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STATUTORY INSTRUMENTS

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**2009 No. 1771**

**AGRICULTURE, ENGLAND**

**The Common Agricultural Policy Single Payment and  
Support Schemes (Horticulture) Regulations 2009**

<i>Made</i>	- - - -	<i>6th July 2009</i>
<i>Laid before Parliament</i>		<i>8th July 2009</i>
<i>Coming into force</i>	- -	<i>31st July 2009</i>

The Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> 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 Secretary of State 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 by section 2(2) of, and paragraph 1A of Schedule 2<sup>(3)</sup> to, the European Communities Act 1972, the Secretary of State makes the following Regulations.

**Title, commencement and application**

1. These Regulations—
  - (a) may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Horticulture) Regulations 2009;
  - (b) come onto force on 31st July 2009; and
  - (c) apply in England.

**Interpretation**

- 2.—(1) In these Regulations—

“the 2005 Regulations” means the Common Agricultural Policy Single Payment and Support Schemes Regulations 2005<sup>(4)</sup>;

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(1) [S.I. 1972/1811](#).  
(2) [1972 c. 68](#); the function of the 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](#)).  
(3) Paragraph 1A of Schedule 2 was inserted by section 28 of the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#).  
(4) [S.I. 2005/219](#), as amended by [S.I. 2006/989](#), [2007/3182](#) and [2008/1139](#).

“Commission Regulation 795/2004” means [Commission Regulation \(EC\) No 795/2004](#)<sup>(5)</sup> laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation [\(EC\) No 1782/2003](#);

“Commission Regulation 796/2004” means [Commission Regulation \(EC\) No 796/2004](#)<sup>(6)</sup> 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](#);

“the Council Regulation” means Council Regulation [\(EC\) No 73/2009](#)<sup>(7)</sup> establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations [\(EC\) No 1290/2005](#), [\(EC\) No 247/2006](#), [\(EC\) No 378/2007](#) and repealing Regulation [\(EC\) No 1782/2003](#);

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

“fruit and vegetables” has the meaning given by paragraph 1 of point A of Annex IX of the Council Regulation;

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

(2) Other expressions used in these Regulations that are also used in the Council Regulation, Commission Regulation 795/2004 or Commission Regulation 796/2004 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.

## **Horticulture**

**3.**—(1) This regulation applies in relation to permanent fruit and vegetables, nurseries and vines.

(2) For the purposes of Articles 48h(1) and 48k(2) of Commission Regulation 795/2004 and Article 33(1)(b)(iii) and points A and C of Annex IX of the Council Regulation, a farmer may apply to establish a number of payment entitlements equal to the number of new eligible hectares that were, during the relevant period specified in paragraph (3), at that farmer’s disposal and used—

- (a) to grow permanent fruit and vegetables;
- (b) as a nursery; or
- (c) to grow vines.

(3) The periods are—

- (a) 1st January to 30th September 2008, in the case of permanent fruit and vegetables or nurseries; and
- (b) 1st January to 31st July 2008, in the case of vines.

(4) In accordance with Article 21a(3) of Commission Regulation 796/2004, an application under paragraph (2) must be submitted on or before 13th August 2009.

(5) Where more than one farmer applies for a payment entitlement in relation to the same land, only the application of the farmer who last met the requirements of paragraph (2) during the relevant period specified in paragraph (3) will be considered.

(5) OJ No L 141, 30.4.2004, p 1, last amended by [Commission Regulation \(EC\) No 370/2009](#) (OJ No L 114, 7.5.2009, p 3).

(6) OJ No L 141, 30.4.2004, p 18, last amended by [Commission Regulation \(EC\) No 380/2009](#) (OJ No L 116, 8.5.2009, p 9).

(7) OJ No L 30, 30.1.2009, p 16.

**Regions**

4. The three regions specified in regulation 3 of the 2005 Regulations apply for the purposes of applications under regulation 3(2) of these Regulations.

**Minimum size of holding**

5. The minimum size of a holding specified in regulation 5 of the 2005 Regulations applies for the purposes of applications under regulation 3(2) of these Regulations.

*Jim Fitzpatrick*  
Minister of State  
Department for Environment, Food and Rural  
Affairs

6th July 2009

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## EXPLANATORY NOTE

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

These Regulations make provision in England for the administration of [Commission Regulation \(EC\) No 795/2004](#) (OJ No L 141, 30.4.2004, p 1) and [Commission Regulation \(EC\) No 796/2004](#) (OJ No L 141, 30.4.2004, p 18) in relation to the application, to farmers of permanent fruit and vegetables, nurseries and vines, of the Single Payment Scheme under the Common Agricultural Policy.

More specifically, these Regulations make provision for applications to establish payment entitlements, as provided for in Article 33(1)(b)(iii) and points A and C of Annex IX of Council Regulation [\(EC\) No 73/2009](#) (OJ No L 30, 30.1.2009, p 16), in relation to permanent fruit and vegetables, nurseries and vines (regulation 3(1) and (2)). Regulation 3(3) specifies the relevant periods necessary to establish entitlement, and regulation 3(4) specifies that an application for entitlement must be submitted no later than 13th August 2009. Regulation 3(5) provides that in cases where more than one farmer applies to establish entitlement, only the application of the farmer who last met the requirements of paragraph (2) during the relevant period specified in paragraph (3) will be considered.

These Regulations also provide that regulations 3 and 5 of the Common Agricultural Policy Single Payment and Support Schemes Regulations 2005 ([S.I. 2005/219](#)) (“the 2005 Regulations”) apply for the purposes of applications under regulation 3(2) of these Regulations. Regulation 3 of the 2005 Regulations specifies the three regions of England. The regions are moorland, the severely disadvantaged area (excluding moorland) and all other land (regulation 4). Regulation 5 of the 2005 Regulations specifies the minimum size of a holding for which the establishment of payment entitlements may be requested. The minimum size of holding is 0.3 hectares (regulation 5).

An impact assessment on the options for allocating Single Payment Scheme entitlements to farmers of permanent fruit and vegetables, nurseries and vines is available from the Defra Information Resource Centre, Lower Ground Floor, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR.