EXPLANATORY MEMORANDUM TO

THE AGRICULTURE (MISCELLANEOUS AMENDMENTS) REGULATIONS 2012

2012 No. 66

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Agriculture (Cross compliance) (No.2) Regulations 2009 (SI 2009/3365) to implement a recommendation of the Farming Regulation Task Force (to reduce the number of bodies involved in inspecting cross compliance on farms) and to provide for the Secretary of State to give written derogations on the rules on management of land not in agricultural production, overgrazing and unsuitable supplementary feeding of livestock and control of weeds. These Regulations also amend the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulation 2009 (SI 2009/3263) to correct a minor error.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 These Regulations amend the Agriculture (Cross compliance) (No.2) Regulations 2009 (S.I. 2009/3365) with themselves revoked and replaced the Agriculture (Cross compliance) Regulations 2009 (S.I. 2009/3264) which revoked and replaced the Common Agricultural Policy (CAP) Single Payment and Support Schemes (Cross compliance) (England) Regulations 2005 (S.I. 2005/3459). The 2005 Regulations provided for the administration of Council Regulation (EC) No 1782/2003 and Commission Regulation (EC) No 796/2004 in relation to the establishment of a cross compliance control system for direct support schemes under the CAP. They are available on the legislation.gov.uk website, together with the accompanying Explanatory Memorandum (at http://www.legislation.gov.uk/uksi/2005/3459/contents/made).

4.2 These Regulations also amend the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulation 2009 (SI 2009/3263) which revoked, with savings, and replaced the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 (SI 2005/218). The 2005 Regulations provided for the administration of Council Regulation (EC) No 1782/2003 and Commission Regulation (EC) No 796/2004 in relation to the establishment of an integrated administration and control system for direct support schemes under the CAP. They are available on the OPSI

website, together with the accompanying Explanatory Memorandum (at http://www.opsi.gov.uk/si/si2005/20050218.htm).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom in respect of the amendment to the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulation 2009 (SI 2009/3263) and to England in respect of the amendments to the Agriculture (Cross compliance) (No.2) Regulations 2009 (SI 2009/3365).

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 Cross compliance requires that farmers meet environmental and other standards as a condition for subsidy payment under the Single Payment Scheme (SPS) and also as a baseline for Environmental Stewardship (ES) payments under the Rural Development Programme, England.

7.2 Although the standards faced in practice by farmers are unchanged, amendments are required to transfer responsibility for certain inspections from the Environment Agency to the Rural Payments Agency and ensure that the Regulations adequately encompass the need to grant derogations in exceptional circumstances:

- In Regulation 5 references to the Environment Agency as a competent control authority are removed to enable the Rural Payment Agency to undertake inspections previously carried up by the Environment Agency, in line with the recommendations of the Farming Regulation Task Force.
- In Schedule 1 to the 2009 regulations a third sub-paragraph is added to paragraph 3 to provide for the Secretary of State to give written derogations for the rules on overgrazing and unsuitable supplementary feeding in order to enhance the environment or for reasons relating to crop or livestock production.
- In Schedule 1 to the 2009 regulations a tenth sub-paragraph is added to paragraph 5 to provide for the Secretary of State to give written derogations for the rules on the management of land not in agricultural production in order to enhance the environment or for reasons relating to crop or livestock production.
- In Schedule 1 to the 2009 regulations a paragraph 6 is substituted to provide for the Secretary of State to give written derogations for the rules

on the control of weeds in order to enhance the environment or for reasons relating to crop or livestock production.

7.3 The changes to the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 (SI 2009/3263) are made to correct an error by deleting repetition that appears in regulation 12.

- Consolidation

7.4 This instrument amends the Agriculture (Cross compliance) (No.2) Regulations 2009 (S.I. 2009/3365). While we had anticipated a potential consolidation of these regulations at this time further changes to the delivery of cross compliance policy currently under consideration as a result of the recommendations of the Farming Regulation Task Force may lead to the need for subsequent revisions in 2012 which would then provide an opportunity to revoke and remake the regulations into a final stable form for the reminder of the current CAP period (we anticipate large scale changes to cross compliance will need to be introduced for 2014 as part of CAP reform).

7.5 The changes this instrument makes to the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 (SI 2009/3263) are minor and consolidation is not merited. We anticipate that there will be large scale changes made to the single support scheme as part of CAP reform introduced for 2014.

8. Consultation outcome

8.1 As this instrument only clarifies technical aspects of current policy and deletes repetition in the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 (SI 2009/3263) no consultation was conducted. With regards to the Agriculture (Cross compliance) (No.2) Regulations 2009 (S.I. 2009/3365), the policy this instrument implements was subject to consultation in 2009 and the outcome of that consultation is summarised in the Explanatory Memorandum to the 2009 Regulations available from http://www.legislation.gov.uk/uksi/2009/3365/memorandum/contents.

9. Guidance

9.1 Because of the technical nature of the amendments made in this instrument the basic requirements and guidance provided to farmers will not alter. The Rural Payments Agency provides all farmers subject to cross compliance with guidance that gives details of all cross compliance requirements and will include information on the derogations available and the new inspection arrangements. As well as these guidance documents, cross compliance is covered by a ‘Farm Advisory Service’ (FAS) which manages a

website containing further information, writes articles for the farming press and holds events for farmers and farm advisors.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil, other than a simplified regime of inspection for farmers and a clearer framework for seeking derogations to cross compliance standards.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument because it does not lead to additional costs for business.

11. Regulating small business

11.1 The legislation applies to small business (the majority of farms are small businesses so this legislation applies primarily to small businesses).

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to design standards in consultation with the farming industry. These regulations however do not lead to any additional costs or savings for firms.

11.3 The basis for the final decision on what action to take to assist small business is feedback received from farmers and industry groups, including the Farming Regulation Task Force. In particular the removal of the Environment Agency's role in inspecting cross compliance standards will simplify the inspection regime for farmers and reduce the number of separate cross compliance inspection visits.

12. Monitoring & review

12.1 The Common Agricultural Policy (of which cross compliance forms part) will be renegotiated at European level in 2012/2013 and the outcomes of that negotiation will be monitored for potential impacts on this instrument. In the meantime feedback will be sought from farmers on guidance materials and advice services during implementation and incorporated into further revisions of guidance and advice materials in 2012 and 2013. Performance against the cross compliance standards themselves is monitored annually under the cross compliance inspection programme.

13. Contact

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