

**EXPLANATORY MEMORANDUM TO
THE RURA DEVELOPMENT PROGRAMME (TRANSFER AND APPEALS)
(ENGLAND) REGULATIONS 2011**

2011 No. 1433

1. This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.

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

2. **Purpose of the instrument**

2.1 These Regulations provide for the transfer to Defra of rights and liabilities acquired by the Regional Development Agencies as part of their responsibility for the delivery of elements of Axis 1, 3 and 4 of the Rural Development Programme for England. These rights and liabilities will transfer to Defra as part of the transfer of delivery of these Axes.

The Regulation also sets out the criteria for appeals against recent funding decision made by the Regional Development Agencies and those made by Defra under those Axes

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

3.1 None

4. **Legislative Context**

4.1 These Regulations provide for the transfer to Defra of rights and liabilities acquired by the Regional Development Agencies as part of their responsibility for the delivery of elements of Axis 1, 3 and 4 of the Rural Development Programme for England when delivery of those Axes transfers to Defra.

The Secretary of State delegated powers to the Regional Development Agencies to deliver projects under the legacy Project Based Schemes and other legacy schemes of the now closed England Rural Development Programme under Section 6 of the Regional Development Agencies Act 1998. The Secretary of State also delegated to the Regional Development Agencies under Section 5 of the Regional Development Agencies Act 1998 the powers to provide financial assistance to applicants to undertake activities contained in the measures in Axis 1, 3 and 4 of Council Regulation (EC) No 1698/2005, subject to the requirements set out in the Rural Development Programme for England. Those delegations will be cancelled before this SI comes into force. That delegation was made

by administrative means under the Regional Development Agencies Act 1998 and will be cancelled by similar means.

Clarification of the appeals arrangements that will be put in place by Defra is included to comply with Human Rights obligations.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 The Rural Development Programme for England implements in England the European Union's Rural Development Regulation – Council Regulation (EC) No 1698/2005. The Programme provides support for:

- Improving the competitiveness of agriculture and forestry sector (“Axis 1”);
- Improving the environment and countryside by supporting land management (“Axis 2”); and
- Improving the quality of life in rural areas and encouraging diversification of economic activity (“Axis 3”).

Delivery of the socio-economic elements of Axis 1, 3 and 4 of the Rural Development Programme for England previously delegated by the Secretary of State to the Regional Development Agencies is transferring into Defra. This will ensure continued delivery of the full Programme and provide a stronger national lead, along with a network of locally accessible delivery support. Major stakeholders were consulted informally and through the RDPE Programme Monitoring Committee on the decision to transfer delivery into Defra and their views were taken into account, in particular, the need to minimise any disruption to delivery of the Programme. Natural England will continue to deliver the agri-environment elements of the Programme and the Forestry Commission the woodland grants schemes.

Transfer will require Defra to take over all rights and liabilities that the Regional Development Agencies acquired while they delivered the Programme, which will include the contracts agreed with customers. This will ensure contract holders continue to obtain the support covered by the contract. Additionally, the Statutory Instrument formally sets

out an appeals process, including the eligible criteria for appeal, that will apply to decisions taken by Defra and recent decisions by the Regional Development Agencies.

- Consolidation

7.2 This instrument does not amend another instrument and therefore consolidation is not applicable.

8. Consultation outcome

8.1 A consultation was not considered necessary for this instrument. Major stakeholders were consulted informally and through the RDPE Monitoring Committee about the transfer of delivery of the work from RDAs to Defra. This instrument simply puts in place arrangements for transfer in respect of existing grants, and puts in place an appeals mechanism following transfer, and a separate consultation was not therefore considered necessary.

9. Guidance

9.1 All existing contract holders will be written to with details of the change to delivery by Defra and the future contact address for grant claims and guidance. Full details of the appeals procedure and the eligible criteria for appeal will be provided in Programme guidance and publicity and as part of the application decision documentation.

10. Impact

10.1 This SI has only a minimal impact on relevant businesses. Contract holders will only need to deal with a different delivery team as part of the claims process and for any future guidance. The competitive nature of the application and appraisal process, where customers bid for the level of support, means that not all applications have been, or will continue to be successful. That is set out in Programme communications material.

10.2 The impact on the public sector is the cost of administering contract changes and the appeals process this is unlikely to differ greatly from the costs of administering the Programme and dealing with appeals by RDAs.

10.3 An Impact Assessment has not been prepared for this instrument as only a minimal impact on the private and voluntary sectors is foreseen.

11. Regulating small business

11.1 The legislation applies to small business as a major beneficiary of funding under the RDPE. These Regulations will not, however, impose any additional administrative burdens on them. The Regulations simply make provisions for Defra to administer grants in place of the RDAs and make provision for appeals against certain funding decisions.

12. Monitoring & review

12.1 The transfer of liabilities from the Regional Development Agencies to Defra will be a one off action taken at the time of transfer. The appeals process will be kept under constant review to determine its fairness and appropriateness. The Rural Development Programme for England ends on 31 December 2013, although there is a requirement under European law to maintain monitoring and evaluation for up to seven years after a final grant is paid to a beneficiary.

13. Contact

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