EXPLANATORY MEMORANDUM TO

THE RURAL DEVELOPMENT PROGRAMME (TRANSFER) (ENGLAND) REGULATIONS 2018

2018 No. 964

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to transfer the responsibility for rural development grant agreements relating to Countryside Stewardship and Environmental Stewardship from Natural England to the Rural Payments Agency (RPA) with effect from 1 October 2018.

2.2 Individual beneficiaries currently enter into agri-environment, woodland and heritage conservation agreements with Natural England, which is acting on behalf of the Secretary of State.

2.3 The result of the transfer will be that grant agreements issued under these schemes will have effect as if entered into with the Secretary of State, rather than Natural England. This will allow the RPA, as an executive agency of Defra, to administer the grant agreements and take any other actions required in respect of them, in particular amending existing agreements.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

4.3 This instrument applies to schemes which are part of the Rural Development Programme for England. Scotland, Wales and Northern Ireland each run a rural development programme, which will not be affected by this instrument.

4.4 The affected agreements are in respect of land located in England. There will be consequential effects on some beneficiaries who reside outside England but manage land in 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 This instrument transfers responsibility for grant agreements to the Secretary of State so that they may be administered by the RPA, as an executive agency of Defra.

6.2 The grant agreements are for land management schemes delivered as part of the Rural Development Programme for England 2014 – 2020 under Regulation (EU) No 1305/2013 of the European Parliament and of the Council and legacy schemes delivered as part of the Rural Development Programme for England 2007 – 2013 under Council Regulation (EC) No 1698/2005. These schemes are referred to as Countryside Stewardship and Environmental Stewardship respectively.

6.3 The following grant agreements made under the specified articles of Council Regulation (EC) No 1698/2005 will be transferred:

- Entry Level Stewardship: 36(a)(iv);
- Higher Level Stewardship: 36(a)(iv), 36(a)(vi), 52(a)(iii) and 52(b)(iii);
- Organic Entry Level Stewardship: 36(a)(iv);
- Entry Level Plus Higher Level Stewardship 36(a)(iv);
- Organic Entry Level Plus Higher Level Stewardship: 36(a)(iv).

6.4 The following grant agreements made under the specified articles of Regulation (EU) No 1305/2013 of the European Parliament and of the Council will be transferred:

- Mid Tier Stewardship: 28(2) and 29(1);
- Higher Tier Stewardship- agri environment: 28(2) and 29(1);
- Higher Tier Stewardship- woodland, including Woodland Improvement and Woodland Creation Maintenance: 17(1)(c), 21(1)(a), 21(1)(d) and 34(1);
- Hedgerow and Boundaries Grant: 17(1)(d);
- Historic Buildings Restoration Grant: 20(1)(f);
- Water Capital Grant: 17(1)(d);
- Woodland Creation Grant: 21(1)(a);
- Woodland Tree Health Grant: 21(1)(c);
- Woodland Management Plan Grant: 21(1)(d);
- Implementation Plans and Feasibility Studies: 17(1)(d) and 21(1)(c);
- Facilitation Fund 35(1)(a), 35(2)(f), 35(2)(g).

7. Policy background

What is being done and why

7.1 Countryside Stewardship (CS) and its predecessor Environmental Stewardship (ES) are land management schemes. They form part of Pillar II (rural development) of the Common Agricultural Policy (CAP), the agricultural policy of the European Union. The schemes are co-funded by the Exchequer and the Commission.

7.2 The schemes provide funding for farmers, woodland owners, foresters 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 from agriculture, encouraging educational access, preserving features important to the history of the rural landscape and maintaining the character of the countryside.

7.3 Successful applicants receive an agreement that lasts for either 2, 5, 10 or 20 years, depending on the specific scheme applied for and its complexity.

7.4 Typically agreement holders receive funding for each year of their agreement, providing they continue to meet the scheme's requirements, but some schemes also provide one off payments for specific capital options.

7.5 Environmental Stewardship was launched in 2005 and closed to new applicants in 2014. The final payments are scheduled to be made in 2025. Countryside Stewardship opened for applications in 2015.

7.6 The schemes are run jointly by Natural England, Forestry Commission England and the RPA, the designated paying agency, on behalf of Defra, the managing authority. Beneficiaries enter into agreements with Natural England, which has overall responsibility for delivery.

Transfer

7.7 From 1 October 2018, as part of a wider project to improve delivery of the schemes and simplify them under the existing EU framework, overall responsibility for the delivery of Countryside Stewardship and Environmental Stewardship will transfer from Natural England to the RPA. As a consequence of this, responsibility for Countryside Stewardship and Environmental Stewardship grant agreements entered into from 1 January 2007 will be transferred by this instrument.

7.8 Existing Countryside Stewardship and Environmental Stewardship grant agreements entered into from 1 January 2007 will have effect as if entered into with the Secretary of State rather than Natural England. This will allow the RPA, as an executive agency of Defra, to be able to amend existing Countryside Stewardship and Environmental Stewardship grant agreements and take other actions required in respect of them.

Sites of Special Scientific Interest (SSSIs)

7.9 SSSIs are areas protected by law to conserve and enhance their flora, fauna, geological or physiographical features which are of special interest and are designated by Natural England. Carrying out an operation which is likely to damage the protected feature on a SSSI requires consent from Natural England. The operations requiring consent are specified when the SSSI is designated and they may include some Countryside Stewardship and Environmental Stewardship options.

7.10 For Countryside Stewardship permission to carry out an operation requiring consent is issued independently of the grant agreement but for Environmental Stewardship this is not the case: the consent is explicitly provided by the agreement. The transfer of Environmental Stewardship grant agreements to the Secretary of State does not affect any underlying Environmental Stewardship SSSI provisions.

7.11 This instrument does not transfer responsibility for granting consent to undertake operations on SSSIs from Natural England to the Secretary of State.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This instrument does not amend another instrument and therefore consolidation is not applicable.

10. Consultation outcome

10.1 A consultation was not considered necessary for this instrument. Stakeholders were consulted informally and through the Countryside Stewardship Technical Stakeholder Group about the transfer of delivery from Natural England to the RPA. This instrument puts in place arrangements for the transfer of existing grant agreements so a separate consultation was not considered necessary.

11. Guidance

11.1 It has not been necessary to produce any guidance.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies. Beneficiaries will only need to deal with a different delivery team as part of the claims process.

12.2 There is no significant impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no significant impact is foreseen on the private, voluntary or public sectors.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses who are beneficiaries of Countryside Stewardship or Environmental Stewardship funding. This instrument will not, however, impose any additional administrative burdens on them but simply make provisions for the RPA to administer grant agreements in place of Natural England.

14. Monitoring & review

14.1 The transfer of responsibility for grant agreements from Natural England to the RPA is a one off action taken at the time of the transfer of delivery.

14.2 It is an EU requirement for the Rural Development Programme to have a monitoring committee to examine the programme's performance and the effectiveness of its implementation. An annual implementation report is also submitted to the Commission, which assesses the programme's progress in achieving its aims. The programme will end in 2020, with funding able to be committed until 2023 under EU financial arrangements. There is a requirement under European law to maintain monitoring and evaluation for up to seven years after a final grant is paid to a beneficiary.

14.3 These Regulations do not include a statutory review clause.

15. Contact

15.1 John Place at the Department of Environment, Food and Rural Affairs Telephone: 07881502517 or email: john.place@defra.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Laura McCambridge at the Department of Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 George Eustice at the Department of Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.