
STATUTORY INSTRUMENTS

2005 No. 3459

The Common Agricultural Policy Single Payment and Support Schemes (Cross- compliance) (England) Regulations 2005 (revoked)

Title, commencement and application

1.—(1) These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 and come into force on 12th January 2006.

(2) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

“agri-environment commitment” means a commitment under—

- (a) a scheme established under Council Regulation (EC) No 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside ^{M1}, as last amended by Commission Regulation (EC) No 2772/95^{M2};
- (b) a scheme established under Article 14, 22 to 24 or 31 of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ^{M3}, as last amended by Council Regulation (EC) No 583/2004^{M4};
- (c) the Entry Level Agri-Environment Scheme (Pilot) (England) Regulations 2003 ^{M5};
- (d) a management agreement entered into with English Nature, pursuant to section 15 of the Countryside Act 1968 ^{M6};
- (e) a management agreement entered into with English Nature, pursuant to section 16 of the National Parks and Access to the Countryside Act 1949 ^{M7,F1}...
- (f) an approved project in respect of which financial assistance is paid under the Energy Crops Regulations 2000 ^{M8};
- (g) [^{F2}a measure listed in Article 36 of Council Regulation (EC) No 1698/2005; or
- (h) a management agreement entered into under section 7 of the Natural Environment and Rural Communities Act 2006;]

“authorised person” means any person authorised by the Secretary of State [^{F3}or the Environment Agency] to act in matters relating to these Regulations, the Council Regulation or the Commission Regulation;

“the Commission Regulation” means Commission Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated

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Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (revoked). (See end of Document for details)

administration and control system provided for in the Council Regulation ^{M9}, as last amended by [^{F4}Commission Regulation (EC) No 659/2006];

“the Council Regulation” means 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 ^{M10}, as last amended by [^{F5}Council Regulation (EC) No 1405/2006 laying down specific measures for agriculture in favour of the smaller Aegean islands and amending Regulation (EC) No 1782/2003];

[^{F6}Council Regulation (EC) No 1698/2005” means Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD);]

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

“holding” has the meaning given by Article 2(b) of the Council Regulation; and

“permanent pasture” has the meaning given by Article 2(2) of the Commission Regulation.

(2) Other expressions used in these Regulations, which are also used in either the Council Regulation or the Commission Regulation, shall be construed in accordance with the Council Regulation or the Commission Regulation.

Textual Amendments

- F1** Word in reg. 2(1) omitted (1.1.2007) by virtue of [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **3(a)(i)**
- F2** Words in reg. 2(1) added (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **3(a)(ii)**
- F3** Words in reg. 2(1) inserted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **3(b)**
- F4** Words in reg. 2(1) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **3(c)**
- F5** Words in reg. 2(1) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **3(d)**
- F6** Words in reg. 2(1) inserted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **3(e)**

Marginal Citations

- M1** O.J. L 215, 30.07.1992, p. 85. This Council Regulation has been repealed, but agri-environment commitments entered into under it remain extant.
- M2** O.J. L 288, 01.12.1995, p. 35.
- M3** O.J. L 160, 26.06.1999, p. 80. This Council Regulation has been repealed, with effect from 1st January 2007, by Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (O.J. No. L 277, 21.10.2005, p.1), except for certain provisions which continue in force beyond that date.
- M4** O.J. L 91, 30.03.2004, p. 1.
- M5** [S.I. 2003/838](#).
- M6** [1968 c. 41](#). Under this Act, the Natural Environment Research Council was given the powers, for conservation purposes, to enter into an agreement, with owners, lessees or occupiers of land

within areas of special scientific interest, which imposes restrictions on the exercise of rights over that land by persons who can be bound by such an agreement. These powers were transferred to the Nature Conservancy Council under the [Nature Conservancy Council Act 1973 \(c. 54\)](#). The [Environmental Protection Act 1990 \(c. 43\)](#) provided for the winding up of that body and set up the Nature Conservancy Council for England to which the Nature Conservancy Council's functions were transferred. That body was renamed English Nature by section 73 of the [Countryside and Rights of Way Act 2000 \(c. 37\)](#) ("the 2000 Act").

- M7** 1949 c. 97. Under this Act, the Natural Environment Research Council was given the power to enter into an agreement with owners, lessees and occupiers of land, where their land appeared to it to be land which it was in the national interest to manage as a nature reserve, in order to ensure that land is managed as such. These powers were also transferred to the Nature Conservancy Council, and then to the National Conservancy Council for England, which was renamed English Nature, by virtue of the provisions specified in the previous footnote.
- M8** S.I. 2000/3042, amended by S.I. 2001/3900.
- M9** O.J. No. L 141, 30.04.2004, p.18.
- M10** O.J. No. L 270, 21.10.2003, p.1, as corrected by corrigenda at O.J. No. L 94, 31.03.2004, p.70 and at O.J. No. L 206, 9.6.2004, p. 20.

Designation

3. The Secretary of State is designated as the competent national authority for the purposes of Article 3(2) of the Council Regulation.

Standards of good agricultural and environmental condition

4.—(1) The standards of good agricultural and environmental condition set out in the Schedule apply as minimum requirements for the purposes of Article 5(1) of the Council Regulation.

(2) If, in relation to any land subject to an agri-environment commitment, a requirement of the agri-environment commitment conflicts with a standard in the Schedule, any breach of the standard which is a necessary and direct consequence of meeting that requirement shall not be treated as a non-compliance.

(3) Except in relation to any land set aside pursuant to Article 54 or 55(b) of the Council Regulation, a farmer shall be exempt from a standard in the Schedule if he satisfies the Secretary of State that he should be exempted from it—

- (a) because, by virtue of any power or authorisation conferred by or under any enactment, a pipeline, cable or pylon is being or will be laid through, or constructed on or across, the land, he is unable to ensure the standard is met;
- (b) because, as a result of maintenance of a pipeline, cable or pylon being carried out or to be carried out under statutory authority on the land, he is unable to ensure that the standard is met;
- (c) in the interests of human or animal health or safety; or
- (d) because such an exemption is necessary, either to enable a serious cause of harm to plant health or serious infestation of any pest or specified weed to be treated, or to permit measures to be taken to prevent the development of any such cause of harm or infestation.

(4) In relation to land set aside pursuant to Article 54 or 55(b) of the Council Regulation, a farmer shall be exempt from a standard in the Schedule if he satisfies the Secretary of State that he should be exempt from it on any of the grounds specified in sub-paragraphs (a) to (g) of regulation 4(5) of the Common Agricultural Policy Single Payment Scheme (Set-aside) (England) Regulations 2004^{M11}.

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Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (revoked). (See end of Document for details)

Modifications etc. (not altering text)

C1 Regs. 4, 6 applied (12.2.2007) by [The Rural Development \(Enforcement\) \(England\) Regulations 2007 \(S.I. 2007/75\)](#), regs. 1, **5(1)**

Marginal Citations

M11 [S.I. 2004/3385](#).

Permanent pasture

5.—(1) If it is established that the ratio in Article 3(1) of the Commission Regulation is decreasing, the Secretary of State shall prohibit farmers from converting land under permanent pasture, in accordance with Article 4(1) of that Regulation.

(2) If it is established that the obligation in Article 3(2) of the Commission Regulation cannot otherwise be met, the Secretary of State shall oblige farmers to reconvert land to permanent pasture in accordance with Article 4(2) of that Regulation.

(3) But the Secretary of State must not—

- (a) prohibit a farmer from converting land under permanent pasture where the farmer turned that land into permanent pasture in the circumstance mentioned in Article 4(3) of the Commission Regulation, or
- (b) require a farmer to reconvert land where the farmer turned that land into permanent pasture in the circumstance mentioned in Article 4(3) of the Commission Regulation and later converted it out of permanent pasture.

Competent Control Authorities

6.—(1) For the purposes of Article 42(1) of the Commission Regulation, the Secretary of State is the specialised control body who shall bear the responsibility of carrying out the controls in respect of the statutory management requirements under [F7 numbers 10 and 13 to 18] of Annex III of the Council Regulation.

[F8(1A) For the purposes of Article 42(1) of the Commission Regulation, the Environment Agency is the specialised control body which shall bear the responsibility of carrying out the controls in respect of the statutory management requirements under numbers 2, 3 and 4 of Annex III of the Council Regulation.]

(2) For the purposes of the derogation in Article 42(2) of the Commission Regulation, the Rural Payments Agency ^{M12} shall have the responsibility to carry out the controls in relation to all other cross-compliance requirements and standards.

[F9(3) Natural England shall carry out controls for the purposes of Article 9 and Chapters I and III of Title III of the Commission Regulation, if requested to do so by the Secretary of State or the Rural Payments Agency.

(4) If Natural England is requested by the Secretary of State or the Rural Payments Agency to carry out controls referred to in paragraph (3), it shall send a provisional control report in relation to the controls carried out to the Secretary of State or the Rural Payments Agency (as the case may be).]

^{F10}(5)

^{F10}(6)

Textual Amendments

- F7** Words in reg. 6(1) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **4(a)**
- F8** Reg. 6(1A) inserted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **4(b)**
- F9** Reg. 6(3)(4) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **4(c)**
- F10** Reg. 6(5)(6) omitted (1.1.2007) by virtue of [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **4(d)**

Modifications etc. (not altering text)

- C1** Regs. 4, 6 applied (12.2.2007) by [The Rural Development \(Enforcement\) \(England\) Regulations 2007 \(S.I. 2007/75\)](#), regs. 1, **5(1)**

Marginal Citations

- M12** The Rural Payments Agency is an Executive Agency of the Department for Environment, Food and Rural Affairs, for the time being accredited as the Paying Agency.

Powers of authorised persons

7.—(1) An authorised person may exercise any of the powers specified in this regulation for the purpose of—

- (a) providing a control report pursuant to Article 48 of the Commission Regulation;
 - (b) establishing whether there has been a non compliance; or
 - (c) ascertaining whether an offence under these Regulations has been or is being committed.
- (2) An authorised person—
- (a) shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any land, other than a building used only as a dwelling, for the purposes of administering and enforcing these Regulations, the Council Regulation and the Commission Regulation; but
 - (b) may only do so if the land is a holding occupied by, or in the possession of, a farmer or employee, agent, contractor or tenant of a farmer, or if he has reasonable cause to believe that is so.
- (3) An authorised person may—
- (a) carry out any inquiries, checks, examinations^[F11], measurements] and tests;
 - (b) take samples;
 - (c) inspect all or any part of the land, whether it is farmed or is withdrawn from agricultural production, including land set aside pursuant to Article 54 or 55(b) of the Council Regulation;
 - (d) inspect any crops growing on that land^[F12], or any livestock or any other thing kept on it];
 - (e) mark any animal or other thing for identification purposes;
 - (f) have access to, inspect and copy any ^[F13]documents or records] (in whatever form they are held) kept in relation to activities covered by these Regulations or remove such ^[F13]documents or records] to enable them to be copied; ^{F14}...

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- (g) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the [F13 documents or records]; and for this purpose require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require and, where a [F15 document or record] is kept by means of a computer, require the [F15 document or record] to be produced in a form in which it can be taken away[F16;]
- [F16(h) remove a carcass found on the land for the purpose of carrying out a post-mortem examination on it;
- (i) take a photograph of anything on the land; and
- (j) remove anything which he reasonably believes to be evidence of any non-compliance.]
- (4) An authorised person entering any premises by virtue of this regulation may take with him—
- (a) such other persons as he considers necessary; and
- (b) any representative of the European Commission acting for the purposes of the Council Regulation or the Commission Regulation.
- (5) If an authorised person enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.
- (6) Where an authorised person enters any land, other than a building used only as a dwelling, under a power bestowed on him by other legislation he may exercise any of the powers specified in paragraphs (3) and (4) for the purposes of paragraph (1).

Textual Amendments

- F11** Word in reg. 7(3)(a) inserted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **5(a)**
- F12** Words in reg. 7(3)(d) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **5(b)**
- F13** Words in reg. 7(3)(f)(g) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **5(c)**
- F14** Word in reg. 7(3)(f) omitted (1.1.2007) by virtue of [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **5(e)**
- F15** Words in reg. 7(3)(g) substituted (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **5(d)**
- F16** Reg. 7(3)(h)-(j) added (1.1.2007) by [The Common Agricultural Policy Single Payment and Support Schemes \(Cross-compliance\) \(England\) \(Amendment\) Regulations 2006 \(S.I. 2006/3254\)](#), regs. 1, **5(f)**

Modifications etc. (not altering text)

- C2** Reg. 7(3) applied (12.2.2007) by [The Rural Development \(Enforcement\) \(England\) Regulations 2007 \(S.I. 2007/75\)](#), regs. 1, **5(2)**

Assistance to authorised persons

8. A farmer or any employee, agent, contractor or tenant of a farmer shall give an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred on him by regulation 7.

Offences and penalties

9.—(1) A person is guilty of an offence if—

- (a) he intentionally obstructs an authorised person (or person accompanying him and acting under his instructions) in the exercise of a power conferred by regulation 7; or
- (b) without reasonable cause, he fails to comply with a request made under regulation 8.

(2) Nothing in paragraph (1)(b) is to be construed as requiring any person to answer any question if to do so might incriminate him.

(3) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person purporting to act in such capacity;

he, as well as the body corporate, shall be guilty of an offence.

(5) For the purposes of paragraph (4), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Revocation

10. The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004^{M13} and the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005^{M14} are revoked.

Marginal Citations

M13 S.I. 2004/3196 as amended by S.I. 2005/918.

M14 S.I. 2005/918.

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

Status:

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