

2005 No. 218

AGRICULTURE

**The Common Agricultural Policy Single Payment and Support
Schemes (Integrated Administration and Control System)
Regulations 2005**

<i>Made</i> - - - -	<i>1st February 2005</i>
<i>Laid before Parliament</i>	<i>7th February 2005</i>
<i>Coming into force</i> - -	<i>1st March 2005</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred upon her by the said section 2(2), makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 and shall come into force on 1st March 2005.

Interpretation

2.—(1) In these Regulations—

“appropriate authorities” means the Secretary of State for Environment, Food and Rural Affairs, the Scottish Ministers, the National Assembly for Wales, and in Northern Ireland the Department of Agriculture and Rural Development, acting jointly;

“authorised person” means any person who is authorised by the competent authority, either generally or specifically, to act in relation to matters arising under these Regulations in respect of holdings in relation to which that authority is the competent authority for the IACS year in question;

“collector” has the meaning given by Article 144(b) of Commission Regulation 1973/2004;

“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 Council Regulation (EC) No 1782/2003

(a) S.I. 1972/1811.

(b) 1972. c.68; the 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).

establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(a);

“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(b);

“competent authority” has the meaning given in regulation 5;

“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(c);

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

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

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

“IACS” means the Integrated Administration and Control System established under the Council Regulation for certain Community support schemes;

“IACS year” means a period of 12 months commencing on the 16th May;

“LIBOR” means the sterling three month London interbank offered rate;

“relevant competent authority” has the meaning given in regulation 5;

“relevant date”, in relation to a single application, means the date on which that application is submitted;

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

“specified control measure” means any check, test, verification, inspection, investigation, control or, in relation to land, other operation, which a member state is required to carry out under Chapter 4 of Title II of the Council Regulation, Part II of Commission Regulation 796/2004 or Chapters 8 and 16 of Commission Regulation 1973/2004;

“specified payment” means any payment under any one or more of the support schemes established under Titles III and IV of the Council Regulation;

“territory” means England, Scotland, Wales or Northern Ireland, as the case may be.

(2) Other expressions used in these Regulations shall be construed in accordance with the Council Regulation, Commission Regulation 796/2004 and Commission Regulation 1973/2004.

(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.

Designated coordinating authority

3. The appropriate authorities are designated as the authority responsible for coordinating the checks referred to in Article 23 of the Council Regulation.

Competent authority

4.—(1) Where a single application is submitted in respect of a holding which is situated entirely in one territory at the relevant date, the relevant competent authority in relation to that holding for that IACS year shall be the competent authority in that territory.

(2) Subject to paragraph (3), where a holding is situated in two or more territories—

(a) at the relevant date; or

(a) O.J. No. L 141, 30.4.2004, p18.

(b) O.J. No. L 345, 20.11.2004, p1.

(c) O.J. No. L 270, 21.10.2003, p1, as last amended by Council Regulation (EC) No 864/2004 (O.J. No. L 161, 30.04.2004, p.48, as corrected by a corrigendum at O.J. No. L 206, 9.6.2004, p.20).

(b) at the commencement of the IACS year,

the relevant competent authority in relation to that holding for that IACS year shall be the competent authority in which the greater, or greatest, part of the holding is then situated.

(3) Where an area aid application within the meaning of Article 6 of Council Regulation 3508/92(a) and Article 4 of Commission Regulation 3887/92(b), or a specific declaration within the meaning of Article 1a(1)(b) of Commission Regulation 2700/93(c), was submitted in respect of a holding for the IACS year commencing on 16th May 2004 to a competent authority for a territory which is not the territory in which the greater, or greatest, part of the holding is situated—

(a) at the relevant date; or

(b) at the commencement of the IACS year,

the relevant competent authority in relation to that holding for that IACS year shall be the competent authority to which that area aid application or specific declaration was submitted unless the farmer submitting the single application in respect of the holding states in writing that he wishes the provisions of paragraph (2) to apply to the holding.

Definition of competent authority

5.—(1) In these Regulations—

(a) “competent authority” in relation to a holding means the authority responsible for determining a single application submitted in respect of the holding; and

(b) the “relevant competent authority” in relation to a holding means the competent authority responsible for determining the particular single application in question.

(2) The relevant competent authority in relation to a holding shall remain the competent authority in relation to the single application in question notwithstanding the expiry of the IACS year in respect of which, or during which, it was submitted.

(3) The competent authority is—

(a) in England, the Secretary of State for Environment, Food and Rural Affairs;

(b) in Scotland, the Scottish Ministers;

(c) in Wales, the National Assembly for Wales; and

(d) in Northern Ireland, the Department of Agriculture and Rural Development.

Applications

6. For the purposes of Article 11(2) of Commission Regulation 796/2004 the last day on which the single application for any IACS year may be submitted to the competent authority shall be the 15th May immediately preceding the commencement of that year.

Minimum size of agricultural area

7. Except in relation to land which is set aside pursuant to a set-aside obligation under Article 54(3) of the Council Regulation, the minimum size of an agricultural parcel in respect of which the single application may be made for the purposes of Article 14(4) of Commission Regulation 796/2004, shall be 0.1 hectare.

Interest

8.—(1) Interest shall be charged in respect of each day of the period referred to in Article 73(3) of Commission Regulation 796/2004.

(a) O.J. No. L355, 5.12.92, p.1.

(b) O.J. No. L391, 31.12.92, p36.

(c) O.J. No. L221, 6.8.92, p28.

(2) For the purposes of Article 73(3) of Commission Regulation 796/2004 the rate of interest applicable on any day shall be one percentage point above the LIBOR on that day.

Recovery of Payments

9.—(1) Where a farmer is liable to repay all or part of a specified payment in accordance with Article 73 of Commission Regulation 796/2004, the amount of the repayment, together with the interest on that amount calculated in accordance with regulation 8, shall be recoverable as a debt on demand to the relevant competent authority.

(2) In any legal proceedings brought pursuant to paragraph (1), a certificate of the relevant competent authority which—

- (a) sets out the LIBOR applicable during a specified period; and
- (b) includes a statement that the Bank of England or the coordinating body notified the relevant competent authority of that rate for that period,

shall be evidence of the rate applicable during that period.

(3) In this regulation “the coordinating body” means the coordinating body referred to in Article 4(1) of Council Regulation (EC) No 1258/1999 on the financing of the common agricultural policy(a).

Powers of authorised persons

10.—(1) An authorised person may at any reasonable time and on producing, if so required, some duly authenticated document showing his authority, exercise the right of entry specified in paragraph (2) and the further rights specified in paragraph (3) for the purposes of—

- (a) carrying out any specified control measure; or
- (b) ascertaining whether an offence under these Regulations has been or is being committed; or
- (c) administering and enforcing these Regulations, the Council Regulation, Commission Regulation 796/2004 and Commission Regulation 1973/2004.

(2) The right of entry is a right to enter land, other than any building used only as a dwelling, which the authorised person reasonably believes to be—

- (a) a holding occupied by, or in the possession of, a farmer or any employee, agent, contractor or tenant of the farmer;
- (b) premises of a collector or processor who has purchased raw materials grown on land set aside for the production of non food crops; or
- (c) premises of a processor who has undertaken processing of agricultural raw materials with a view to obtaining one or more of the products referred to in the second paragraph of Article 88 of the Council Regulation.

(3) The further rights are rights to—

- (a) carry out any inquiries, checks, examinations and tests;
- (b) take samples;
- (c) inspect all or any part of the land whether it is farmed or is withdrawn from agricultural production, including land set aside pursuant to Articles 54 and 55(b) of the Council Regulation;
- (d) inspect raw materials produced on—
 - (i) land set aside pursuant to Article 55(b) of the Council Regulation; or
 - (ii) areas covered by aid provided for in Article 88 of the Council Regulation; and the products produced from such raw material;

(a) O.J. No. L160, 26.6.99, p.103.

- (e) inspect any crops growing on the land or kept on it;
 - (f) mark any animal or other thing for identification purposes;
 - (g) have access to, inspect and copy any records (in whatever form they are held) or remove such records to enable them to be copied;
 - (h) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably expect and, where a record is kept by means of a computer, require the records to be produced in a form in which they can be taken away.
- (4) An authorised person entering any premises by virtue of this regulation may take with him—
- (a) such other persons as he considers necessary to exercise the rights specified in paragraphs (2) and (3); and
 - (b) any representative of the European Commission acting for the purpose of Article 27 of the Council Regulation.
- (5) If an authorised person enters any unoccupied premises he shall leave them at least as effectively secured against unauthorised entry as he found them.

Assistance to authorised persons

11.—(1) The persons specified in paragraph (2) shall give to an authorised person such assistance as the authorised person may reasonably request to enable him to exercise any power conferred upon him by regulation 10.

(2) The persons are—

- (a) a farmer or any employee, agent, contractor or tenant of the farmer;
- (b) a collector;
- (c) a processor.

Offences and penalties

12.—(1) Any person who—

- (a) intentionally obstructs—
 - (i) an authorised person; or
 - (ii) a person accompanying an authorised person pursuant to regulation 10(4); or
- (b) without reasonable cause fails to comply with a request made under regulation 11,

shall be guilty of an offence.

(2) Nothing in paragraph 1(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who, for the purpose of obtaining for himself or any other person, the whole or part of a specified payment or for the purposes of establishing an authorisation in accordance with Article 60 of the Council Regulation –

- (a) furnishes information which he knows to be false or misleading in a material particular; or
 - (b) recklessly furnishes information which is false or misleading in a material particular,
- shall be guilty of an offence.

(5) A person guilty of an offence under paragraph (4) shall be liable —

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or both; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(6) Proceedings for an offence under paragraph (1) or (4) may, subject to paragraph (7) be brought in England, Wales and Northern Ireland, and commenced in Scotland, within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings came to his knowledge.

(7) No proceedings for an offence under paragraph (1) or (4) shall be brought, or (as the case may be) commenced, more than 2 years after the date of the commission of the offence.

(8) For the purposes of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive of that fact.

(9) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(10) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995(a) (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

(11) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of,–

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person purporting to act in such capacity,

he, as well as the body corporate, shall be guilty of that offence.

(12) For the purposes of paragraph (11), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(13) In paragraphs (11) and (12) the references to a “body corporate” include a partnership in Scotland and, in relation to such a partnership, the reference to any director, manager, secretary, or other similar person in paragraph (11)(a) is a reference to a partner.

Agency arrangements

13.—(1) A competent authority may make an arrangement with any another competent authority, for any of its IACS functions to be exercised as its agent by that other competent authority.

(2) Such an arrangement must be in writing and be signed by or on behalf of the competent authorities concerned and may be subject to such conditions (including conditions as to the costs) as may be agreed.

(3) In this regulation “IACS functions” means any function of the competent authority in question in relation to any of the support schemes established under Titles III and IV of the Council Regulation.

Set off

14. Without prejudice to the amount of any sum payable by a competent authority to any other competent authority, the amount of any sum payable by a competent authority, whether as principal or agent, or by way of a specified payment may be set-off against the amount of any sum recoverable by that competent authority, whether as principal or agent.

(a) 1995 c.46.

Revocations and savings

15.—(1) Subject to paragraphs (2) to (5), the Regulations specified in the Schedule are hereby revoked to the extent there specified.

(2) The Integrated Administration and Control System Regulations 1993**(a)** shall continue to apply in respect of applications for direct payments in respect of calendar years preceding 2005—

- (a) for the purposes of applications for payment under —
 - (i) the Sheep Annual Premium Regulations 1992**(b)**;
 - (ii) the Arable Area Payment Regulations 1996**(c)**;
 - (iii) the Slaughter Premium Regulations 2000**(d)**;
 - (iv) the Extensification Payment Regulations 2001**(e)**;
 - (v) the Suckler Cow Premium Regulations 2001**(f)**;
 - (vi) the Beef Special Premium Regulations 2001**(g)**;
- (b) in relation to the Common Agricultural Policy Support Schemes (Modulation) Regulations 2000**(h)** for the purposes of modulation of support scheme payments; and
- (c) in relation to the Common Agricultural Policy Support Schemes (Appeals) Regulations 2002**(i)** for the purposes of consideration of such applications.

(3) The Integrated Administration and Control System Regulations 1993 shall continue to apply in respect of applications for direct payments in respect of calendar years preceding 2005—

- (a) for the purposes of applications for payment under —
 - (i) the Suckler Cow Premium (Scotland) Regulations 2001**(j)**;
 - (ii) the Beef Special Premium (Scotland) Regulations 2001**(k)**;
 - (iii) the Extensification Payment (Scotland) Regulations 2002**(l)**;
 - (iv) the Less Favoured Areas Scheme (Scotland) Regulations 2004**(m)**;
- (b) in relation to the Common Agricultural Policy Support Schemes (Modulation) (Scotland) Regulations 2000**(n)** for the purposes of modulation of support scheme payments; and
- (c) in relation to the Agricultural Subsidies (Appeals) (Scotland) Regulations 2004**(o)** for the purposes of consideration of such applications.

(4) The Integrated Administration and Control System Regulations 1993 shall continue to apply in respect of applications for direct payments in respect of calendar years preceding 2005—

- (a) for the purposes of applications for payment under the Slaughter Premium (Wales) Regulations 2001**(p)**;
- (b) in relation to the Common Agricultural Policy Support Schemes (Modulation) (Wales) Regulations 2000**(q)** for the purposes of modulation of support scheme payments; and

(a) S.I. 1993/1317 as amended by S.I. 1994/1134, S.I. 1997/1148, S.I. 1999/1820, S.I. 2000/573 and S.I. 2004/189.

(b) S.I. 1992/2677 as amended by S.I. 1994/2741, S.I. 1995/2779, S.I. 1996/49, S.I. 1997/2500, S.I. 2001/281.

(c) S.I. 1996/3142 as amended by S.I. 1997/2969, S.I. 1998/3169 and S.I. 1999/8.

(d) S.I. 2000/3126.

(e) S.I. 2001/864.

(f) S.I. 2001/1370.

(g) S.I. 2001/2503.

(h) S.I. 2000/3127 as amended by S.I. 2004/2330.

(i) S.I. 2002/646.

(j) S.S.I. 2001/225.

(k) S.S.I. 2001/445.

(l) S.S.I. 2001/278.

(m) S.S.I. 2004/70 as amended by S.S.I. 2004/128.

(n) S.S.I. 2000/429 as amended by S.S.I. 2001/390 and S.S.I. 2004/398.

(o) S.S.I. 2004/381.

(p) S.I. 2001/1332 (W.82).

(q) S.I. 2000/3294 (W.216) as amended by S.I. 2001/3680 (W.301) and S.I. 2004/2662 (W.233).

(c) in relation to the Agricultural Subsidies (Appeals) (Wales) Regulations 2003^(a) for the purposes of consideration of such applications.

(5) Any appointment of an authorised person by a competent authority for the purposes of the Integrated Administration and Control System Regulations 1993 having effect at the coming into force of these Regulations shall continue to have effect as if it were an appointment of that person as an authorised person by that competent authority for the purposes of these Regulations.

1st February 2005

Whitty
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

^(a) S.I. 2001/2537 (W.212) as amended by S.I. 2003/411 (W.58).

SCHEDULE

regulation 15

Revocations

<i>Regulations revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
Integrated Administration and Control System Regulations 1993	S.I. 1993/1317	The whole Regulations
Integrated Administration and Control System (Amendment) Regulations 1994	S.I. 1994/1134	The whole Regulations
Integrated Administration and Control System (Amendment) Regulations 1997	S.I. 1997/1148	The whole Regulations
Integrated Administration and Control System (Amendment) Regulations 2000	S.I. 2000/2573	The whole Regulations
Integrated Administration and Control System (Amendment) Regulations 2004	S.I. 2004/189	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply throughout the United Kingdom. They make provision for the implementation of Council Regulation (EC) No. 1782/2003 (O.J. No. L 270, 21.10.2003, p.1) (the “Council Regulation”) in relation to establishing an integrated administration and control system (“IACS”) for direct support schemes under the common agricultural policy. In addition these Regulations implement certain provisions of Commission Regulation (EC) No 796/2004 (O.J. No. L 141, 30.4.2004, p.18) (“Commission Regulation 796/2004”) laying down detailed rules for the implementation of the integrated administration and control system and Commission Regulation (EC) No 1973/2004 (O.J. No. L 345, 20.11.2004, p1) (“Commission Regulation 1973/2004”) laying down detailed rules as regards the support schemes provided for in Titles IV and IVa of the Council Regulation and the use of land set aside for the production of raw materials.

These Regulations—

- (a) designate the Secretary of State, the Scottish Ministers, the National Assembly for Wales and in Northern Ireland the Department of Agriculture and Rural Development, acting jointly, as the authority responsible for coordinating the checks referred to in the Council Regulation (regulation 3);
- (b) make provision for determining which competent authority is the authority for the purposes of the single application for direct payments (regulations 4 and 5);
- (c) provide that the last day on which the single application may be submitted to the competent authority for any IACS year is the 15th May immediately preceding the commencement of that year (regulation 6);
- (d) prescribe the minimum size of an agricultural parcel in respect of which the single application may be made (regulation 7) (except for land set aside pursuant to an obligation under Article 54 of the Council Regulation which is the subject of The Common Agricultural Policy Single Payment Scheme (Set-Aside) Regulations 2004. (S.I. 2004/ 3385)).
- (e) provide for the reimbursement of specified payments to be recoverable as a debt and provide for the calculation of interest (regulations 8 and 9);
- (f) confer on authorised persons of the competent authority powers of entry and other powers for the purposes of the Regulations and require that such assistance be given to the authorised person for the exercise of their powers as they may reasonably request (regulations 10 and 11);
- (g) create offences and penalties (regulation 12);
- (h) provide powers for competent authorities to enter into agency arrangements with each other, and to provide for the sums recoverable by one competent authority to be set off against the sums payable as a specified payment by another competent authority (regulations 13 and 14).

These Regulation revoke the Integrated Administration and Control System Regulations 1993 (S.I. 1993/1317) and their amending Regulations which implemented Council Regulation (EEC) No 3508/92 which established for the first time an integrated administration and control system for certain Community aid schemes in the agriculture sector. The Integrated Administration and Control System Regulations 1993 will continue to apply for certain purposes in respect of applications for direct payments in respect of calendar years preceding 2005.

A full regulatory impact assessment on the effect that the Single Payment Scheme will have on the costs of business is available from the Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR, or at www.defra.gov.uk/corporate/consult/capsinglepayment/index.htm.

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