

**2005 No. 3460**

**AGRICULTURE, ENGLAND**

**The Common Agricultural Policy Single Payment Scheme (Set-aside) (England) (Amendment) Regulations 2005**

<i>Made</i> - - - -	<i>14th December 2005</i>
<i>Laid before Parliament</i>	<i>19th December 2005</i>
<i>Coming into force</i> - -	<i>15th January 2006</i>

The Secretary of State for Environment, Food and Rural Affairs makes the following Regulations under the powers conferred by section 2(2) of the European Communities Act 1972(a).

She has been designated(b) for the purposes of that section in relation to the common agricultural policy of the European Community.

**Title, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Common Agricultural Policy Single Payment Scheme (Set-aside) (England) (Amendment) Regulations 2005, come into force on 15th January 2006 and apply in England only.

(2) In these Regulations, “the principal Regulations” means the Common Agricultural Policy Single Payment Scheme (Set-aside) (England) Regulations 2004(c).

**Amendment of regulation 1 of the principal Regulations**

2. In regulation 2(1) of the principal Regulations the entry defining “the Cross Compliance Regulations 2004” is omitted.

**Amendment of regulation 4 of the principal Regulations**

3. In regulation 4(3) of the principal Regulations, for the words “Cross Compliance Regulations 2004” there is substituted the words “Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005”(d).

**Amendment of regulation 6 of the principal Regulations**

4. In Regulation 6(5) of the principal Regulations, for the words “31st January” there is substituted the words “9th February”.

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(a) 1972 c. 68.  
(b) S.I. 1972/1811.  
(c) S.I. 2004/3385.  
(d) S.I. 2005/3459.

## **Amendment of Schedule 1 to the principal Regulations**

5.—(1) Schedule 1 to the principal Regulations is amended as follows.

(2) In sub-paragraph (a) of paragraph 1(4), omit the words “a farmer”.

(3) In paragraphs 2(1)(a), 3(1)(a), 4(1)(a) and 5(1)(a), for the words “paragraphs 7 and 9” substitute the words “paragraph 7”.

(4) In paragraph 6(1)(b), omit the words “subject to paragraph 9,”.

(5) In paragraph 7—

(a) omit sub-paragraph (3); and

(b) at the end of the paragraph add the following—

“(5) In each field or part of a field to which any of the options mentioned in paragraph 1(1) is applied, a farmer shall by virtue of this provision be treated as exempt from a requirement to establish a green cover by the start of the current green cover season in any of the circumstances specified in sub-paragraphs (6) to (8).

(6) The first circumstance is where—

(a) the farmer took all reasonable steps to establish a green cover by the start of the green cover season;

(b) the green cover failed and the farmer could not reasonably have prevented that failure; and

(c) the farmer left the failed green cover to allow natural regeneration.

(7) The second circumstance is where the farmer—

(a) sowed a crop on that land before 1st October in the previous year for harvesting on or after that date;

(b) harvested that crop on or after that date and before the start of the green cover season; and

(c) allowed natural regeneration following the harvest.

(8) The third circumstance is where—

(a) the farmer sowed a crop on that land before 1st October in the previous year for harvesting on or after that date;

(b) the crop failed such that it was incapable of yielding a harvest before the start of the green cover season and the farmer could not reasonably have prevented that failure; and

(c) the farmer allowed natural regeneration following the harvest.

(9) A farmer shall, in respect of the field or part of a field where he allowed natural regeneration as referred to in sub-paragraphs (6) to (8), comply with the conditions set out in this Part of this Schedule which relate to the natural regeneration option.

(10) Where a farmer is treated as exempt by virtue of sub-paragraph (5) he may nevertheless establish a green cover after the start of the green cover season by sowing—

(a) seed of a relevant kind; or

(b) a relevant mixture of seed.

(11) Such a farmer shall, in respect of the field or part of a field where such green cover is established, comply with such of the conditions set out in this Part of this Schedule which relate—

(a) where the seed sown is seed of a relevant kind, to the sown green cover option; and

(b) where the seed sown is a relevant mixture of seed, to the wild bird cover option.”.

(6) Omit paragraph 9.

(7) In paragraph 10—

(a) for the number “16” substitute the number “18”; and

(b) for the number “9” substitute the number “8”.

(8) In paragraph 12(2), for the word “paragraph” substitute the word “sub-paragraph”.

(9) In paragraph 13, for sub-paragraph (2) substitute the following—

“(2) A farmer may at any time on or after 1st May cultivate organic land set aside from production for the purpose of controlling weeds.

(3) In this paragraph—

“Compendium of UK Organic Standards” means the Compendium of UK Organic Standards, July 2005 Edition published by the Department for Environment, Food and Rural Affairs;

“Council Regulation (EEC) No 2092/1991” means Council Regulation (EEC) No 2092/1991(a) on organic production of agricultural products and foodstuffs as last amended by Council Regulation (EC) No 1567/2005(b);

“Organic land” means land which—

(a) is managed in accordance with the organic production method under Council Regulation (EEC) No 2092/1991 as it relates to land which is fully organic, or land which is in conversion under that Council Regulation, as read (in both cases) with any additional provisions set out in the Compendium of UK Organic Standards; and

(b) is subject to the inspection system under Article 9 of Council Regulation (EEC) No 2092/1991.”.

(10) In paragraph 14, omit sub-paragraph (4).

(11) In paragraph 15(2)(a), for the words “paragraphs 12(3) and 14(4)” substitute the words “paragraph 12(3)”.

(12) In paragraph 16(5), omit the words “Subject to the provisions of paragraph 10 of Schedule 1 to the Cross Compliance Regulations 2004 (in so far as those paragraphs relate to the application of fertilisers),”.

(13) After paragraph 16 add the following—

#### **“Application of pesticides to land set aside from production**

**17.**—(1) Subject to sub-paragraph (2) and paragraph 18, a farmer shall not apply pesticides to land set aside from production during the current set-aside period.

(2) A farmer may at any time on or after 15th July apply pesticides, but not pesticides which are biocides, for the purpose of making preparations for sowing.

(3) In this paragraph—

(a) “pesticides” means any substance, preparation or organism prepared or used for destroying any pest; and

(b) “pest” means any organism harmful to plants or to wood or other plant products, any undesired plant and any harmful creature.

#### **Application of herbicides to land set aside from production**

**18.**—(1) During the current set-aside period a farmer may before 15th April apply a herbicide to land set aside from production where—

(a) it is of a type which either—

(i) is absorbed into a plant primarily through the leaves and stem; or

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(a) OJ No. L198, 22.7.1991, p.1.

(b) OJ No. L252, 28.9.2005, p.1.

- (ii) has been approved under regulation 5 of the Control of Pesticides Regulations 1986<sup>(a)</sup> or under regulations 5, 7, 8 or 11 of the Plant Protection Products Regulations 2005<sup>(b)</sup> and its application is in accordance with that approval; and
  - (b) the application of it—
    - (i) is not likely to damage significantly the green cover on the land; or
    - (ii) is done prior to replacing a green cover in accordance with paragraph 14(1); or
    - (iii) is done by a spot treatment or with a wick application; or
    - (iv) is done in order to create a strip of land on which a farmer need not establish a green cover by virtue of paragraph 7(2), or to keep such a strip bare.
- (2) A farmer may at any time on or after 15th April in the current year apply herbicide to land set aside from production.”.

#### **Amendment of Schedule 2 to the principal Regulations**

6. Schedule 2 to the principal Regulations shall be amended by—
- (a) at the end of sub-paragraph (a), adding the word “and”; and
  - (b) omitting sub-paragraph (c) and the word “and” immediately preceding it.

14th December 2005

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

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(a) S.I. 1986/1510.  
(b) S.I. 2005/1435.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations apply in England and amend the Common Agricultural Policy Single Payment Scheme (Set-aside) Regulations 2004 (S.I. 2004/3385) (“the principal Regulations”).

The principal Regulations make provision in England for the administration of Council Regulation (EC) No 1782/2003 (OJ No L 270, 21.10.2003, p1) (“the Council Regulation”), Commission Regulation (EC) No 795/2004 (OJ No L 141, 30.4.2004, p1) and Commission Regulation (EC) No 1973/2004 (OJ No L 345, 20.11.2004, p1) in relation to the obligation to set aside land under the Single Payment Scheme for farmers (“the Scheme”). The Scheme came into force on 1st January 2005.

In particular these Regulations amend Schedule 1 to the principal Regulations in relation to the good agricultural and environmental conditions that apply to land set aside under the Scheme as follows—

- (i) they add further exemptions from the requirement to establish a green cover by the commencement of the current green cover season (regulation 5(5)(b));
- (ii) they remove the exemption from the requirement to establish and destroy a green cover in relation to the protection of hedgerows and watercourses (regulation 5(6));
- (iii) they add a provision allowing farmers to cultivate land set aside from production on or after 1st May which is organic land, for the purposes of controlling weeds (regulation 5(9));
- (iv) they remove the restriction on grazing after the set-aside period where the green cover has been replaced (regulation 5(10));
- (v) they add two new paragraphs prohibiting the use of pesticides on land set aside from production except in the circumstances set out (regulation 5(13));

These Regulations also make some minor and technical amendments to the principal Regulations.

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