

**2014 No. 3259**

**AGRICULTURE, ENGLAND**

**The Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014**

<i>Made</i>	- - - -	<i>8th December 2014</i>
<i>Laid before Parliament</i>		<i>11th December 2014</i>
<i>Coming into force</i>	- -	<i>1st January 2015</i>

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

**Title, application and commencement**

1.—(1) These Regulations may be cited as the Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014.

(2) They apply in England.

(3) They come into force on 1st January 2015.

**Interpretation**

2.—(1) In these Regulations—

“the Direct Payments Delegated Regulation” means Commission Delegated Regulation (EU) No. 639/2014 supplementing the Direct Payments Regulation(c);

“the Direct Payments Implementing Regulation” means Commission Implementing Regulation (EU) No. 641/2014 laying down rules for the application of the Direct Payments Regulation(d);

“the Direct Payments Regulation” means Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(e);

“the European Regulations” means—

(a) the Direct Payments Regulation;

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(a) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) of the European Communities Act 1972 was transferred to the Secretary of State by article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(b) S.I. 1972/1811, to which there are amendments not relevant to these Regulations.

(c) OJ No. L 181, 20.6.2014, p. 1.

(d) OJ No. L 181, 20.6.2014, p. 74.

(e) OJ No. L 347, 20.12.2013, p. 608, as last amended by Commission Delegated Regulation (EU) No. 1001/2014 (OJ No. L 281, 25.9.2014, p. 1).

- (b) the Direct Payments Delegated Regulation;
- (c) the Direct Payments Implementing Regulation; and
- (d) the Horizontal Implementing Regulation;

“the Horizontal Implementing Regulation” means Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance<sup>(a)</sup>;

“Bank Holiday” means a day specified in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971<sup>(b)</sup>;

“working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(2) Terms used in these Regulations that are also used in any of the European Regulations have the meaning they bear in those Regulations.

### **Regions**

3.—(1) For the purposes of Article 23(1) of the Direct Payments Regulation, the regions are—

- (a) moorland;
- (b) the severely disadvantaged area, excluding moorland;
- (c) all other land.

(2) For those purposes—

“moorland” means all the land that is in the severely disadvantaged area and shown coloured brown in the three volumes of maps entitled “Moorland Map of England 2009”, each volume being marked with the number of the volume, dated 29th January 2010, signed on behalf of the Secretary of State for the Environment, Food and Rural Affairs and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

“the severely disadvantaged area” means all the land, excluding the Isles of Scilly, shown coloured pink in the four volumes of maps entitled “Less Favoured Area Map of England 2009”, each volume being marked with the number of the volume, dated 29th January 2010, signed on behalf of the Secretary of State for the Environment, Food and Rural Affairs and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR.

### **Short rotation coppice**

4. For the purposes of Article 4(1)(k) and (2)(c) of the Direct Payments Regulation—

- (a) the list of planted tree species is—
  - Alder (*Alnus spp*);
  - Birch (*Betula spp*);
  - Hazel (*Corylus avellana*);
  - Ash (*Fraxinus excelsior*);
  - Lime (*Tilia cordata*);
  - Sweet chestnut (*Castanea sativa*);
  - Sycamore (*Acer pseudoplatanus*);
  - Willow (*Salix spp*);

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(a) OJ No L 227, 31.7.2014, p. 69.

(b) 1971, c. 80.

- Poplar (*Populus spp*);  
Hornbeam (*Carpinus spp*); and  
(b) the maximum harvest cycle is 20 years.

### **Minimum eligible area of holding**

5. For the purposes of Article 10(1) and (2) of the Direct Payments Regulation, no direct payments may be granted to a farmer where the eligible area of the holding for which the payments are claimed or due to be granted in accordance with Article 10(1)(b) is less than five hectares.

### **Date on which eligible land must be at farmer's disposal**

6. In relation to any year in which the farmer makes a declaration in respect of parcels pursuant to Article 33(1) of the Direct Payments Regulation, the date on which those parcels must be at the farmer's disposal is 15th May or, if that day is not a working day, the next working day.

### **Reductions**

7. For the purposes of Article 11(1) of the Direct Payments Regulation, where the direct payments to be granted to a farmer pursuant to Chapter 1 of Title III of that Regulation for a given calendar year exceed EUR 150,000, the sum in excess of that amount must be reduced by 5%.

### **Payment entitlements**

8.—(1) For the purposes of Article 8(1) of the Direct Payments Implementing Regulation, the period within which the transferor of payment entitlements must notify the Secretary of State of the transfer is—

- (a) on or before 15th May 2015, if 2015 is the first calendar year in which the transferee may include those entitlements in the transferee's application for direct payments; or
- (b) otherwise from 16th May of the preceding calendar year to 15th May (both those dates included) of the first calendar year in which the transferee may include those entitlements in the transferee's application for direct payments.

(2) If, for the purposes of paragraph (1), 15th May is not a working day, the deadline for notification is the next working day.

(3) For the purposes of Article 22(1) of the Horizontal Implementing Regulation, applications for the allocation of payment entitlements must be submitted on or before 15th May of the relevant calendar year.

### **Young farmers**

9.—(1) For the purposes of the payment calculation required by Article 50(6) of the Direct Payments Regulation, the number of entitlements a young farmer has activated in accordance with Article 32(1) of that Regulation must be multiplied by 25% of the average value of the owned or leased-in payment entitlements held by the farmer.

(2) For the purposes of Article 50(9) of the Direct Payments Regulation, a single maximum limit of 90 is applicable to the number of payment entitlements activated by the farmer.

### **Active farmers**

10. For the purposes of Article 9(4) of the Direct Payments Regulation, the maximum amount is EUR 5,000.

## Crop diversification

**11.** For the purposes of the first sub-paragraph of Article 40(1) of the Direct Payments Delegated Regulation, the most relevant part of the cultivation period in any year is 1st May to 30th June (both those dates included).

## Permanent grassland

**12.—**(1) For the purposes of the first sub-paragraph of Article 45(1) of the Direct Payments Regulation, permanent grasslands which are sites of special scientific interest in areas to which the Conservation Directives apply are designated as permanent grasslands which are environmentally sensitive.

(2) In paragraph (1)—

“the Conservation Directives” means—

- (a) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(a); and
- (b) Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(b);

“site of special scientific interest” has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981(c).

## Ecological focus areas

**13.—**(1) For the purposes of the first sub-paragraph of Article 46(2) of the Direct Payments Regulation, the areas mentioned in points (a) (land lying fallow), (d) (buffer strips), (i) (areas with catch crops or green cover) and (j) (areas with nitrogen-fixing crops) and, subject to paragraph (2), point (c) (landscape features) are considered to be ecological focus areas.

(2) For the purposes of the second sub-paragraph of Article 45(4) of the Direct Payments Delegated Regulation, landscape features are limited to hedges as listed in point (a) of the first sub-paragraph of that Article.

(3) For the purposes of Article 45(5) of the Direct Payments Delegated Regulation, the minimum width of buffer strips, other than buffer strips along water courses required under GAEC 1, SMR 1 or SMR 10, is one metre.

(4) For the purposes of Article 45(9) of the Direct Payments Delegated Regulation—

- (a) the crop species that may be used in a mixture of crop species are those listed in Part 1 of the Schedule to these Regulations;
- (b) the mixture of crop species referred to in sub-paragraph (a), if sown as a catch crop—
  - (i) must be sown in the period which runs from and including the day following completion of the harvest of the previous crop up to and including 31st August, and
  - (ii) must be retained until at least 1st October;
- (c) the mixture of crop species referred to in sub-paragraph (a), if sown as green cover—
  - (i) must be sown in the period which runs from and including the day following completion of the harvest of the previous crop up to and including 30th September, and
  - (ii) must be retained until at least 15th January in the following year.

(5) For the purposes of Article 45(10) of the Direct Payments Delegated Regulation, nitrogen-fixing crops are those listed in Part 2 of the Schedule to these Regulations.

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(a) OJ No. L 206, 22.7.1992, p. 7, as last amended by Council Directive 2013/17/EU (OJ No L 158, 10.6.2013, p. 193).

(b) OJ No. L 20, 26.1.2010, p. 7, as last amended by Council Directive 2013/17/EU.

(c) 1981 c. 69. This definition was inserted into section 52(1) by paragraph 5(1) and (2) of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).

(6) In paragraph (3), the reference to “GAEC 1” is to the relevant standard for good agricultural and environmental condition, and the references to “SMR 1” and “SMR 10” are to the relevant statutory management requirements, as referred to in Annex II to the Regulation (EU) No. 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy<sup>(a)</sup>.

## **Review**

**14.**—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how the European Regulations are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first review period is the period of five years beginning with 1st January 2015.

(5) Each subsequent review period is a period of five years beginning with the date on which the report of the preceding review was published.

## **Revocations and savings**

**15.**—(1) The following instruments are revoked—

- (a) the Common Agricultural Policy Single Payment and Support Schemes (Horticulture) Regulations 2009<sup>(b)</sup>;
- (b) the Common Agricultural Policy Single Payment and Support Schemes Regulations 2010<sup>(c)</sup>; and
- (c) the Common Agricultural Policy Single Payment and Support Schemes (Amendment) Regulations 2012<sup>(d)</sup>.

(2) Notwithstanding paragraph (1)(b) and (c), the Common Agricultural Policy Single Payment and Support Schemes Regulations 2010 as in force immediately before 2015 continue to apply in respect of aid applications relating to 2014 and earlier claim years.

8th December 2014

*George Eustice*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

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(a) OJ No. L 347, 20.12.2013, p.549, as last amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No L. 347, 20.12.2013, p.865).  
(b) S.I. 2009/1771, as amended by S.I. 2011/1043.  
(c) S.I. 2010/540, as amended by S.I. 2012/3027.  
(d) S.I. 2012/3027.

## SCHEDULE

Regulation 13(4)(a) and (5)

### Ecological focus areas: further criteria

#### PART 1

Crop species that may be used in a mixture of crop species for the purposes of Article 45(9) of the Direct Payments Delegated Regulation

Rye (*Secale cereale*)

Vetch (*Vicia sativa*)

Phacelia (*Phacelia spp*)

Barley (*Hordeum vulgare*)

Mustard (*Sinapsis alba*)

Oats (*Avena sativa*)

Lucerne (*Medicago sativa*)

#### PART 2

Nitrogen-fixing crops for the purposes of Article 45(10) of the Direct Payments Delegated Regulation

Beans (*Vicia*)

Chickpeas (*Cicer*)

Cowpeas (*Vigna*)

Fenugreek (*Trigonella*)

Green beans (*Phaseolus*)

Lentils (*Lens*)

Lupins (*Lupinus*)

Peas (*Pisum*)

Soya (*Glycine*)

#### EXPLANATORY NOTE

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

These Regulations make provision in England for the administration of Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ No. L 347, 20.12.2013, p. 608) (“the Direct Payments Regulation”) and the three other associated EU Regulations referred to in regulation 2(1).

Regulation 3 provides that there are three regions of England for the purposes of the basic payment scheme: moorland, the severely disadvantaged area (excluding moorland) and all other land. Regulation 4 designates the short rotation coppice trees eligible under the basic payment scheme and sets the maximum harvest cycle. Regulation 5 specifies the minimum eligible area of

a holding in respect of which direct payments may be granted to a farmer. Regulation 6 fixes the date on which parcels used as the basis for a claim under the basic payment scheme must be at the disposal of farmers. Regulation 7 provides for the reduction by 5% of the part (if any) of any basic payment granted to a farmer which exceeds €150,000.

Regulation 8 makes provision for the period within which a transferor must notify the Secretary of State of a transfer of payment entitlements and the deadline for submitting applications for the allocation of payment entitlements from the national reserve. Regulation 9 provides for the basis on which an increase in direct payments to qualifying farmers aged 40 or less and participating in the young farmers scheme must be calculated. Regulation 10 provides for an exemption from the exclusion from eligibility for direct payments of a farmer who received €5,000 or less of direct payments in the previous year.

Regulations 11 to 13 make provision relating to the “greening” component of direct payments, linking payments to agricultural practices beneficial for the climate and environment. Regulation 11 sets out the period to be taken into account for the purposes of determining whether crop diversification requirements have been met. Regulation 12 provides for the designation of permanent grasslands which are environmentally sensitive. Regulation 13 sets out the five areas which are to be ecological focus areas (“EFAs”) and details as to the scope of the EFAs relating to landscape features, buffer strips, areas with catch crops or green cover and areas with nitrogen-fixing crops.

Regulation 14 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after 1st January 2015 and within every five years after that. Regulation 15 revokes the Regulations which provide in England for the administration of the European Single Payment and Support Scheme but with a saving provision for the continued application of the Common Agricultural Policy Single Payment and Support Scheme Regulations 2010 (S.I. 2010/540) in respect of aid applications relating to claim years before 2015.

An evidence paper on the effect that this instrument will have on the costs of business is available on the following website, [www.gov.uk/government/collections/common-agricultural-policy-reform](http://www.gov.uk/government/collections/common-agricultural-policy-reform), or from the common agricultural policy direct payments team at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR, and is published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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