively modify entitlements established under Article 59(3) of the Council Regulation (regulation 8 and Schedule 1);
- (g) provide that secondary crops may be cultivated on eligible hectares during a period of not more than three months beginning each year on 15th August (regulation 9);
- (h) provide that transfers of payment entitlements must be communicated by the transferor to the relevant competent authority no later than six weeks before the transfer is to take place and no later than six weeks before the last day for submission of the single application (regulation 10).

Regulation 11 requires the Secretary of State to deduct a sum equal to a specified proportion (2% in the year 2005, and 6% in the year 2006) from the total amount of direct payments to be paid to a farmer. The amounts deducted are to be applied as additional support for rural development measures.

Regulations 12 to 14 apply where an applicant uses areas covered by the aid provided for in Article 88 of the Council Regulation (aid for energy crops) for the growing of agricultural raw materials under Article 24 of Commission Regulation 1973/2004 and provide as follows—

- (a) that the Secretary of State is the competent authority for the purposes of Chapter 8 of Commission Regulation 1873/2004 (Aid for energy crops) (regulation 12(2));
- (b) that the minimum cultivated area for such raw material shall be 0.1 hectare (regulation 13(1));
- (c) that the Secretary of State must notify the farmers concerned where she excludes any agricultural raw material from aid for energy crops (regulation 13(2));
- (d) for the requirements for the weighing of such raw materials to which Article 25(2)(b) of Commission Regulation 1973/2004 applies (regulation 13(3));

- (e) for the method of denaturing to be applied to cereals, oilseeds and oil produced by processing oilseeds where they are to be used for any of the purposes specified in Article 25(4) of Commission Regulation 1973/2004 (regulation 13(4));
- (f) for the last date on which a contract may be deposited with the Secretary of State to be the last day for submitting the relevant single application and for the 9th February of the following year to be the last day by which certain information may be provided to the Secretary of State (regulation 13(5) and (6)).

Regulation 14 lays down the records that must be kept by processors in respect of any such raw materials purchased by them and the period for which such records should be kept.

Regulation 15 revokes various Regulations with savings.

A full regulatory impact assessment on the effect that the Single Payment Scheme will have on the costs of business is available from the Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR, or at www.defra.gov.uk/corporate/consult/capsingle-payment/index.htm.

STATUTORY INSTRUMENTS

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