EXPLANATORY MEMORANDUM TO

THE COUNTRYSIDE STEWARDSHIP (ENGLAND) (AMENDMENT) (No. 2) REGULATIONS 2023

2023 No. 968

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 Defra has received feedback from stakeholders highlighting the impact of the reduction in payments from, and ultimately the removal of, the Basic Payment Scheme. An alternative source of income is currently received through Defra's agri-environment schemes, including Countryside Stewardship.

2.2 One concern is the difference between payment rates for similar options, available separately in either the upland or lowland environment, which if removed could reduce inequalities and provide a fairer payment for similar actions.

2.3 A further amendment will increase the rate of an organic conversion option to align it with its equivalent management option.

2.4 This instrument increases the payment rates for six Countryside Stewardship activities ('options') all of which make environmental improvements in agreements entered into under domestic terms and conditions, since the United Kingdom left the Common Agricultural Policy.

3. Matters of special interest to Parliament

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

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Countryside Stewardship agreements that started on 1 January 2021 and 1 January 2022 operate under the Countryside Stewardship (England) Regulations 2020 ("the 2020 Regulations"). This instrument amends the 2020 Regulations so that agreement

holders whose agreements started in 2021 and 2022 can benefit from the new, higher payment rates associated with these six activities to bring alignment and fairness.

6.2 There are two other sets of Countryside Stewardship agreements which remain in delivery; those which are under retained EU (European Union) law (2016-2020) and those with a start date of 1 January 2023 or later which are under the Agriculture Act 2020. The equivalent rates will be available to those agreement holders.

7. Policy background

What is being done and why?

7.1 Countryside Stewardship agreements were first offered through the Rural Development Programme for England in 2015, part of the European Union's (EU) Common Agricultural Policy. Following EU exit, a domestic Countryside Stewardship scheme was launched under the 2020 Regulations with the first application window opening in February 2020. Both schemes provide funding for farmers, woodland owners and land managers to make environmental improvements through activities such as: conserving and restoring wildlife habitats; managing flood risk; creating and managing woodland; reducing water pollution and encouraging educational access by hosting school visits.

7.2 Countryside Stewardship revenue agreements last for either 5, 10 or, in some circumstances, 20 years. Agreement holders receive a set annual payment each year, providing they carry out all the land management activities specified in their agreement. All live agreements became domestically funded from 1 January 2023, when all these agreements moved from EU to domestic terms and conditions governed by the Agriculture Act. The legislation for this was the Rural Development (England) (Amendment) Regulations 2022 (S.I. 2022 No. 765) which was laid on 6 July 2022 and came into force on 28 July 2022, and the Rural Development (Amendment) (No. 2) (England) Regulations 2022 (S.I. 2022 No. 1225), which was laid on 23 November and came into force on 15 December 2022.

7.3 Each activity has an associated payment rate. The Department keeps payment rates under review and decided to increase rates for all new and existing CS (Countryside Stewardship) agreement holders to make sure rates better reflect the costs and income foregone of carrying out the actions. A similar increase in rates took place in 2022, under the (S.I. 2022 No. 141).

7.4 Defra has carried out a further review of the payment rates associated to the activities relating to a set of options differentiated primarily on their use in the upland/Severely Disadvantaged Areas or lowland environment. The options relate to the management of inputs on permanent grassland, the removal of livestock on a seasonal basis or the creation, restoration and management of wood pasture. The review determined that four had a lower payment rate for upland farmers whereas one had a lower payment rate for lowland farmers. Defra has determined that the payment differential between the upland and lowland situations does not need to remain, in this instance. In all cases the payment rates for these activities will be set at the higher rate already set for its counterpart lowland or upland option, which equates to amending the rate for five options.

7.5 The higher payment rate will be used in payment calculations and will apply to all payments for the agreement year 2023 and following. This will remove the disparity

and may have an additional beneficial consequence of increasing take up of these options in the uplands.

7.6 A further amendment will increase the rate of an organic conversion option to align it with its equivalent organic management option. This is an update in line with changes made in the Countryside Stewardship (England) (Amendment) Regulations 2023 (S.I. 2023 No. 159).

7.7 This instrument amends the payment rates for existing domestic Countryside Stewardship agreement holders whose agreements were taken out under the Countryside Stewardship 2020 regulations. The payment rates for existing pre 2020 agreements will be amended through an update to the scheme literature.

7.8 The Government has committed to guaranteeing the current annual budget to farmers in every year of this Parliament and reductions will be applied to Direct Payments until they are phased out completely in 2027.[1] The funding released from reductions in Direct Payments will be re-invested into delivering other schemes, including the Countryside Stewardship payment rate increases.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 Defra does not intend to consolidate the legislation at this time.

10. Consultation outcome

10.1 The changes to payment rates have been discussed with stakeholders at the Rural Payment Agency's Agri-Environment Stakeholder Working Group whose members include the National Farmers Union, Country Land and Business Association, Royal Society for the Protection of Birds, Tenant Farmers Association and the National Trust. The discussion was conducted informally as part of the monthly stakeholder forum.

11. Guidance

11.1 The Countryside Stewardship manuals and online guidance will be updated to reflect the new payment rates.

11.2 Existing agreement holders will also be contacted to inform them of the change in payment rates.

12. Impact

12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

[1] Defra's Agricultural Transition Plan (The Path to Sustainable Farming: An Agricultural Transition Plan 2021 to 2024 (publishing.service.gov.uk)) and Agricultural Transition Plan Progress Update (Agricultural Transition Plan: June 2021 progress update - GOV.UK (www.gov.uk)) provide more information on Direct Payments reductions and how these will occur.

12.3 A full Impact Assessment has not been prepared for this instrument because participants in the Countryside Stewardship scheme receive financial assistance in the form of grants and their payments will not decrease because of this instrument, they will either increase or stay the same.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that this instrument only applies to small businesses which have voluntarily entered into a Countryside Stewardship grant agreement and the value of their grant agreement will not decrease because of this instrument, it will either increase or stay the same.

14. Monitoring & review

14.1 The approach to monitoring this legislation is that the payment rates will continue to be monitored to ensure that they reflect the costs incurred in carrying out the activity.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Mark Spencer, MP, Minister for Farming, Fisheries and Food, has made the following statement:

"A statutory review clause is not appropriate because this instrument concerns the giving of grants by a public authority."

15. Contact

15.1 Simon Wild at the Department for Environment, Food and Rural Affairs Telephone: 07799 656675 or email: simon.wild@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Fiona James, Deputy Director for Policy Design in the Farming and Countryside Programme at Defra can confirm that this Explanatory Memorandum meets the required standard.

15.3 Mark Spencer, MP, Minister for Farming, Fisheries and Food at Defra can confirm that this Explanatory Memorandum meets the required standard.