EXPLANATORY MEMORANDUM TO

THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT SCHEMES (CROSS-COMPLIANCE) (ENGLAND) (AMENDMENT) REGULATIONS 2006

2006 No.3254

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. Description

2.1 This instrument amends the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2005 (SI 2005/3459).

2.2 The key amendments made are:-

- designation of a competent control authority (enforcement body) for the new animal welfare standards;
- changes to the competent control authority designations for existing standards;
- revisions to the requirements for the Soil Protection Review.

2.3 This instrument also makes minor amendments to the powers of inspectors and to standards relating to post-harvest management of land, overgrazing and unsuitable supplementary feeding, and sites of special scientific interest. It also amends the definition of agri-environment commitments.

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

3.1 None.

4. Legislative Background

4.1 *General:*

This instrument is being made under section 2(2) of the European Communities Act 1972 (1972. c.68). It amends SI 2005/3459 which implements certain provisions of Council Regulation (EC) 1782/2003 (Title II, Chapter 1 and Chapter 4)) and Commission Regulation (EC) 796/2004 (Title III, Chapter I and III) which lay down the framework for the system of agricultural subsidies under Pillar 1 of the Common Agricultural Policy and which set out the rules on cross-compliance.

4.2 *EU legislation:*

4.2.1 The Community legislation referred to above has applied to aid applications for income support payments since 1 January 2005. 7 new statutory management requirements ("SMRs") (Annex III of Council Regulation (EC) 1782/2003 numbers 9-15) applied from 1 January 2006 and 3 further SMRs (numbers 16-18) apply from 1 January 2007.

4.2.2 No transposition note is necessary as this instrument relates to EC Regulations.

5. Extent

5.1 This instrument applies to England only.

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

7.1 Cross-compliance links the payment of direct payments under the current European CAP to compliance with certain standards and requirements. The relevant Articles of the EC Regulations and Directives from which the statutory management requirements (SMRs) are derived are laid down by Annex III of Council Regulation (EC) No 1782/2003. Member States are required to decide on the standards of good agricultural and environmental condition (GAEC). Those GAEC standards as well as provisions for the administration and enforcement of both GAEC standards and SMRs were originally laid down in SI 2004/3196. That SI was repealed and replaced by SI 2005/3459. This instrument amends SI 2005/3459. The policy reasons for the principal changes are explained below.

7.2 The Secretary of State is designated in this instrument as the competent control authority ("the CCA") for the three new animal welfare SMRs – SMRs 16-18. Designation of the Secretary of State will mean in practice that the State Veterinary Service (SVS) will carry out checks and controls for these SMRs. The SVS is an executive agency of the Department for Environment, Food and Rural Affairs. It currently enforces animal welfare related standards under domestic law and thus has the requisite competence to enforce these SMRs.

7.3 This instrument also designates the Environment Agency (EA) as the CCA in relation to SMRs 2, 3 and 4 (groundwater, sludge and nitrates). Previously it operated as a delegated agent of the Rural Payments Agency (RPA). This change will allow EA to carry out more efficient and better targeted checks and controls.

7.4 The RPA, which has in practice been carrying out the checks and controls in respect of SMR 11 (food and feed law) on behalf of the Secretary of State, is formally designated as the CCA.

7.5 Both the RPA and the Secretary of State may request Natural England, which has taken over the responsibilities of English Nature, to carry out certain controls.

7.6 The provisions relating to the Soil Protection Review (SPR) are amended and updated. These now take account of new entrants to the SPS who will be required to complete the SPR in 2007 for the first time, and others who will for the first time need to complete an SPR. This latter will include those who enter into commitments under new Rural Development Regulation measures set up pursuant to Council Regulation (EC) No 1698/2005, who will be subject to cross-compliance from 1 January 2007.

7.7 This instrument clarifies that in addition to providing guidance, the Secretary of State may, where existing practises are seen to be causing damage, give farmers directions to ensure that their soils are well managed. This power is limited by the purpose of the soils standards as well as published soil management guidance. The requirement that farmers retain the soil management guidance for inspection is removed.

7.8 The following minor revisions are also made:-

- post-harvest management of land – to provide additional flexibility for farmers in meeting the requirement;
- overgrazing and unsuitable supplementary feeding – to clarify the powers of the Secretary of State;
- sites of special scientific interest - to reflect changes to domestic legislation made in the Natural Environment and Rural Communities Act 2006;
- the definition of agri-environment commitments (which are given precedence over cross-compliance standards in the event of conflict) - to include commitments under measures falling under Council Regulation (EC) No 1698/2005.

7.9 The changes to standards and requirements which apply for cross-compliance in 2007 are set out in the *Cross Compliance Handbook for England: 2007 edition supplement.* This was sent out in November 2006 to all farmers claiming the Single Farm Payment.

8. Impact

8.1 It has not been considered necessary to carry out an RIA in respect of this instrument, due to the minimal nature of the changes. A Regulatory Impact Assessment (RIA) on the effect that cross-compliance will have on the costs of business was completed for the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004. A further RIA was also carried out for the changes set out in SI 2005/3459. Details of the 2004 and 2005 RIAs are available through the Defra website at:

http://www.defra.gov.uk/farm/capreform/background/260603-riacon.htm

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