
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace and revoke the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 (S.I. 2004/3196) as amended by S.I. 2005/918. They consolidate those Regulations and also make changes to the provisions relating to the administration and enforcement of cross-compliance (regulation 6) and to the provisions providing for exemptions (regulation 4). They also update and make changes to the standards of good agricultural and environmental condition set out in the Schedule.

These Regulations make provision in England for the administration and enforcement of cross-compliance under Regulation (EC) No 1782/2003 (OJ No L 270, 21.10.2003, p.1) (“the Council Regulation”) and Commission Regulation (EC) No 796/2004 (OJ No L 141, 30.4.2004, p.18) (“the Commission Regulation”) in relation to the system of income support schemes (including the Single Payment Scheme), which came into force on 1 January 2005, under the reformed Common Agricultural Policy.

“Cross-compliance” links the payment of direct payments to farmers under the Common Agricultural Policy with compliance with a range of laws and standards (see Article 6 of the Council Regulation). Annex III to the Council Regulation contains a list of applicable “statutory management requirements” in areas of Community law on the environment, public and animal health and animal welfare. Under Article 5(1) of the Council Regulation, Member States must lay down standards of “good agricultural and environmental condition” which will apply to all farmers, within the framework in Annex IV to that Regulation. Under the Council and Commission Regulations, Member States must also take steps to prevent permanent pasture falling below certain levels.

These Regulations provide as follows:

Regulation 3 designates the Secretary of State as the competent national authority responsible for providing farmers with a list of the statutory management requirements and standards of good agricultural and environmental condition on their land.

Regulation 4 and the Schedule set out the standards of good agricultural and environmental condition which will apply in England, as required by Article 5(1) of the Council Regulation. It also provides that farmers with agri-environment commitments, a term which has been broadened in scope through these Regulations, which directly and necessarily conflict with the standards will not be penalised for breaching the standards. Regulation 4 now also provides for farmers to seek an exemption from a standard in particular circumstances. The standards in the Schedule cover the areas listed below and alongside each of these areas is listed the key differences from the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004, as amended by S.I. 2005/918.

- (a) Retention of guidance on soil management (*paragraph 1*). Additional requirements for 2006 and 2007 have been added which include preparation of a risk-based soil management plan by 1 September 2006, which requires an assessment of soil related problems of the holding and identification of appropriate remedial measures, and implementation of those measures in 2007. Land subject to rights of common is exempted from this requirement as are holdings of 0.3 hectares or less (where common land is not included as falling within the holding).
- (b) Post-harvest management of land after combinable crops (*paragraph 2*).
- (c) Waterlogged soil (*paragraph 3*).

Status: This is the original version (as it was originally made).

- (d) Burning of crop residues (*paragraphs 4 and 5*).
- (e) Overgrazing and unsuitable supplementary feeding (*paragraph 6*). This now includes a provision allowing the Secretary of State to notify individual farmers of measures which can be taken to prevent overgrazing and unsuitable supplementary feeding.
- (f) Management of land which is not in agricultural production (*paragraph 7*). This now includes a provision prohibiting the storage of manure and slurry on these fields, except in particular cases. It also makes an exception to the rules as to establishing a green cover and not cutting down vegetation to provide for a 15 month bare fallow period where this is required to control weed infestations and where appropriate soil protection measures are taken.
- (g) Control of weeds (*paragraphs 8 and 9*).
- (h) Protection of hedgerows and watercourses (*paragraph 10*). This now requires reasonable steps to be taken to maintain a green cover. It also deals with the position where this land is set aside from production under the Common Agricultural Policy Single Payment Scheme (Set-aside) (England) Regulations 2004.
- (i) Hedgerows (*paragraphs 11 and 12*). Paragraph 12 now allows farmers to seek permission to trim hedges in the prohibited period and clarifies the position as to when hedges can be cut without such permission.
- (j) Stone walls (*paragraph 14*). The provisions as to the widening of stone walls and the use of stone from these walls have been amended.
- (k) Environmental impact assessment (*paragraphs 15 and 16*).
- (l) Heather and grass burning (*paragraph 17*).
- (m) Sites of special scientific interest (*paragraphs 18 to 23*). The requirement that statutory bodies under section 28G of the Wildlife and Countryside Act 1981 comply with section 28H of that Act has been added to the Schedule (*paragraph 22*).
- (n) Tree preservation orders (*paragraph 24*). A reference to trees in conservation areas, protected by section 211 of the Town and Country Planning Act 1990, has been added.
- (o) Scheduled monuments (*paragraph 25*).
- (p) Felling of trees (*paragraph 26*).
- (q) Public rights of way (*paragraphs 27 to 30*).

Regulation 5 requires the Secretary of State to prohibit farmers from converting land under permanent pasture, and to oblige farmers to reconvert land to permanent pasture, where the exercise of these powers is necessary in order for the United Kingdom to meet the requirements of Articles 3 and 4 of the Commission Regulation.

Regulation 6 designates the Secretary of State as the competent control authority in relation to the requirements listed in regulation 6(1). It also exercises a derogation under Article 42 of the Commission Regulation to designate the Rural Payments Agency (“the RPA”) as the competent control authority for the statutory management requirements not listed in regulation 6(1) and for the standards of good agricultural and environmental condition, and permanent pasture. Regulation 6 enables the RPA and the Secretary of State to require certain other authorities to carry out controls.

Regulation 7 provides powers of entry for an authorised person.

Regulations 8 and 9 provide for an authorised person to request assistance and for offences of obstructing an authorised person and failing to provide assistance.

A handbook setting out the standards in the Schedule is available (PB 11305). This handbook, the guidance on soil management (PB 11162), including that specifically on the soil protection review (PB11160), and a handbook explaining those cross-compliance standards which relate specifically to set-aside land (PB11304) will be sent to all farmers. Guidance on the management of habitats and

landscape features (PB10222C) remains unchanged from 2005. Further copies are available from Defra Publications, Admail 6000, London SW1A 2XX. Telephone 08459 556 000. Fax 020 8957 5012. Email: defra@iforcegroup.com.

A full regulatory impact assessment on the effect that cross-compliance will have on the costs of business, and a further regulatory impact assessment on the effects of this instrument, are available from Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o 17 Smith Square, London SW1P 3JR, or at www.defra.gov.uk/farm/capreform/singlepay/index.htm.