

2022 No. 1225

AGRICULTURE, ENGLAND

**The Rural Development (Amendment) (No. 2) (England)
Regulations 2022**

<i>Made</i>	- - - -	<i>22nd November 2022</i>
<i>Laid before Parliament</i>		<i>23rd November 2022</i>
<i>Coming into force</i>	- -	<i>15th December 2022</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 14, 16(3) and 16(4) of the Agriculture Act 2020(a).

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Rural Development (Amendment) (No. 2) (England) Regulations 2022 and come into force on 15th December 2022.

(2) These Regulations extend to England and Wales and apply in England only.

(3) In these Regulations, “rural development support measures” means measures under support schemes under—

- (a) Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(b); or
- (b) Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(c); or
- (c) Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(d).

Commission Regulation (EC) No 1974/2006

2.—(1) Commission Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(e), is amended as follows.

(2) In Annex VI (INFORMATION AND PUBLICITY ON ASSISTANCE FROM THE EAFRD)—

- (a) in paragraph 2 (information and publicity measures for the public)—

(a) 2020 c. 21.

(b) EUR 2005/1698, amended by S.I. 2019/764; there are other amending instruments, but none is relevant.

(c) EUR 2013/1305, amended by S.I. 2019/764; there are other amending instruments, but none is relevant.

(d) EUR 1999/1257, amended by S.I. 2019/764; there are other amending instruments, but none is relevant.

(e) EUR 2006/1974, as saved (with modifications) in respect of operations implemented pursuant to programmes approved by the Commission under Regulation (EC) No 1698/2005 before 1st January 2014 by Article 19 of EUR 2014/807.

- (i) in each place it occurs, for “shall” substitute “may”;
- (ii) in the first place it occurs, omit “all”;
- (iii) omit paragraph 2.2;
- (b) omit paragraph 3 (technical characteristics of information and publicity actions);
- (c) omit paragraph 4 (instructions for creating the emblem and a definition of the standard colours).

Commission Regulation (EC) No 1975/2006

3.—(1) Commission Regulation (EC) No 1975/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures^(a), is amended as follows.

(2) In Article 12 (on-the-spot checks)—

- (a) omit paragraph 1;
- (b) in paragraph 2, omit the words from “apply to on-the-spot” to “in this Article”;
- (c) omit paragraphs 3 and 4.

(3) In Article 16 (area-related measures)—

(a) for paragraph 2 substitute—

“If, in respect of a crop group as referred to in Article 16(1), the area declared for the purposes of any area-related aid schemes or support measures exceeds or is less than the area determined in accordance with Article 50(3) of Regulation (EC) No 796/2004, the aid must be calculated on the basis of the area determined or the area declared, whichever is the lower.”;

(b) in paragraph 6, omit “in the third subparagraph of paragraph 2 and”.

(4) In Article 18 (reductions and exclusions in the case of non-respect of eligibility criteria)—

- (a) in paragraph 1, for “shall” substitute “may”;
- (b) for paragraph 2 substitute—

“When deciding on the rate of refusal or withdrawal of support following the non-compliance with the commitments or other obligations referred to in paragraph 1 the relevant authority may take account of—

- the circumstances that led to the non-compliance and whether it was caused by the intentional actions of the beneficiary or due to that person’s recklessness or negligence;
- any steps taken by the beneficiary to report a change of circumstance or notify the relevant authority of the non-compliance within a reasonable period;
- any failure on the part of the beneficiary to co-operate with an on-the-spot check;
- any past conduct of the beneficiary during the period of the commitment and whether a similar non-compliance has previously occurred;
- the nature of the non-compliance and whether it has caused widespread or irreparable damage;
- the extent to which it is desirable, practicable or economic to permit the beneficiary to rectify the non-compliance;
- the consequences of the non-compliance and whether it renders the purpose of the commitment unachievable within the timescales or finances of the commitment or to the standards agreed when the commitment was undertaken.”;

(c) in paragraph 3, for “shall” substitute “may”.

(a) EUR 2006/1975, as saved in respect of payment claims submitted before 1 January 2011 by Article 34 of EUR 2011/65.

- (5) In Article 26 (administrative checks), paragraph 4, omit the second subparagraph.
- (6) In Article 27 (on-the-spot checks)—
 - (a) in paragraph 1, in the first place it occurs, for “shall” substitute “may”;
 - (b) omit paragraph 2.
- (7) In Article 28 (content of on-the-spot checks), for paragraph 3 substitute—

“The on-the-spot checks may include a visit to the operation or, if the operation is intangible, to the operation promoter”.

Commission Regulation (EU) No 65/2011

4.—(1) Commission Regulation (EU) No 65/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures(a), is amended as follows.

- (2) In Article 4 (general principles of control)—
 - (a) in paragraph 4, for “shall” substitute “may”;
 - (b) in paragraph 7, omit “strictly” and “and shall not exceed 14 days”.
- (3) In Article 5 (recovery of undue payments), in paragraph 1, for “plus” substitute “and may also be required to pay”.
- (4) In Article 12 (on-the-spot checks)—
 - (a) omit paragraph 1;
 - (b) in paragraph 2, for “shall” in each place it occurs substitute “may”;
 - (c) omit paragraphs 3 and 4.
- (5) In Article 16 (reductions and exclusions in relation to the size of area)—
 - (a) omit paragraph 1;
 - (b) for paragraph 3 substitute—

“If, in respect of a crop group as referred to in Article 16(2), the area declared for the purposes of any area-related aid schemes or support measures exceeds or is less than the area determined in accordance with Article 50(3) of Regulation (EC) No 796/2004, the aid must be calculated on the basis of the area determined or the area declared, whichever is the lower”;
 - (c) omit paragraph 5;
 - (d) in paragraph 7, omit “in the third subparagraph of paragraph 5 and”.
- (6) In Article 18 (reductions and exclusions in the case of non-compliance with other eligibility criteria, commitments and linked obligations)—
 - (a) in paragraph 1, for “shall” in each place it occurs substitute “may”;
 - (b) for paragraph 2 substitute—

“When deciding on the rate of refusal or withdrawal of support following the non-compliance with the commitments or other obligations referred to in paragraph 1 the relevant authority may take account of:—

 - the circumstances that led to the non-compliance and whether it was caused by the intentional actions of the beneficiary or due to that person’s recklessness or negligence;
 - any steps taken by the beneficiary to report a change of circumstance or notify the relevant authority of the non-compliance within a reasonable period;
 - any failure on the part of the beneficiary to co-operate with an on-the-spot check;

(a) EUR 2011/65, as saved (for certain purposes) by Article 43 of EUR 2014/640.

- any past conduct of the beneficiary during the period of the commitment and whether a similar non-compliance has previously occurred;
 - the nature of the non-compliance and whether it has caused widespread or irreparable damage;
 - the extent to which it is desirable, practicable or economic to permit the beneficiary to rectify the non-compliance;
 - the consequences of the non-compliance and whether it renders the purpose of the commitment unachievable within the timescales or finances of the commitment or to the standards agreed when the commitment was undertaken.”;
- (c) in paragraph 3, for “shall” substitute “may”.
- (7) In Article 25 (on-the-spot checks)—
- (a) in paragraph 1, for “shall” in each place it occurs substitute “may”;
 - (b) omit paragraph 2.
- (8) In Article 26 (content of on-the-spot checks), for paragraph 3 substitute—
- “The on-the-spot checks may include a visit to the operation or, if the operation is intangible, to the operation promoter”.
- (9) In Article 30 (reductions and exclusions)—
- (a) in paragraph 1, for the words from “of the reduction” to “the ineligible amount” substitute “to be paid to the beneficiary shall be the lower of the amounts established pursuant to point (a) and point (b)”;
 - (b) in paragraph 2—
 - (i) for “shall” in each place it occurs substitute “may”;
 - (ii) for “the same measure” substitute “any financial assistance scheme(s) under section 1 of the Agriculture Act 2020”;
 - (c) in paragraph 3, for “shall” substitute “may”.

Regulation (EU) No 1305/2013

5.—(1) Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) is amended as follows.

(2) In Annex II (AMOUNTS AND SUPPORT RATES), in table note (*), omit “to be justified in the rural development programmes”.

Regulation (EU) No 1306/2013

6.—(1) Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy^(a) is amended insofar as it relates to rural development support measures, as follows.

- (2) In Article 111 (publication of beneficiaries)—
- (a) in paragraph 1—
 - (i) in each place it occurs, for “shall” substitute “may”;
 - (ii) for the words “ensure annual ex-post publication of the” substitute “publish a list of”;
 - (iii) after the words “agricultural support” insert “annually”;
 - (b) omit paragraph 2.

(a) EUR 2013/1306, amended by S.I. 2019/763; there are other amending instruments but none is relevant.

Commission Delegated Regulation (EU) No 640/2014

7.—(1) Commission Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance(a), is amended, insofar as it relates to rural development support measures, as follows.

(2) In Article 5 (identification of agricultural parcels), paragraph 2, omit “and payment claims”.

(3) In Article 16 (non-declaration of all areas), paragraph 1, for the words from “and the difference” to “with Article 28(2)” substitute “then the support under area-related support measures payable to that beneficiary for that year must be calculated on the basis of the area determined or the area declared, whichever is the lower”.

(4) In Article 35 (non-compliance with the eligibility criteria other than the size of area or number of animals, commitments or other obligations)—

- (a) in paragraph 5, for the words “the same measure or type of operation” substitute “any financial assistance scheme(s) under section 1 of the Agriculture Act 2020”;
- (b) in paragraph 6, for the words “the same measure or type of operation” substitute “any financial assistance scheme(s) under section 1 of the Agriculture Act 2020”.

Commission Implementing Regulation (EU) No 809/2014

8.—(1) Commission Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance(b), is amended, insofar as it relates to rural development support measures, as follows.

(2) In Article 14 (contents of the single application or payment claim)—

- (a) in paragraph 1, omit “or payment claim”.
- (b) after paragraph 1, insert the following paragraph:

“1a. The payment claim must contain such information as the relevant authority reasonably requires, including confirmation of continued eligibility for the support, and that actions have been undertaken in accordance with that support.”.

(3) In Article 17 (specific requirements pertaining to aid applications for area-related aid schemes and payment claims for area-related support measures)—

- (a) in the heading, omit “and payment claims for area-related support measures”;
- (b) in paragraph 3, omit “and/or payment claim”.

(4) In Article 34 (selection of the control sample)

- (a) omit paragraph 4;
- (b) in paragraph 4a omit “Article 32 and”.

(5) Omit Article 36 (reduction of the control rate).

(6) In Article 69 (selection of the control sample) omit paragraph 3.

Mark Spencer
Minister of State

22nd November 2022

Department for Environment, Food and Rural Affairs

(a) EUR 2014/640, as amended by S.I. 2019/765 (for certain purposes including in relation to rural development support measures); there are other amending instruments, but none is relevant.

(b) EUR 2014/809, amended by S.I. 2019/765, 2022/765; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to various rules regarding the operation and management of rural development schemes established originally pursuant to Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (EUR 1999/1257), Regulation (EU) No 1698/2005 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (EUR 2005/1698) and Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (EUR 2013/1305), in order to align more closely with equivalent schemes established under the Agriculture Act 2020 (c. 21).

Regulations 2 and 6 amend rules relating to the publication of information by the authority and agreement holders.

Regulations 3(2), 3(5) to 3(7), 4(2), 4(4), 4(7) and 4(8) and 8(4) to 8(6) provide for greater flexibility in the manner in which on-the-spot inspections and ex-post checks are undertaken and the processes for determining which agreement holders will be subject to on-the-spot inspections and ex-post checks.

Regulations 3(3) and (4), 4(3), 4(5) and (6), 4(9) and 7(3) and (4) amend various rules relating to the application of penalties, recoveries and similar options in relation to non-compliance with scheme rules.

Regulation 5 amends an administrative requirement in relation to payment rate ceilings.

Regulations 7(2) and 8(2) and 8(3) provide for greater flexibility in the form and content of payment claims.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

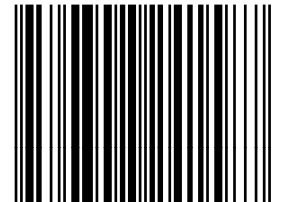
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