EXPLANATORY MEMORANDUM TO

THE COUNTRYSIDE STEWARDSHIP (ENGLAND) (AMENDMENT) REGULATIONS 2023

2023 No. 159

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 This instrument increases the payment rates for some Countryside Stewardship management activities, all of which make environmental improvements, in domestic agreements entered into since the UK left the Common Agricultural Policy. Defra has carried out a review of payment rates to ensure that they reflect the costs incurred and income foregone by scheme participants. Where payment rates have increased, existing domestic agreement holders will receive the new higher rate, ensuring that they are fairly compensated for their work and not financially disadvantaged when compared with new entrants to the scheme.

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 Jan 2021 and 1 Jan 2022 operate under the Countryside Stewardship (England) Regulations 2020 ("the 2020 Regulations"). Agreements with a start date of 1 Jan 2023 or later are under the Agriculture Act 2020. 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 to reflect the increased costs and income foregone from carrying out the activities.

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 of the land management activities specified in their agreement. All live agreements became domestically funded from 1 Jan 2023, when all of 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 (SI 2022 No. 765) which came into force on 28 July 2022, and the Rural Development (Amendment) (No. 2) (England) Regulations 2022 (S.I. 2022/1225), which was laid on 23 November and came into force on 15 December 2022.

7.3 Each management activity has an associated payment rate. The Department keep payment rates under review and decided to increase rates from January 2023 for all new and existing CS 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 Countryside Stewardship (England) (Amendment) Regulations 2022 (S.I. 2022/141).

7.4 The next application round for Countryside Stewardship revenue agreements opens in February 2023 with the agreements starting on 1 January 2024. These agreements will utilise the new payment rates. Existing Countryside Stewardship agreement holders will also receive the new rate from 2023 onwards if it is higher than the rate set out in their agreement. Where the rate has fallen as a result of the review, the rate set out in the original agreement will be honoured for its duration. This ensures that agreement holders continue to be fairly compensated for the work they carry out.

7.5 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.

7.6 On average, payment rates have risen by 10% as a result of the review. 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

[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.

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 consultation was conducted informally as part of the regular stakeholder forum and the process for applying the new rates agreed. All stakeholders were supportive of the proposed changes.

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.

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 as a result 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 as a result 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 Mary Colvill at the Department for Environment, Food and Rural Affairs Telephone: 07917637750 or email: mary.colvill@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Deborah Wells, Deputy Director for the Common Agricultural Policy and Transition 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.