

EXPLANATORY MEMORANDUM TO
THE FARM WOODLAND PREMIUM SCHEMES (AMENDMENT) (ENGLAND)
SCHEME 2005

2005 No. 3473

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument lays down the adjustment that will be made to Farm Woodland Premium Scheme (FWPS) payments in England in cases where a FWPS agreement holder uses his FWPS land to meet his set-aside obligations under the Single Payment Scheme, introduced under the EU's Common Agricultural Policy (CAP) on 1 January 2005. It also closes the FWPS to new entrants in England.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The instrument is being made under section 2 of the Farm Land and Rural Development Act 1988, which empowers the Secretary of State, with the approval of the Treasury, to pay to owners and lessees of land grants for abating financial loss resulting from the conversion of land from agricultural use to woodland. This instrument amends two earlier instruments made under that provision, the Farm Woodland Premium Scheme 1992 (as amended) and the Farm Woodland Premium Scheme 1997 (as amended), but in so far as they relate to England only.

4.2 The provisions contained at paragraphs 2(5) and (6) of this instrument, namely those relating to FWPS payments in cases where FWPS land is used as set-aside, are being made as a consequence of article 54(2) of Council Regulation (EC) No 1782/2003 (as amended). Article 54(2) allows farmers to count land as set aside for the purpose of claiming payments under the new Single Payment Scheme, set up by Council Regulation (EC) No 1782/2003, where it is afforested pursuant to article 31 of Council Regulation (EC) 1257/1999 (the "Rural Development Regulation") and where the application to join the relevant afforestation scheme was made after 28 June 1995. In England, FWPS is one of the schemes set up under article 31 of the Rural Development Regulation. As the Rural Development Regulation prohibits payments under it to be made for the same measure as other payments under the CAP (double funding), it is necessary to reduce FWPS payments by the set-aside payment on the relevant parcel of land. This SI provides for the FWPS payment to be reduced accordingly.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

- 6.1 The Minister for Rural Affairs, Landscape and Biodiversity, Mr Jim Knight, has made the following statement regarding Human Rights:

In my view the provisions of the Farm Woodland Premium Schemes (Amendment) (England) Scheme 2005 are compatible with the Convention rights.

7. Policy background

- 7.1 The Farm Woodland Premium Scheme (FWPS) is a voluntary scheme that makes annual payments for up to 15 years to compensate landowners for loss of income as a result of converting land from agricultural use to woodland.

Set-aside

- 7.2 Most farmers are required to set aside from production a certain proportion of their agricultural land in order to be able to claim support payments under Pillar 1 of the CAP (the RDR falls under Pillar II). In certain circumstances, land that has been converted from agricultural production to woodland can be counted as being set-aside. Before the most recent round of CAP reform, the relevant EC legislation specified that where woodland was used to meet a farmer's set-aside obligations the woodland would not attract a set-aside payment. Instead, it could continue to attract an income forgone payment from the relevant afforestation scheme (in England the FWPS) but the level of such payment could not exceed the prevailing set-aside payment rate. This arrangement was reflected in the FWPS 1992 and the FWPS 1997.
- 7.3 Under the new CAP Single Payment Scheme (SPS) introduced with effect from 1 January 2005, farmers can continue to use their afforested land to meet their set-aside obligations in certain circumstances should they wish to do so. However, in England they will now receive a set-aside payment under the SPS in respect of any FWPS land that is counted as being set-aside. In order to avoid double funding, the FWPS payment will be reduced in such cases by an amount equivalent to the set-aside payment being received in respect of the land concerned. The European Commission has advised that this is an appropriate way to deal with the double funding issue.
- 7.4 The SPS arrangements were subject to extensive consultation. As this amendment is a direct consequence of the SPS, there has been no public consultation on this issue.

Closure of the FWPS

- 7.5 FWPS payments are only made in respect of land that has been planted with support under the Forestry Commission's Woodland Grant Scheme (WGS). Thus entry into the FWPS has always been conditional upon entry into the WGS. The Woodland Grant Scheme has been replaced in England with effect from July 2005 by a new scheme, the English Woodland Grant Scheme (EWGS), which includes a Farm Woodland Payment comparable to the income forgone payments previously available under the FWPS. The EWGS is operated in its entirety by the Forestry Commission using its powers under section 1 of the Forestry Act 1979. Closure of the WGS means that the FWPS is already to all intents and purposes closed to new entrants in England. The present instrument formalises that closure.

7.6 The EWGS proposals, including the fact that they were to replace not just the WGS but also the FWPS in England, were the subject of full public consultation by the Forestry Commission and Defra in late 2003/early 2004.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

Nia Jones at the Department for Environment, Food and Rural Affairs. Tel: 020 7238 5559 (GTN 238 5559) or e-mail: Nia.W.Jones@defra.gsi.gov.uk can answer any queries regarding the instrument.