WELSH STATUTORY INSTRUMENTS

2004 No. 3280 (W.284)

AGRICULTURE, WALES

The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004

Made - - - -	*8 December 2004*
Coming into force - -	*1 January 2005*

The National Assembly for Wales, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the Common Agricultural Policy of the European Community, in exercise of the powers conferred upon it by that section hereby makes the following Regulations:

Title, commencement and application

1.—(1) These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004.

(2) These Regulations come into force on 1 January 2005 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"agri-environment commitment" means a commitment under Council Regulation 2078/92 or Articles 22 to 24 of Council Regulation 1257/1999;

"authorised person" means any person authorised by the National Assembly to act in matters relating to these Regulations, the Council Regulation or the Commission Regulation;

"the Commission Regulation" 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 the Council Regulation(**3**);

"the Council Regulation" means 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(**4**);

(**1**) S.I.1999/2788.
(**2**) 1972 c. 68.
(**3**) O.J. No. L141, 30.04.2004, p. 18.
(**4**) O.J L270, 21.10.2003 p.1, as last amended by Council Regulation (EC) No. 864/2004 (O.J. No. L161, 30.04.2004, p.48)

"Council Regulation 2078/92" means Council Regulation (EC) No. 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside(**5**); "Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(**6**);

"the Countryside Council" means the Countryside Council for Wales as established under Section 128 of the Environmental Protection Act 1990(**7**);

"the Environment Agency" means the Environment Agency as established under section 1 of the Environment Act 1995(**8**);

"farmer" has the meaning given to it by Article 2(a) of the Council Regulation;

"holding" has the meaning given to it by Article 2(b) of the Council Regulation;

"the National Assembly" means the National Assembly for Wales;

"non compliance" has the meaning given to it by Article 2(35) of the Commission Regulation;

"permanent pasture" has the meaning given to it by Article 2(2) of the Commission Regulation;

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

(3) Other expressions used in these Regulations are to be construed in accordance with the Council Regulation and the Commission Regulation.

(4) In these Regulations any reference to a numbered regulation or the schedule is to be construed as a reference to the regulation or the schedule so numbered in these Regulations.

Designation

3. The National Assembly is designated as the competent national authority for the purpose of Article 3(2) of the Council Regulation.

Standards of good agricultural and environmental condition

4.—(1) The standards of good agricultural and environmental condition referred to in Article 5(1) of the Council Regulation are set out in the Schedule.

(2) If, in relation to any land under an agri-environment commitment, a requirement of the agri-environment commitment conflicts with a standard in the Schedule, any breach of the standard which is a necessary and direct consequence of meeting that requirement is not to be treated as a non compliance.

Permanent pasture

5.—(1) Where the National Assembly establishes that the ratio in Article 3(1) of the Commission Regulation is decreasing, it must prohibit a farmer from converting land under permanent pasture, in accordance with Article 4(1) of the Commission Regulation.

(2) Where the National Assembly establishes that the obligation in Article 3(2) of the Commission Regulation cannot be met, it must require a farmer to re-convert land to permanent pasture in accordance with Article 4(2) of the Commission Regulation.

(**5**) O.J. L215, 30.07.1992, p.85, as last amended by Council Regulation (EC) No.583/2004 (O.J. L91, 30.03.2004, p.1). This Council is no longer in force, but agri-environment commitments entered into under it remain extant.
(**6**) O.J. L160, 26.06.1999, p.80, as last amended by Council Regualtion (EC) No.583/2004 (O.J. L91, 30.03.2004, p.1).
(**7**) 1990 C.43.
(**8**) 1995 c. 25.

Competent Control Authority and Relevant Authorities

6.—(1) The National Assembly is designated as the Competent Control Authority for the purposes of the derogation in Article 42(2) of the Commission Regulation.

(2) The National Assembly may require a relevant authority to carry out controls or checks for the purposes of Article 9 and Chapter I and Chapter III of Title III of the Commission Regulation.

(3) In this regulation, "a relevant authority " means—

(a) The Environment Agency; or

(b) The Countryside Council.

(4) When engaged pursuant to paragraph (2), a relevant authority must —

(a) send to the National Assembly a provisional control report ;

(b) for the purposes of Article 65(4) of the Commission Regulation, notify the National Assembly of any non compliance established.

(5) The functions conferred on the Countryside Council by paragraphs 2 and 4 are to be treated for the purposes of section 132(2), section 133 and paragraphs 19 and 20 of Schedule 6 to the Environmental Protection Act 1990(**9**) as though they were conferred on the Countryside Council under section 132 of that Act.

(6) The National Assembly must pursuant to Article 48 of the Commission Regulation establish the final control report and where the National Assembly is not the Paying Agency, send the final control report to the Paying Agency.

Powers of authorised persons

7.—(1) An authorised person may exercise any of the powers specified in this regulation for the purpose of—

(a) providing a control report pursuant to Article 48 of the Commission Regulation; or

(b) establishing whether there has been any non compliance; or

(c) ascertaining whether an offence under these Regulations has been or is being committed.

(2) An authorised person—

(a) on producing, if so required, some duly authenticated document showing his or her authority, has a right at all reasonable hours to enter any land, other than a building used only as a dwelling, for the purposes of administering these Regulations, the Council Regulation and the Commission Regulation, but

(b) may only do so if the land is a holding occupied by, or in the possession of a farmer or employee, agent, contractor or tenant of a farmer, or if he or she has reasonable cause to believe so.

(3) An authorised person may—

(a) carry out any inquiry, check, examination and test;

(b) take any sample;

(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 any crops growing on that land or kept on it;

(e) mark any animal or other thing for identification purposes;

(**9**) 1990 c. 43.

(f) have access to, inspect and copy any records (in whatever form they are held) kept for purposes connected with any duties or obligations arising under these Regulations or remove such records to enable them to be copied;

(g) 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 any records referred to in paragraph (f), 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 or her such assistance as he or she may reasonably require 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 land or premises by virtue of this Regulation may take with him or her such other persons as the authorised person considers necessary which may include any representative of the European Commission acting for the purposes of the Council Regulation or the Commission Regulation.

(5) If an authorised person enters any unoccupied land or premises, he or she must leave them as effectively secured against unauthorised entry as he or she found them.

(6) Where an authorised person has entered any land, other than a building used only as a dwelling, under a power bestowed on him or her by any enactment, he may exercise any of the powers specified in paragraphs (3) and (4) for the purposes of paragraph (1).

Assistance to authorised persons

8. A farmer or any employee, agent, contractor or tenant of a farmer must give an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred on him or her by regulation 7.

Offences and penalties

9.—(1) Any person who—

(a) intentionally obstructs an authorised person (or person accompanying the authorised person and acting under his or her instructions) in the exercise of a power conferred by regulation 7; or

(b) without reasonable cause fails to comply with a request made under regulation 8,

is guilty of an offence.

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

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

(4) 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 or she, as well as the body corporate, is guilty of an offence.

(5) For the purposes of paragraph (4), "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**10**)

D. Elis-Thomas
8 December 2004 The Presiding Officer of the National Assembly

(**10**) 1998 c. 38.