STATUTORY INSTRUMENTS

2015 No. 1997

AGRICULTURE

The Common Agricultural Policy (Amendment) (No. 2) Regulations 2015

Made - - - -	*7th December 2015*
Laid before Parliament	*9th December 2015*
Coming into force in accordance with regulation 1(2)	

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to the common agricultural policy(**2**).

These Regulations make provision for a purpose mentioned in that section and it appears to the Secretary of State that it is expedient for the references to the European Union instruments listed in paragraph 1(3) of the Schedule to be construed as references to those instruments as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**3**).

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Common Agricultural Policy (Amendment) (No. 2) Regulations 2015.

(**1**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). The function of the former Minister of Agriculture, Fisheries and Food 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).

(**2**) S.I. 1972/1811 to which there are amendments not relevant to these Regulations. The power of the Secretary of State to make regulations that extend to Scotland and Northern Ireland and apply in Wales remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (c. 46), article 3(2) of the European Communities (Designation) (No. 3) Order 2000 (S.I. 2000/2812) and article 6 of the European Communities (Designation) (No. 5) Order 2010 (S.I. 2010/2690), respectively.

(**3**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51), and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(2) These Regulations come into force on 1st January 2016, except for regulation 14(4)(a), which comes into force on 1st January 2017.

PART 2

The Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014

Amendment of the Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014

2. The Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014(**4**) are amended as follows.

Amendment of regulation 10 (active farmer)

3. For regulation 10 (active farmer) substitute—

"**10.**—(1) For the purposes of Article 9(2)(b) of the Direct Payments Regulation(**5**) and sub-paragraph 3 of Article 13(1) of the Direct Payments Delegated Regulation(**6**), a person's agricultural activities are not insignificant if that person has 36 or more eligible hectares at that person's disposal on the date specified in regulation 6.

(2) For the purposes of Article 9(2)(c) of the Direct Payments Regulation and sub-paragraph 3 of Article 13(3) of the Direct Payments Delegated Regulation, an agricultural activity is a principal business or company object of a person if that person's receipts obtained from agricultural activities were at least 40% of that person's total receipts in the most recent fiscal year of agricultural activity for which these receipts are available.

(3) For the purposes of Article 9(4) of the Direct Payments Regulation, the maximum amount is EUR 5,000.".

Amendment of the Schedule (Ecological focus areas)

4.—(1) In Part 1 of the Schedule (crop species that may be used in a mixture of crop species), insert at the end "Oilseed radish (*Raphanus sativus*)".

(2) For Part 2 of the Schedule (nitrogen-fixing crops) substitute—

"PART 2

Nitrogen-fixing crops for the purposes of Article 45(10) of the Direct Payments Delegated Regulation

Alfalfa (*Medicago sativa*)

Beans (*Vicia spp*)

Birds-foot trefoil (*Lotus corniculatus*)

Chickpeas (*Cicer spp*)

(**4**) S.I. 2014/3259, amended by S.I. 2015/1325.
(**5**) OJ No L 347, 20.12.2013, p. 608, as last amended by Commission Delegated Regulation (EU) No. 2015 (OJ No L 135, 2.6.2015, p 8).
(**6**) OJ L 181 20.6.2014, p. 1, as amended by Commission Delegated Regulation (EU) 2015/1383 (OJ L 181 20.6.2014, p. 1).

Clover (*Trifolium spp*)

Cowpeas and related beans (*Vigna spp*)

Fenugreek (*Trigonella spp*)

Green beans (*Phaseolus spp*)

Lentils (*Lens culinaris*)

Lupins (*Lupinus spp*)

Peas (*Pisum spp*)

Sainfoin (*Onobrychis spp*)

Soya beans (*Glycine spp*)

Sweet clover (*Melilotus spp)"*.

PART 3

The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014

Amendment of the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014

5. The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014(**7**) are amended as follows.

Amendment of regulation 2 (interpretation)

6. In regulation 2 (interpretation)—

(a) in paragraph (1) omit the definition of "accountable body";

(b) for the definition of "rural development payment" substitute—

> ""rural development payment" means any payment made by the Secretary of State under Title III of the Rural Development Regulation(**8**) or Title III, Chapter II of the Common Provisions Regulation(**9**) except in regulations 9(2A)(b) and 35(4) (where it has the meaning given in those regulations);";

(c) after paragraph (1) insert—

> "(1A) In paragraph (1) "accountable body" means a body responsible for carrying out administrative and financial activities on behalf of a local action group in accordance with Article 34(2) of the Common Provisions Regulation.".

Amendment of regulation 9 (set-off)

7. In regulation 9 (set-off)—

(a) for paragraph (2) substitute—

> "(2) The amount of any payment listed in paragraph (2A) may be set off against the amount of any recoverable sum listed in paragraph (2B).

(**7**) S.I. 2014/3263, amended by S.I. 2015/1325.

(**8**) Regulation (EU) No 1305/2013 of the European Parliament and of the Council (OJ L 347 20.12.2013, p. 487), last amended by Commission Delegated Regulation (EU) 2015/791 (OJ L 127, 22.5.2015, p. 1).

(**9**) Regulation (EU) No 1303/2013 of the European Parliament and of the Council (OJ L 347 20.12.2013, p. 320), to which there is an amendment that is not relevant to this instrument.

(2A) The payments referred to in paragraph (2) are—

(a) any rural development payment payable by the Secretary of State;

(b) any rural development payment payable by the Secretary of State or an accountable body under the Rural Development (Enforcement) (England) Regulations 2007(**10**);

(c) any sum payable to a beneficiary under the England Rural Development Programme (Enforcement) Regulations 2000(**11**);

(d) any sum payable by the Secretary of State under—

(i) the Direct Payments Regulation;

(ii) Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(**12**); or

(iii) Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers(**13**).

(2B) The recoverable sums referred to in paragraph (2) are—

(a) any sum recoverable by the Secretary of State or a delivery body (which may include the Secretary of State) under regulation 7(1) or 15(1);

(b) any sum recoverable by the Secretary of State or an accountable body under regulation 9(1) or 10(1) of the Rural Development (Enforcement) (England) Regulations 2007;

(c) any sum recoverable by the Minister under regulation 6(1) or 7(1) of the England Rural Development Programme (Enforcement) Regulations 2000(**14**);

(d) any sum recoverable by a competent authority under regulation 8 of the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009(**15**).";

(b) for paragraph (3) substitute—

"(3) In this regulation—

(a) "accountable body" has the meaning given by regulation 2(1) of the Rural Development (Enforcement) (England) Regulations 2007;

(b) "beneficiary" has the meaning given by regulation 2(1) of the England Rural Development Programme (Enforcement) Regulations 2000;

(c) "competent authority" has the same meaning as in the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009;

(d) "Minister" has the meaning given by regulation 2(1) of the England Rural Development Programme (Enforcement) Regulations 2000;

(e) "rural development payment", except in paragraph (2A)(a), has the meaning given by regulation 2(1) of the Rural Development (Enforcement) (England)

(**10**) S.I. 2007/75, revoked with savings by S.I. 2014/3263.
(**11**) OJ No L 30, 31.1.2009, p. 16, repealed by Article 72(2) of the Direct Payments Regulation.
(**12**) OJ No L 270, 21.10.2003, p. 1, repealed by Council Regulation (EC) No 73/2009 (OJ No L 30. 31.1 2009, p. 16).
(**13**) OJ No L 30, 31.1.2009, p. 16, repealed by Article 72(2) of the Direct Payments Regulation.
(**14**) S.I. 2000/3044, revoked with savings by S.I. 2014/3263.
(**15**) S.I. 2009/3263, revoked by S.I. 2014/3263.

Regulations 2007, except in paragraph (2A)(a)(where it has the meaning given by regulation 2(1)).".

Amendment of regulation 10 (powers of entry)

8. In regulation 10(1) (powers of entry), after "the purpose of enforcing" insert "these regulations or".

Amendment of regulation 14 (breaches of commitments)

9. In regulation 14(1)(c) (breaches of commitments), omit paragraphs (i) to (iv).

Amendment of regulation 15 (powers of recovery in relation to rural development payments)

10. In regulation 15(1) (powers of recovery etc in relation to rural development payments), for "accountable body" substitute "delivery body".

Amendment of regulation 20 (interpretation)

11. In regulation 20 (interpretation), in the definition of "specified commodity"—

(a) for "Council Regulation (EC) 1216/2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products(**16**)" substitute "Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products(**17**)";

(b) for "Annexes B and C to Commission Regulation (EC) 1222/94 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products etc(**18**)" substitute "Annexes II and III of Commission Regulation (EU) No 578/2010 of 29 June 2010 on the implementation of Council Regulation (EC) No 1216/2009 as regards the system of granting export refunds for certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds(**19**),".

Amendment of regulation 21 (powers of entry) and regulation 28 (defence of due diligence)

12. In regulation 21(1)(b) (powers of entry) and regulation 28 (defence of due diligence) omit "(4)".

Amendment of Schedule 1

13. Schedule 1 (the SCMO Regulations) is amended as set out in the Schedule to these Regulations.

(**16**) OJ No. L 328, 15.12.2009, p.10.
(**17**) OJ No. L 150, 20.5.2014, p.1.
(**18**) OJ No. L 136, 31.5.1994, p.5. Annex B was substituted by Commission Regulation (EC) No. 1341/97 (OJ No. L 184, 12.7.1997, p. 12) and amended by Commission Regulation (EC) No. 1909/97 (OJ No. L258, 1.10.1997, p. 20). Annex C was substituted by Commission Regulation (EC) No. 229/96 (OJ No. L 30, 8.2.1996, p. 24) and amended by Commission Regulation (EC) No. 1341/97 (OJ No. L 184, 12.7.1997, p. 12). Annex B was substituted by Commission Regulation (EC) No. 1341/97 (OJ No. L 184, 12.7.1997, p. 12) and amended by Commission Regulation (EC) No. 1909/97 (OJ No. L258, 1.10.1997, p. 20). Annex C was substituted by Commission Regulation (EC) No. 229/96 (OJ No. L 30, 8.2.1996, p. 24) and amended by Commission Regulation (EC) No. 1341/97 (OJ No. L 184, 12.7.1997, p. 12).
(**19**) OJ No. L 171, 6.7.2010, p.1 as last amended by Commission Implementing Regulation (EU) No 599/2013 (OJ No. L 172, 24.6.2013, 11).