DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

EXPLANATORY MEMORANDUM

THE COMMON AGRICULTURAL POLICY SUPPORT SCHEMES (MODULATION) (AMENDMENT) REGULATIONS 2004 No.2330

1. Laying Authority and Purpose:

This explanatory memorandum is laid before Parliament by Command of Her Majesty.

Department responsible:

Department for Environment, Food and Rural Affairs (Defra)

2. Description

These Regulations amend the Common Agricultural Policy Support Schemes (Modulation) Regulations 2000 (SI 2000/3127) ("the 2000 Regulations") to allow modulation of payments under a number of new CAP direct support schemes (including dairy premium and additional payment, and aid for durum wheat, protein crops, potato starch, nuts and energy crops). The amendments exempt from modulation payments under the Sheep and Wildlife Enhancement Scheme (a sheepmeat envelope scheme). The Regulations also make minor amendments to simplify the 2000 Regulations and to reflect changes to relevant European Community instruments.

3. Matters of special interest

There are no matters of special interest.

4. Legislative background

These Regulations amend the Common Agricultural Policy Support Schemes (Modulation) Regulations 2000 (SI 2000/3127, as amended by SI 2001/3686).

The Regulations implement the replacement of the Annex to Council Regulation (EC) 1259/1999 by Commission Regulation (EC) 41/2004. This

extends the existing rules (found in Articles 4 and 5 of the Council Regulation) by allowing Member States to modulate the new direct payment schemes introduced as part of the CAP reforms (as to which, see Council Regulation (EC) 1782/2003).

5. Extent

These Regulations apply to England. Modulation is currently applied in the same way throughout the UK; each devolved administration is making an equivalent amendment to its legislation.

6. European Convention on Human Rights

There are no ECHR implications.

7. Policy background

'Modulation' is a mechanism allowing Member States to reduce payments to farmers under Pillar I of the CAP (direct subsidies), and to spend the money raised, match funded by the Member State, on Pillar II (rural development) 'accompanying measures'. These include agri-environment schemes, less-favoured area support, and afforestation schemes.

Modulated funds are returned to farming to pay for things in the public interest – wider rural development and environmental protection, benefiting all who live and work in rural areas and those who visit for recreation. For every £1 raised by modulation, £2 is returned to the rural economy.

The UK has applied modulation since 2001, starting with a flat rate of 2.5% and increasing gradually over time – the current rate is 3.5%. Since its introduction modulation has been applied, at the same rate, to all direct payments to farmers in the UK.

In 2002 the Policy Commission on the Future of Farming and Food recommended that the rate be increased to 10% with the receipts from increased modulation, plus associated UK match-funding, used to finance a new agri environment scheme, Entry Level Stewardship, for which all farmers would be eligible. Entry Level Stewardship will be introduced in 2005, and new modulation provisions will be introduced in the next stage of the implementation of CAP reform.

The changes made by these amending Regulations will not result in a significant increase in funds for agri-environment and will only have effect in 2004. The estimated total of the funds raised through modulating these schemes is £3.22m. However the changes ensure that all farmers in receipt of direct payments contribute to modulation, and thus ensure equal treatment.

The only payments excluded from modulation are payments under the Sheep and Wildlife Enhancement Scheme ('SWES'). SWES is a sheepmeat envelope scheme. Under envelope schemes, up to 10% of the direct payments in a particular sector are paid (often as a top-up to headage payments) only to farmers meeting certain criteria. SWES is run by English Nature, and makes payments to sheep farmers who agree to stock at appropriate levels on SSSIs. Because of SWES's similarity to the schemes funded through modulation, and because it is operated through written agreements guaranteeing payment rates, SWES payments will not be subject to modulation.

8. Impact

A full regulatory impact assessment has not been prepared for this instrument as it has no impact on the cost of business. All CAP schemes are voluntary, and the sums raised by modulation are returned, match-funded, to the agricultural sector.

9. Contact

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