EXPLANATORY MEMORANDUM TO

THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT SCHEMES (AMENDMENT) REGULATIONS 2012

2012 No. 3027

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 Common Agricultural Policy Single Payment and Support Schemes Regulations 2010 (SI 2010/540) ("the 2010 Regulations"). The 2010 Regulations provide for the administration in England of Council Regulation (EC) No 73/2009 which provides common rules for direct support schemes for farmers under the Common Agricultural Policy (CAP).

2.2 These Regulations provide for the continuation of provisions for the application of adjustments (previously referred to as voluntary modulation) to farmers' direct payments, so that they apply in 2013 in the same way as in 2012.

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

3.1 None

4. Legislative Context

4.1 The Single Payment Scheme and other direct payments for farmers are provided for in Council Regulation (EC) No 73/2009. The 2010 Regulations set out the decisions taken in England in relation to the areas of discretion available to Member States.

4.2 Council Regulation (EC) No 378/2007 provided the option for certain Member States, including the UK, to apply voluntary modulation (which is the reduction of farmers' direct payments to help fund rural development programmes) up until 2012. The rates of voluntary modulation applicable in England were laid down in the 2010 Regulations.

4.3 Article 10b of Council Regulation (EC) No 73/2009, as amended by Regulation (EU) No 671/2012, provides the option for Member States to continue to apply voluntary modulation (now referred to as 'voluntary adjustments') in 2013.

4.4 These Regulations set the voluntary adjustment rate in England for 2013.

4.5 These Regulations also revoke the Common Agricultural Policy Single Payment and Support Schemes (Reductions from Payments) (England) Regulations 2006 (SI 2006/169).

5. Territorial Extent and Application

5.1 This instrument, and the instrument which it amends, applies to England.

6. European Convention on Human Rights

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 Direct payments made to farmers under Pillar 1 of the CAP are reduced (or 'modulated') and the modulation amounts transferred to Pillar 2 of the CAP for spending on rural development measures, such as agri-environment schemes. There are two elements of modulation: compulsory EU modulation and an option to apply additional voluntary modulation. The UK has made use of voluntary modulation since 2001 and this has allowed it to operate larger and more far-reaching rural development programmes than would otherwise have been feasible, in order to achieve the desired policy outcomes, particularly for the achievement of environmental benefits.

7.2 The CAP is currently subject to an EU review ('CAP reform'), with the current direct payment schemes due to be replaced in 2014. The CAP reform proposals include an optional provision for Member States to be able to transfer funds between Pillar 1 and 2 from 2014. To avoid a gap between the end of the current voluntary modulation provisions (which run until 2012) and the proposed new CAP reform regulations, the Commission has made provision for voluntary modulation (now referred to as voluntary adjustments) to be applied in 2013.

7.3 The use of voluntary adjustments continues to be important in England as voluntary adjustments currently fund approximately 40% of the Government's rural development programme in England. The Government has decided to set the rates of voluntary adjustment in 2013 at the same levels as in 2012. This means that the impact of voluntary adjustments on farmers' direct payments remains exactly the same. This decision takes account of the need to ensure that the Government continues to have sufficient Pillar 2 budget to fund existing rural development agreements, particularly important given the multi-annual nature of agri-environment agreements, and that important environmental public goods continue to be delivered.

7.4 The opportunity is also being taken to revoke a Statutory Instrument (SI 2006/169) which related to the calculation of farmers' direct payments for the 2005 scheme year.

The payment window for the 2005 scheme year has ended and these Regulations are no longer required.

- Consolidation

7.5 These Regulations are the first to amend the 2010 Regulations, and are minor, so consolidation is not currently merited. Extensive changes will be made to the system of direct payments to farmers as part of CAP reform, currently scheduled to be introduced for 2014, when new regulations are likely to revoke these and the 2010 Regulations.

8. Consultation outcome

8.1 The amendment to the voluntary modulation provision set out in these Regulations was not subject to consultation as it does not result in a change to the value of direct payments farmers will receive in 2013 compared to 2012.

9. Guidance

9.1 The rates of voluntary adjustment to be applied for the 2013 scheme year will be included in the updated scheme guidance which will be made available to farmers in Spring 2013.

10. Impact

10.1 There is no new impact on business, charities or voluntary bodies because the rates of voluntary adjustment for 2013 have been set at the same level as for 2012.

10.2 There is no new impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as the rates of voluntary adjustment are unchanged so there are no new impacts on the private, voluntary or public sectors.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There will be no additional burdens for small businesses as the Regulations do not impose any new burdens on business generally. The existing voluntary modulation rates, which continue to apply in 2013, result in a percentage deduction from each farmer's direct payment. It therefore does not affect small farmers disproportionately.

12. Monitoring & review

12.1 The system of direct payments is subject to the wider EU review of the CAP which is currently underway. This review is currently scheduled to conclude by 2014.

13. Contact

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