
STATUTORY INSTRUMENTS

2022 No. 1225

**The Rural Development (Amendment)
(No. 2) (England) Regulations 2022**

Commission Regulation (EU) No 65/2011

4.—(1) [Commission Regulation \(EU\) No 65/2011](#) laying down detailed rules for the implementation of [Council Regulation \(EC\) No 1698/2005](#), as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures⁽¹⁾, is amended as follows.

(2) In Article 4 (general principles of control)—

- (a) in paragraph 4, for “shall” substitute “may”;
- (b) in paragraph 7, omit “strictly” and “and shall not exceed 14 days”.

(3) In Article 5 (recovery of undue payments), in paragraph 1, for “plus” substitute “and may also be required to pay”.

(4) In Article 12 (on-the-spot checks)—

- (a) omit paragraph 1;
- (b) in paragraph 2, for “shall” in each place it occurs substitute “may”;
- (c) omit paragraphs 3 and 4.

(5) In Article 16 (reductions and exclusions in relation to the size of area)—

- (a) omit paragraph 1;
- (b) for paragraph 3 substitute—

“If, in respect of a crop group as referred to in Article 16(2), the area declared for the purposes of any area-related aid schemes or support measures exceeds or is less than the area determined in accordance with Article 50(3) of Regulation [\(EC\) No 796/2004](#), the aid must be calculated on the basis of the area determined or the area declared, whichever is the lower”;

- (c) omit paragraph 5;
- (d) in paragraph 7, omit “in the third subparagraph of paragraph 5 and”.

(6) In Article 18 (reductions and exclusions in the case of non-compliance with other eligibility criteria, commitments and linked obligations)—

- (a) in paragraph 1, for “shall” in each place it occurs substitute “may”;
- (b) for paragraph 2 substitute—

“When deciding on the rate of refusal or withdrawal of support following the non-compliance with the commitments or other obligations referred to in paragraph 1 the relevant authority may take account of:—

(1) EUR 2011/65, as saved (for certain purposes) by Article 43 of EUR 2014/640.

- the circumstances that led to the non-compliance and whether it was caused by the intentional actions of the beneficiary or due to that person’s recklessness or negligence;
 - any steps taken by the beneficiary to report a change of circumstance or notify the relevant authority of the non-compliance within a reasonable period;
 - any failure on the part of the beneficiary to co-operate with an on-the-spot check;
 - any past conduct of the beneficiary during the period of the commitment and whether a similar non-compliance has previously occurred;
 - the nature of the non-compliance and whether it has caused widespread or irreparable damage;
 - the extent to which it is desirable, practicable or economic to permit the beneficiary to rectify the non-compliance;
 - the consequences of the non-compliance and whether it renders the purpose of the commitment unachievable within the timescales or finances of the commitment or to the standards agreed when the commitment was undertaken.”;
- (c) in paragraph 3, for “shall” substitute “may”.
- (7) In Article 25 (on-the-spot checks)—
- (a) in paragraph 1, for “shall” in each place it occurs substitute “may”;
 - (b) omit paragraph 2.
- (8) In Article 26 (content of on-the-spot checks), for paragraph 3 substitute—
- “The on-the-spot checks may include a visit to the operation or, if the operation is intangible, to the operation promoter”.
- (9) In Article 30 (reductions and exclusions)—
- (a) in paragraph 1, for the words from “of the reduction” to “the ineligible amount” substitute “to be paid to the beneficiary shall be the lower of the amounts established pursuant to point (a) and point (b)”;
 - (b) in paragraph 2—
 - (i) for “shall” in each place it occurs substitute “may”;
 - (ii) for “the same measure” substitute “any financial assistance scheme(s) under section 1 of the Agriculture Act 2020”;
 - (c) in paragraph 3, for “shall” substitute “may”.