

EXPLANATORY MEMORANDUM TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND
SUPPORT SCHEMES (AMENDMENT) (NO. 3) REGULATIONS 2006

2006 No. 989

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.

This instrument contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 These Regulations reduce, until 23rd April 2006, the amount of notice which a transferor of payment entitlements is required to give the relevant competent authority of a transfer of payment entitlements under regulation 10 of the Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 (S.I. 2005/219) (the “2005 Regulations”).

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

3.1 It has not been possible to lay these Regulations before Parliament in accordance with the 21 day rule as the necessity for this amendment to the 2005 Regulations has only become apparent in the last few days (see paragraphs 7.1 to 7.6) and it is required immediately.

4. **Legislative Background**

4.1 These Regulations, which are made under section 2(2) of the European Communities Act 1972, substitute a new regulation 10 in the 2005 Regulations.

4.2 Regulation 10 of the 2005 Regulations implements Article 25(3) of Commission Regulation (EC) No 795/2004 (the “Commission Regulation”).

5. **Extent**

5.1 This instrument applies to England only.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Article 25(3) of the Commission Regulation gives Member States the option of requiring farmers to give the relevant paying agency up to six weeks notice of proposed transfers of entitlements.

7.2 This optional period was designed to allow paying agencies sufficient time to carry out the checks necessary to ensure that proposed transfers comply with the scheme rules. When the 2005 Regulations were drafted, the Rural Payments Agency (RPA) advised that it would be prudent to allow it the maximum permitted time to process transfers (ie, six weeks).

7.3 However, Article 12(4) of the Commission Regulation provides that entitlements cannot be transferred until they have been definitively established, which, under Article 38(3) of the Commission Regulation, was required to take place by 31st December 2005. The difficulties encountered in implementing the SPS in England meant that RPA only completed checks in relation to a sufficient number of applications to be confident about the figures used for the overall calculation of entitlements on 14th February 2006, which is when the definitive establishment of entitlements took place.

7.4 In order to claim against an entitlement in the 2006 scheme year, a farmer must hold the entitlement on 15th May 2006. If a farmer is required to give six weeks notice of proposed transfers, the last date for notifying RPA of transfers of entitlements is 2nd April (six weeks before 15th May). However, where a farmer is buying land and entitlements together, the effective deadline is earlier because the 10-month period during which the land must be at his disposal can start no later than 30th April 2006. In such cases, the last date for notifying RPA of transfers is 19th March (six weeks before 30th April). Whilst providing a shorter trading window than would have been preferred, the definitive establishment of entitlements on 14th February had seemed sufficiently early to allow farmers to transfer entitlements before the relevant deadlines.

7.5 However, RPA have not yet completed the necessary checks in relation to a significant number of applications. The farmers affected have been issued with 'un-validated' entitlements statements and advised that there is a possibility that the number and value of entitlements issued to them could change. Farmers are understandably reluctant to transfer entitlements where there is a risk that their number and value may change, and this is significantly hampering trading for farmers affected in this way.

7.6 RPA are endeavouring to complete the validation of applications as soon as possible. However, by reducing to three weeks the amount of notice which a transferor of entitlements is required to give RPA, the deadline for notifying RPA of transfers is delayed from 2nd April (six weeks before the 15th May closing date for applications) to 23rd April (three weeks before 15th May). Similarly, the

deadline for notifying RPA of transfers of entitlements with land is delayed from 19th March (six weeks before 30th April) to 9th April (three weeks before 30th April). This amendment allows RPA additional time in which to validate applications, which means a greater number of farmers are certain as to the number and value of their entitlements and gives farmers a longer window in which to trade them.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it does not impose a cost on business.

9. Contact

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