

**2009 No. 3263**

**AGRICULTURE**

**The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009**

<i>Made</i>	- - - -	<i>9th December 2009</i>
<i>Laid before Parliament</i>		<i>11th December 2009</i>
<i>Coming into force</i>	- -	<i>1st January 2010</i>

The Secretary of State is designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Union, and makes these Regulations in exercise of the powers in that section.

**Title and commencement**

1. These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 and come into force on 1st January 2010.

**Interpretation**

2.—(1) In these Regulations—

“authorised person” means any person who is authorised by the competent authority, either generally or specifically, to act in relation to matters arising under these Regulations.

“Commission Regulation 1122/2009” means Commission Regulation (EC) No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector(c);

“the Council Regulation” means Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and

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(a) S.I. 1972/1811.

(b) 1972 c. 68, the power of the Secretary of State to make regulations in relation to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (1998 c.46), in relation to Wales by article 4(4) of the European Communities (Designation) (No.3) Order 2005 (S.I. 2005/2766), functions of the National Assembly of Wales are now transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), and in relation to Northern Ireland by article 3(2) of the European Communities (Designation) (No. 3) Order 2000 (S.I. 2000/2812).

(c) OJ No L 316, 2.12.2009, p 65.

establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003(a);

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

“single application” has the meaning given in Article 2(11) of Commission Regulation 1122/2009; and

“specified payment” means any payment under any one or more of the support schemes established under Titles III and IV of the Council Regulation.

(2) Other expressions used in these Regulations are construed in accordance with the Council Regulation and Commission Regulation 1122/2009.

### **Competent authority**

3.—(1) For the purposes of these Regulations the competent authorities are—

- (a) in England, the Secretary of State;
- (b) in Scotland, the Scottish Ministers;
- (c) in Wales, the Welsh Ministers; and
- (d) in Northern Ireland, the Department of Agriculture and Rural Development.

(2) A competent authority will—

- (a) determine a single application for a direct payment, submitted in respect of a holding; and
- (b) remain the competent authority in relation to the single application in question.

(3) Where a holding is situated in more than one territory at the last date that the single application may be submitted, as specified in regulation 5, the competent authority is the competent authority for the territory in which the greater part of the holding is situated.

(4) But a farmer who has a holding situated in more than one territory at the last date that the single application may be submitted, may submit their application to the competent authority who determined the farmer’s most recent single application in accordance with these Regulations or the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(b).

(5) In this regulation—

- (a) “direct payment” has the meaning given in Article 2(d) of the Council Regulation;
- (b) “holding” has the meaning given in Article 2(b) of the Council Regulation; and
- (c) “territory” means England, Scotland, Wales or Northern Ireland.

### **Designated coordinating authority**

4. The competent authorities acting jointly are the designated authority responsible for coordinating checks referred to in Article 20 of the Council Regulation.

### **Applications**

5.—(1) For the purposes of Article 11(2) of Commission Regulation 1122/2009, the last day the single application for any support scheme may be submitted to the competent authority is 15th May or, if 15th May is a Saturday, Sunday, Bank Holiday or a public holiday, the next working day.

(2) In this regulation—

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(a) OJ No L 30, 31.1.2009, p 16, last amended by Commission Regulation (EC) No 992/2009 (OJ No L 278, 23.10.2009, p 7).  
(b) S.I. 2005/218.

- (a) “Bank Holiday” means a day specified in Schedule 1 to the Banking and Financial Dealings Act 1971(a); and
- (b) “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

### **Minimum size of agricultural area**

6. The minimum size of an agricultural parcel in respect of which the single application may be made for the purposes of Article 13(9) of Commission Regulation 1122/2009, is 0.1 hectare.

### **Interest**

7.—(1) Interest must be charged in respect of each day of the period referred to in Article 80(2) of Commission Regulation 1122/2009.

(2) For the purposes of Article 80(2) of Commission Regulation 1122/2009, the rate of interest applicable on any day is one percentage point above the sterling three month London interbank offered rate on that day (LIBOR).

### **Recovery of payments**

8.—(1) Where a farmer is liable to repay all or part of a specified payment in accordance with Article 80 of Commission Regulation 1122/2009, the amount of the repayment, together with the interest on that amount calculated in accordance with regulation 7, is recoverable as a debt.

(2) In any legal proceedings brought pursuant to paragraph (1), a certificate of the relevant competent authority which—

- (a) sets out the LIBOR applicable during a specified period; and
- (b) includes a statement that the Bank of England or the coordinating body notified the relevant competent authority of that rate for that period,

is evidence of the rate applicable during that period.

(3) In this regulation “the coordinating body” means the coordinating body referred to in Article 4(1) of Council Regulation (EC) No 1258/1999 on the financing of the common agricultural policy(b).

### **Powers of authorised persons**

9.—(1) An authorised person acting on behalf of a competent authority may exercise any of the powers specified in this regulation for the purpose of enforcing the Council Regulation and Commission Regulation 1122/2009.

(2) That person, on producing, if so required, some duly authenticated document showing their authority, may at all reasonable hours enter any land, or any building other than a building or part of a building used exclusively as a dwelling.

(3) That person may—

- (a) carry out any inquiries, checks, examinations, 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;
- (d) inspect any crops or livestock;
- (e) mark any animal or other thing for identification purposes;

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(a) 1971 c. 80; Schedule 1 as last amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (2007 asp 2).

(b) O.J. No. L160, 26.6.99, p 103.

- (f) have access to, inspect and copy any documents or records (in whatever form they are held) in relation to activities covered by these Regulations or remove such documents or records to enable them to be copied or retained as evidence;
  - (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 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 such assistance as the authorised person may reasonably require and, where a document or record is kept by means of a computer, require the document or record to be produced in a form in which it can be taken away;
  - (h) take a photograph of anything on the land; and
  - (i) remove anything reasonably believed to be evidence of any non-compliance.
- (4) An authorised person entering any premises by virtue of this regulation may be accompanied by—
- (a) such other persons as are necessary; and
  - (b) any representative of the European Commission acting for the purposes of the Council Regulation or the Commission Regulation 1122/2009.
- (5) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before entry.
- (6) An authorised person who enters any land under a power under other legislation may exercise any of the powers specified in this regulation for the purposes of enforcing these Regulations.

### **Offences and penalties**

10.—(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, proof of which lies with that person, fails to give to any person acting in the execution of these Regulations any assistance or information that that person may reasonably require under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) fails to produce a record when required to do so to any person acting in the execution of these Regulations,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) But if the offence contained in paragraph (1), is committed by a person for the purpose of obtaining for that person's own benefit or for the benefit of any other person, the whole or part of a specified payment that person is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months, or both; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(3) Subject to paragraph (4), for an offence under paragraph (1), proceedings must be brought in England, Wales and Northern Ireland, and commenced in Scotland, within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings came to the prosecutor's knowledge.

(4) No proceedings for an offence under paragraph (1) may begin, more than 2 years after the date of the commission of the offence.

(5) For the purposes of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient, in the opinion of the prosecutor, to justify the proceedings came to their knowledge is conclusive of that fact.

(6) A certificate containing the information detailed in paragraph (5) and purporting to be so signed is deemed to be so signed unless the contrary is proved.

(7) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995(a) (time limit for certain offences) applies for the purposes of this regulation as it applies for the purposes of that section.

### **Liability of Directors etc.**

11.—(1) If an offence under these Regulations committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “officer”, in relation to a body corporate, means—

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

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and omissions of a member in connection with the member’s functions of management as it applies to an officer of a body corporate.

### **Offences by partnerships and unincorporated associations**

12.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate, and
- (b) the following provisions apply as they apply in relation to a body corporate—
  - (i) section 33 of the Criminal Justice Act 1925(b) and Schedule 3 to the Magistrates’ Courts Act 1980(c),
  - (ii) sections 70(d) and 143(e) of the Criminal Procedure (Scotland) Act 1995,
  - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(f) and Schedule 4 to the Magistrates’ Courts (Northern Ireland) Order 1981(g).

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(a) 1995 c.46.

(b) 1925 c. 86. Subsections (1) and (2) of section 33 were repealed by the Magistrates Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, part II, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39), section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10, and by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 5; subsection (5) was repealed by the Magistrates’ Courts Act 1952, section 132, Schedule 6.

(c) 1980 c. 43. Sub-paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, part 2, paragraph 51, sub-paragraphs (1), (13)(a) and Schedule 37, part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, part 2, paragraph 51, sub-paragraphs (1) and (13)(b) (with effect from a date to be appointed).

(d) Section 70 last amended by section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (2007 asp 6).

(e) Section 143 last amended by section 17 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (2007 asp 6).

(f) 1945 c.15 (N.I.).

(g) S.I. 1981/1675 (N.I. 26).

(3) A fine imposed on a partnership or unincorporated association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) If an offence under these Regulations committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner,

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4) “partner” includes a person purporting to act as a partner.

(6) If an offence under these Regulations committed by an unincorporated association (other than a partnership) is proved—

- (a) to have been committed with the consent or connivance of an officer of the association, or
- (b) to be attributable to any neglect on the part of such an officer,

the officer, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In paragraph (6) “officer”, in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body, or
- (b) person purporting to act in such a capacity.

(8) 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 who was purporting to act in any such capacity,

they, as well as the body corporate, will be guilty of the offence and will be liable to be proceeded against and punished accordingly.

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

(10) If an offence under these Regulations committed by a Scottish partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner,

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In this regulation a “Scottish partnership” means a partnership constituted under Scots Law.

### **Agency arrangements**

13.—(1) A competent authority may make an arrangement with another competent authority, for any of its Integrated Administration and Control System (“IACS”) functions, established under the Council Regulation for certain direct support schemes, to be exercised by that other competent authority as its agent.

(2) Such an arrangement must be in writing and be signed by or on behalf of the competent authorities concerned and may be subject to such conditions (including conditions as to the cost) as may be agreed.

(3) In this regulation “IACS functions” means any function of the competent authority in question in relation to any of the support schemes established in the United Kingdom under Titles III and IV of the Council Regulation.

## **Set off**

14. A competent authority, whether acting as principal or as an agent for another competent authority, may set off a debt due in accordance with regulation 8, against any specified payment due to the farmer.

## **Revocations and savings**

15.—(1) The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 are revoked.

(2) But those Regulations continue to apply in relation to a single application made before the coming into force of these Regulations.

(3) Any appointment of an authorised person by a competent authority for the purposes of the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005, having effect immediately before the coming into force of these Regulations will continue to have effect as if it were an appointment of that person as an authorised person by that competent authority for the purposes of these Regulations.

*Jim Fitzpatrick*  
Minister of State

9th December 2009

Department for Environment, Food and Rural Affairs

## **EXPLANATORY NOTE**

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

These Regulations apply throughout the United Kingdom. They revoke with savings the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 (S.I. 2005/218).

They make provision for the implementation of Council Regulation (EC) No. 73/2009 (“the Council Regulation”) (OJ No L 30, 31.1.2009, p 16), in relation to establishing an integrated administration and control system (“IACS”) for direct support schemes under the common agricultural policy. In addition these Regulations implement certain provisions of Commission Regulation (EC) No 1122/2009 (O.J. No L 316, 2,12,2009, p 65), laying down detailed rules for the implementation of the integrated administration and control system.

Regulation 3 specifies which competent authority may determine the single application for direct payments, and regulation 4 designates the authority responsible for coordinating the checks referred to in the Council Regulation.

Regulation 5 specifies that the last day on which the single application may be submitted to the competent authority is 15th May and provides exceptions if 15th May is either a Saturday, Sunday, Bank Holiday or public holiday.

Regulation 6 prescribes the minimum size of an agricultural parcel in respect of which the single application may be made.

Regulation 7 provides for the rate of interest that may be charged on a repayment due from the farmer, and regulation 8 specifies that the repayment amount is recoverable as a debt.

Regulation 9 confers an authorised person of a competent authority, powers of entry and other powers for the purposes of enforcing the Regulations.

Regulation 10 creates offences and penalties. Regulation 11 contains provisions relating to the liability of directors, and regulation 12 relates to proceedings against partnerships and unincorporated associations.

Regulation 13 permits competent authorities to enter into agency arrangements with each other for the purpose of exercising their IACS functions specified in the Council Regulation.

Regulation 14 enables set off between sums due to competent authorities and sums due to a farmer.

Regulation 15 revokes the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005, but provides savings.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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