

2004 No. 2689

AGRICULTURE, ENGLAND

The Common Agricultural Policy Single Payment and Support Schemes (Appeals) (England) Regulations 2004

Made - - - - - *14th October 2004*

Laid before Parliament *19th October 2004*

Coming into force - - - *10th November 2004*

These Regulations are made in exercise of the powers conferred by section 56(1) and (2) of the Finance Act 1973(a) in relation to fees charged by the Secretary of State, and in all other respects in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(b).

The Secretary of State is a Minister designated(c) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Community.

The Treasury has consented to the making of these Regulations under section 56(1) of the Finance Act 1973.

The Secretary of State makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Appeals) (England) Regulations 2004 and shall come into force on 10th November 2004.

Interpretation

2.—(1) In these Regulations—

“appellant” means a farmer in relation to whom or in relation to whose holding a determination has been made by the Secretary of State, who wishes to have that determination reconsidered by the Secretary of State;

(a) 1973 c. 51.

(b) 1972 c. 68; the function of the former Minister of Agriculture of making regulations under section 2(2) was transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(c) S.I. 1972/1811; the continued power of the Secretary of State to make regulations in relation to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (1998 c. 46), in relation to Wales by article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788), and in relation to Northern Ireland by article 3(2) of the European Communities (Designation) (No. 3) Order 2000 (S.I. 2000/2812).

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

“farmer” has the same meaning as in Article 2(a) of the Council Regulation; and

“holding” has the same meaning as in Article 2(b) of the Council Regulation.

(2) In these Regulations a “determination” means a determination under—

(a) any of the following Community instruments—

(i) the Council Regulation,

(ii) Commission Regulation (EC) No 2237/2003(b) laying down detailed rules for the application of certain support schemes provided for in Title IV of the Council Regulation,

(iii) Commission Regulation (EC) No 795/2004(c) laying down detailed rules for the implementation of the single payment scheme provided for in the Council Regulation,

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

(b) legislation implementing any of those instruments in any part of the United Kingdom.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

Application

3. These Regulations shall apply in relation to a farmer whose holding is situated wholly or partly in England.

Establishment of appeals procedure

4.—(1) The Secretary of State may establish an appeal procedure, to be applied at the request of any appellant, for the further consideration of an initial determination made by her in relation to that appellant.

(2) Any procedure so established may provide for consideration of the appeal by such persons, not exceeding three, as the Secretary of State may appoint for that purpose, with a view to their making a report of their conclusions in relation to the appeal and a recommendation as to how the appeal should be finally determined by her.

(3) Where the Secretary of State establishes any such procedure as is mentioned in paragraph (2), she may—

(a) pay to the persons so appointed such reasonable remuneration in respect of their functions under that procedure, and such travelling and other allowances, as she may determine; and

(b) charge any appellant whose appeal is considered under the procedure so established such fee, not exceeding £100, as she may determine in respect of the costs incurred by her in operating that procedure in relation to the appeal in question.

(a) OJ No L 270, 21.10.2003, p1, as last amended by Commission Regulation (EC) No 1540/2004 (OJ No L 279, 28.8.2004, p11).

(b) OJ No L 339, 24.12.2003, p52.

(c) OJ No L 141, 30.4.2004, p1.

(d) OJ No L 141, 30.4.2004, p18.

6th October 2004

Alun Michael
Minister of State
Department for Environment, Food and Rural Affairs

We consent,

14th October 2004

Derek Twigg
John Heppell
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable the Secretary of State to establish a procedure for the consideration and determination of appeals against a determination made by her in connection with Council Regulation (EC) No 1782/2003 (OJ No L 270, 21.10.2003, p.1), Commission Regulation (EC) No 2237/2003 (OJ No L 339, 24.12.2003, p52), Commission Regulation (EC) No 795/2004 (OJ No L 141, 30.4.2004, p1), Commission Regulation (EC) No 796/2004 (OJ No L 141, 30.4.2004, p18) or domestic legislation implementing any of those Regulations (regulation 4). The Regulations apply to holdings situated wholly or partly in England (regulation 3). The domestic legislation required to implement the Community legislation will be made from later this year.

The procedure may involve the consideration of the appeal by up to three persons appointed by the Secretary of State with a view to their making a recommendation to her about how the appeal should finally be determined. The Regulations give the Secretary of State the power to pay reasonable remuneration and expenses to appointed persons. They also enable the Secretary of State to charge appellants a fee not exceeding £100 in respect of appeal costs.

A full regulatory impact assessment has not been prepared for this instrument as it has no impact on the costs of business.

Further information about appeal procedures can be obtained from the Customer Relations Unit, Rural Payments Agency, PO Box 69, Reading RG1 3YD.

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