

**2006 No. 3254**

**AGRICULTURE, ENGLAND**

**The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) (Amendment) Regulations 2006**

<i>Made</i>	- - - -	<i>5th December 2006</i>
<i>Laid before Parliament</i>		<i>8th December 2006</i>
<i>Coming into force</i>	- -	<i>1st January 2007</i>

The Secretary of State has been designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the Common Agricultural Policy of the European Community.

In exercise of the powers conferred on him by that section, he makes the following Regulations:

**Title and commencement**

1. These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) (Amendment) Regulations 2006 and come into force on 1<sup>st</sup> January 2007.

**Amendments to the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005**

2. The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005<sup>(c)</sup> are amended as set out in these Regulations.

3. In regulation 2(1) (interpretation)—

(a) in the definition of “agri-environment commitment”—

(i) omit the word “or” at the end of paragraph (e);

(ii) after paragraph (f), add—

“(g) a measure listed in Article 36 of Council Regulation (EC) No 1698/2005; or

(h) a management agreement entered into under section 7 of the Natural Environment and Rural Communities Act 2006;”<sup>(d)</sup>;

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(a) S.I. 1972/1811.  
(b) 1972 c.68.  
(c) S.I. 2005/3459.  
(d) 2006 c.16.

- (b) in the definition of “authorised person”, after the words “any person authorised by the Secretary of State” insert “or the Environment Agency”(a);
- (c) in the definition of “the Commission Regulation”, for “Commission Regulation (EC) No 1954/2005” substitute “Commission Regulation (EC) No 659/2006”(b);
- (d) in the definition of “the Council Regulation”, for “Commission Regulation (EC) No 118/2005” substitute “Council Regulation (EC) No 1405/2006 laying down specific measures for agriculture in favour of the smaller Aegean islands and amending Regulation (EC) No 1782/2003”(c);
- (e) after the definition of “the Council Regulation”, insert—
  - “Council Regulation (EC) No 1698/2005” means Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD);”(d).

**4. In regulation 6 (competent control authorities)—**

- (a) in paragraph (1), for “numbers 10, 11 and 13 to 15” substitute “numbers 10 and 13 to 18”;
- (b) after paragraph (1), insert—
  - “(1A) For the purposes of Article 42(1) of the Commission Regulation, the Environment Agency is the specialised control body which shall bear the responsibility of carrying out the controls in respect of the statutory management requirements under numbers 2, 3 and 4 of Annex III of the Council Regulation.”;
- (c) for paragraphs (3) and (4), substitute—
  - “(3) Natural England shall carry out controls for the purposes of Article 9 and Chapters I and III of Title III of the Commission Regulation, if requested to do so by the Secretary of State or the Rural Payments Agency.
  - (4) If Natural England is requested by the Secretary of State or the Rural Payments Agency to carry out controls referred to in paragraph (3), it shall send a provisional control report in relation to the controls carried out to the Secretary of State or the Rural Payments Agency (as the case may be).”(e);
- (d) omit paragraphs (5) and (6).

**5. In regulation 7(3) (powers of authorised persons)—**

- (a) in sub-paragraph (a), after “examinations” insert “, measurements”;
- (b) in sub-paragraph (d), for “or kept on it” substitute “, or any livestock or any other thing kept on it”;
- (c) in sub-paragraphs (f) and (g), for “records” (each time it appears) substitute “documents or records”;
- (d) in sub-paragraph (g), for “record” (each time it appears) substitute “document or record”;
- (e) omit the word “and” at the end of paragraph (f);
- (f) at the end, add—
  - “;
- (h) remove a carcass found on the land for the purpose of carrying out a post-mortem examination on it;
- (i) take a photograph of anything on the land; and

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(a) The Environment Agency was established by section 1 of the Environment Act 1995 (c.25).

(b) O.J. No L116, 29.04.2006, p.20.

(c) O.J. No L265, 26.09.2006, p.1.

(d) O.J. No L277, 20.09.2005, p.1.

(e) Natural England was established by section 1 of the Natural Environment and Rural Communities Act 2006 (c.16).

- (j) remove anything which he reasonably believes to be evidence of any non-compliance.”.

6. For paragraph 1 of the Schedule, substitute—

**“Soil Protection Review**

- 1.—(1) Subject to sub-paragraph (2)—
  - (a) a farmer who was required to complete a soil protection review on or before 1<sup>st</sup> September 2006 must keep that review available for inspection;
  - (b) a farmer who did not make a claim under any relevant scheme before 2007 and who makes a claim for the first time under any relevant scheme in 2007 or a subsequent year must complete a soil protection review for all the land in his holding on or before 1<sup>st</sup> September of the calendar year in which he makes the claim, and he must keep that review available for inspection.
- (2) A farmer is not required to—
  - (a) include within the soil protection review any part of his holding which is common land; or
  - (b) prepare or retain a soil protection review where his holding, excluding that part of his holding which is common land, is 0.3 hectares or less.
- (3) Where a farmer acquires land that makes his holding, excluding common land, greater than 0.3 hectares, he must—
  - (a) where he acquires such land before 1<sup>st</sup> September of any calendar year, complete on or before 1<sup>st</sup> September of that year, or, if that is not practicable, as soon as is practicable thereafter in that year, a soil protection review for all the land in his holding, excluding that part of his holding which is common land; or
  - (b) where he acquires such land on or after 1<sup>st</sup> September, complete a soil protection review on or before 1<sup>st</sup> September of the following calendar year, and he must keep that review available for inspection.
- (4) A farmer must update his soil protection review—
  - (a) at least once in each calendar year, beginning in the year following that in which he is required to complete his soil protection review;
  - (b) if additional land is added to the holding, as soon as is practicable after the date of the transfer;
  - (c) if he changes management systems or cropping practices, as soon as is practicable after making those changes; and
  - (d) if it becomes clear to him that the measures previously identified have been unsuccessful, as soon as is practicable after that date, and he must keep the updated review available for inspection.
- (5) A farmer must take all reasonable steps to implement the measures identified in his soil protection review—
  - (a) where he was required to complete it on or before 1<sup>st</sup> September 2006, as soon as is practicable on or after 1<sup>st</sup> January 2007;
  - (b) where he is required to complete it in 2007 or in a subsequent year, as soon as is practicable on or after 1<sup>st</sup> January of the calendar year after that in which he is required to complete it.
- (6) A farmer must complete and update his soil protection review in accordance with—
  - (a) guidance published by the Secretary of State about soil management, and

(b) guidance for the preparation of a soil protection review (which includes a template for such a review).

(7) The Secretary of State may give a farmer specific guidance concerning the management of his land to ensure soils are well managed in accordance with the guidance referred to in sub-paragraph (6).

(8) Where the Secretary of State gives a farmer guidance of the kind referred to in sub-paragraph (7), the farmer must have regard to that guidance in completing, updating and implementing his soil protection review (as the case may be).

(9) Where the Secretary of State considers that a farmer's soils are poorly managed, he may give the farmer written directions to ensure his soils are well managed in accordance with the guidance referred to in sub-paragraph (6), and the farmer must comply with those directions.

(10) In this paragraph—

(a) “common land” means land subject to rights of common which—

(i) has been entered in the register of common land or town and village greens, under the Commons Registration Act 1965 (a); or

(ii) is land within one of the areas referred to in section 11(1) of that Act;

where the rights are exercised by someone other than the farmer who owns or occupies the land;

(b) “soil protection review” means a plan about the management of land which sets out problems identified in relation to the holding as to soil structure, soil organic matter and soil erosion and measures to address those problems;

(c) “a relevant scheme” means the Single Payment Scheme, any other scheme in Annex 1 of the Council Regulation, or any measure listed in Article 36 of Council Regulation (EC) No 1698/2005 to which cross-compliance applies.”(b).

7. For paragraph 2(1)(c) of the Schedule, substitute—

“(c) the land is prepared as a seedbed for a crop, and

(i) the crop is sown within a period of 10 days beginning with the day after final seedbed preparation, or

(ii) if sowing within that 10-day period would mean breaching the requirement in paragraph 3(1), the crop is sown as soon as is practicable after it ceases to be waterlogged, or

(iii) if there are severe weather conditions making it impracticable to sow within that 10- day period, the crop is sown as soon as is practicable after the severe weather conditions cease;”.

8. In paragraph 6 of the Schedule, —

(a) for sub-paragraph (1) substitute—

“(1) The Secretary of State may give a farmer written directions concerning the management of land which is, in his opinion, subject to—

(a) overgrazing, or

(b) unsuitable supplementary feeding methods,

and the farmer must comply with those directions.” .

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(a) 1965 c.64.

(b) Under Article 51(1) of Council Regulation (EC) No 1698/2005, where beneficiaries receive payments under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v), they are subject to the cross-compliance requirements and standards provided for by Article 4 and 5 of Council Regulation (EC) No1782/2003.

(b) at the end of sub-paragraph (3) add “, and the farmer must have regard to such a notification”.

9. In paragraph 19(1) of the Schedule, omit “knowing that the land concerned is within a site of special scientific interest,”.

5th December 2006

*Jeff Rooker*  
Minister of State  
Department for Environment, Food and Rural Affairs

## EXPLANATORY NOTE

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

These Regulations amend the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (S.I. 2005/3459). Those Regulations make provision in England for the administration and enforcement of cross-compliance under Regulation (EC) No 1782/2003 (OJ No L270, 21.10.2003, p.1) (“the Council Regulation”) and Commission Regulation (EC) No 796/2004 (OJ No L141, 30.04.2004, p.18) (“the Commission Regulation”) in relation to the system of income support schemes which came into force on 1<sup>st</sup> January 2005.

These Regulations:

- (a) add to the list of agri-environment commitments (which take precedence over cross-compliance standards and requirements) to include commitments under Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ No L277, 21.10.2005, p.1) and commitments under section 7 of the Natural Environment and Rural Communities Act 2006 (regulation 3(a));
- (b) amend the definition of “authorised person” (regulation 3(b));
- (c) update the definitions of the Council and Commission Regulations to take into account amendments to those Regulations, and add a definition of Council Regulation (EC) No 1698/2006 (regulations 3(c) to 3(e));
- (d) designate the Secretary of State as the competent control authority in relation to statutory management requirements numbers 16 to 18 of Annex III of the Council Regulation on animal welfare, and transfer formal responsibility for statutory management requirement number 11 to the Rural Payments Agency (regulation 4(a));
- (e) designate the Environment Agency as the competent control authority in relation to statutory management requirements numbers 2, 3 and 4 of Annex III of the Council Regulation (regulation 4(b));
- (f) give Natural England a function in respect of inspections where requested to carry out inspections by the Secretary of State or the Rural Payments Agency (regulation 4(c));
- (g) add to the powers of inspectors in order to provide for inspections relating to animal welfare requirements which apply to farmers from 1<sup>st</sup> January 2007 (regulation 5);
- (h) amend the provisions relating to the soil protection review to remove the requirement to retain the soils protection guidance and to update the requirements for the year 2007 and thereafter (regulation 6);
- (i) amend the provisions as to post-harvest management of land (regulation 7);
- (j) amend the provisions as to overgrazing and supplementary feeding (regulation 8); and
- (k) amend the provisions as to sites of special scientific interest (regulation 9).

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

**£3.00**

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's  
Stationery Office and Queen's Printer of Acts of Parliament.

E1537 12/2006 161537T 19585