

2008 No. 2500 (W. 218)

AGRICULTURE, WALES

**The Common Agricultural Policy
Single Payment and Support
Schemes (Wales) (Amendment)
Regulations 2008**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2005 (“the principal Regulations”). The principal Regulations make provision in Wales for the administration of Council Regulation (EC) No. 1782/2003 (OJ No. L270, 21.10.2003, p.1) (“the Council Regulation”), Commission Regulation (EC) No. 795/2004 (OJ No. L141, 30.4.2004, p.1), Commission Regulation (EC) No. 796/2004 (OJ No. L141, 30.4.2004, p.18) and Commission Regulation (EC) No. 1973/2004 (OJ No. L345, 20.11.2004, p.1) in relation to establishing a system of direct support schemes (including the Single Payment Scheme) which was introduced under the Common Agricultural Policy in 2005.

Regulation 3 revises regulation 2 (interpretation) of the principal Regulations.

Regulation 4 replaces Regulation 6 (10 month period) of the principal Regulations to remove provisions relating to the requirement for farmers claiming under the Single Payment Scheme to have parcels of land for which they are claiming at their disposal for a ten month period. Article 44(3) of the Council Regulation was amended by Article 1(3) of Council Regulation (EC) No. 146/2008 (OJ No. L46, 21.2.2008, p.1) with the effect that Member States now need only fix a single day in the year on which farmers must have at their disposal the parcels in respect of which they claim under the Scheme. The new provision fixes this day as 15 May of the scheme year in which the claim is made.

Regulation 5 of these Regulations inserts regulation 7A in the principal Regulations, which provides for criteria for calculating the farmer's reference amount in relation to sugar beet pursuant to Article 37(1), third indent, and paragraph 1, point K, Annex VII to the Council Regulation (both of which were inserted by Council Regulation (EC) No.319/2006 (OJ No. L 58, 28.2.2006, p.32).

Regulation 6 revokes Regulation 8 (Horticulture) of the principal Regulations.

Regulation 7 amends regulation 11 of the principal regulations in relation to voluntary modulation pursuant to Council Regulation (EC) No. 378/2007 (OJ No. L95, 5.4.2007, p.1).

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Schemes (Wales) (Amendment)
Regulations 2008**

Made 22 September 2008

Laid before the National Assembly for Wales 23
September 2008

Coming into force 21 October 2008

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for references in these Regulations to certain Community instruments to be construed as references to those instruments as amended from time to time.

In exercise of the powers conferred upon them under section 2(2) of, and paragraph 1A of Schedule 2⁽³⁾ to, the European Communities Act 1972, the Welsh Ministers make the following Regulations.

(1) S.I. 2005/2766. By virtue of sections 59(1) and 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006, functions conferred on the National Assembly for Wales are exercisable by the Welsh Ministers.

(2) 1972 c.68.

(3) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

Title and commencement

1. The title of these Regulations is the Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2008. They apply in relation to Wales and come into force on 21 October 2008.

Amendments

2. The Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2005⁽¹⁾ are amended as follows.

3. For regulation 2 substitute the following—

“Interpretation

2.—(1) In these Regulations—

“Commission Regulation 795/2004” means Commission Regulation (EC) No. 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in the Council Regulation⁽²⁾;

“Commission Regulation 796/2004” means Commission Regulation (EC) No. 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in the Council Regulation⁽³⁾;

“Commission Regulation 1973/2004” means Commission Regulation (EC) No. 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials⁽⁴⁾;

“the Council Regulation” means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support under the common agricultural policy and establishing certain support schemes for farmers⁽⁵⁾;

“direct payment” has the meaning given by Article 2(d) of the Council Regulation;

⁽¹⁾ S.I. 2005/360 (W.29), amended by S.I. 2006/357 (W.45).

⁽²⁾ OJ No. L141, 30.4.2004, p.1, last amended by Commission Regulation (EC) No 319/2008 (OJ No. L95, 8.4.2008, p.63-65).

⁽³⁾ OJ No. L141, 30.4.2004, p.18, last amended by Commission Regulation (EC) No. 319/2008 (OJ No. L95, 8.4.2008, p.63-65).

⁽⁴⁾ OJ No. L345, 20.11.2004, p.1, last amended by Commission Regulation (EC) No. 829/2008 (OJ No. L 224, 22.8.2008, p. 3).

⁽⁵⁾ OJ No. L270, 21.10.2003, p.1, last amended by Commission Regulation (EC) No. 674/2008 (OJ No. L 189, 17.7.2008, p.5-13).

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

“holding” has the meaning given by Article 2(b) of the Council Regulation;

“the IACS Regulations” means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(1);

“relevant competent authority” has the meaning given by regulation 5 of the IACS Regulations;

“single application” has the meaning given by Article 2(11) of Commission Regulation 796/2004;

“single payment scheme” means the support scheme established under Title III of the Council Regulation;

“sugar quota” has the same meaning as it has in Council Regulation (EC) Regulation No. 318/2006 on the common organisation of the markets in the sugar sector(2);

(2) Other expressions used in these Regulations that are also used in the Council Regulation, Commission Regulation 795/2004, Commission Regulation 796/2004 or Commission Regulation 1973/2004 have the meaning they bear in those instruments.

(3) Any reference in paragraph (1) to a Community instrument is a reference to that instrument as amended from time to time.”.

4. For Regulation 6 (10 month period), substitute—

“Date on which eligible land must be at the farmer’s disposal

6. In relation to any year in which the farmer makes a declaration in respect of parcels pursuant to article 44(3) of the Council Regulation, the date on which those parcels must be at the farmer’s disposal is 15 May.”.

5. After regulation 7 (dairy premium and additional payments), insert the following—

“The reference amount in relation to sugar beet

7A.—(1) For the purposes of paragraph 1, point K of Annex VII to the Council

(1) S.I. 2005/218.

(2) OJ No. L58, 28.2.2006, last amended by Commission Regulation (EC) No. 1260/2007 OJ No. L283, 27.10.2007, p. 1-7).

Regulation, the Welsh Ministers will determine the amount to be included in the reference amount of each farmer in accordance with the criteria set out in this regulation.

(2) The amount in relation to a farmer (in this regulation “the claimant farmer”) will be determined by reference to the original contracted tonnage of sugar beet to be supplied under a relevant contract, relative to the original contracted tonnage of all relevant contracts.

(3) A contract is a relevant contract if—

- (a) it provides for the claimant farmer or a linked farmer to supply sugar beet to British Sugar⁽¹⁾ in the representative period; and
- (b) the sugar beet to be supplied under the contract was part of British Sugar’s sugar quota for the representative period.

(4) In relation to a relevant contract—

- (a) the “original contracted tonnage” is the amount so identified in the last dated document entitled “2005 Sugar Beet Contract Confirmation” issued by British Sugar in relation to that contract prior to 22 November 2006;
- (b) the “representative period” is the marketing year 2005/2006.

(5) A linked farmer is a farmer who:

- (a) is—
 - (i) the landlord of the claimant farmer;
 - (ii) the tenant of the claimant farmer;
 - (iii) a farmer for whom the claimant farmer (under a sub-contract with the linked farmer) grew the sugar beet to be supplied under the relevant contract;
 - (iv) a firm or company of which the claimant farmer (now being a sole trader) was formerly a member, officer or employee; or
 - (v) a subsidiary company of a parent company which is the claimant farmer;
- (b) does not rely on the relevant contract for the purposes of inclusion in any

(1) British Sugar is a public limited company trading as British Sugar plc; it was previously the British Sugar Corporation Limited, created pursuant to section 3 of the Sugar Industry (Reorganisation Act 1936 (c. 18).

reference amount applying to him or her; and

(c) agrees in writing that the claimant farmer may so rely in his or her place.

(6) The Welsh Ministers may only include an amount in the reference amount for a claimant farmer under this regulation if that farmer held qualifying entitlements as provided for in Article 58 of the Council Regulation on 15 May 2006.

(7) A qualifying entitlement under paragraph (6) does not include set-aside entitlements.”.

6. Regulation 8 (Horticulture) is revoked.

7. For paragraph (2) of regulation 10 (additional modulation) substitute the following—

“(2) In this regulation—

“the relevant amount” means the amount which would have been granted to the farmer in respect of the year concerned but for the application of Article 10(1) of the Council Regulation;

“the relevant purposes” means the purposes of any payment made pursuant to the measures under rural development programming financed by the European Agricultural Fund for Rural Development in accordance with Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(1);

“the specified proportion” means in respect of 2008, 2.5%.”.

Elin Jones

Minister for Rural Affairs, one of the Welsh Ministers.

22 September 2008

(1) OJ No. L277, 21.10.2005, p.1, last amended by Council Regulation (EC) No 146/2008 (OJ No. L 46, 21.2.2008, p.1-6).