

## **Explanatory Memorandum to the Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2008**

This Explanatory Memorandum has been prepared by the Rural Payments Division of the Department for Rural Affairs and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

- (i) **Description** - This Statutory Instrument will:
- Introduce the date of 15 May on which eligible land must be at a farmer's disposal for the Single Payment Scheme (SPS) (i.e. replacing the 10 month rule that was in place in 2007).
  - Outline the arrangements for incorporating into the SPS the criteria for calculating farmers' reference amounts in relation to sugar beets.
  - Set the rate of voluntary modulation to be applied in 2008 at 2.5%.
  - Revoke the current Regulation applying to a specific growing period for horticulture crops, as these crops are now eligible for SPS all year round.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – None.
- (iii) **Legislative Background** – This Statutory Instrument will be made under section 2 (2) of the European Communities Act 1972 to implement EC law in relation to the common agricultural policy by virtue of the designation of the National Assembly for Wales under European Communities (Designation) (No 3) Order 2005 (S.I. 2005/2766). By virtue of sections 59 (1) and 162 of and paragraphs 28 and 30 of schedule 11 to the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by SI 2005/2766 are now exercisable by the Welsh Ministers. This SI is being made under the negative resolution procedure.
- (iv) **Purpose and intended effect of the legislation** – This Statutory Instrument is necessary to give effect to changes in the administration and rules of the Single Payment Scheme (SPS) introduced by the European Commission.

Following the abolition of the SPS 10-month rule from 2008 (i.e. the period for which, up to 2007, farmers were required to have SPS land at their disposal each year), EU Member States now need only fix a single day on which farmers must have the land at their disposal. 15 May has been agreed on a UK basis.

Sugar producers were brought into the SPS from 2006. England led on the arrangements as we only have two registered sugar producers in Wales (and one of these is a cross-border farmer). Nevertheless, the legal advice is that we should incorporate changes into the Welsh Regulations, similar to those in England so we have a confirmed legal basis for making SPS payments to these sugar producers.

The current Regulations set the rate of voluntary modulation up to 2006. In June 2007 the then Minister for Sustainability and Rural Development announced the rates of voluntary modulation that would apply between 2007 and 2013 (for the purposes of the Rural Development Plan for Wales). There was a zero rate for 2007 and 2.5% for 2008. This Statutory Instrument confirms the rate for 2008 that will apply to payments under the SPS, the Protein Crop Premium and the Aid for Energy Crops.

This Statutory Instrument revokes the current Regulation 8 of the Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2005 applying a specific growing period for horticulture crops, as these crops are now eligible for payment under the SPS all year round.

- (v) **Implementation** – Failure to incorporate these changes into the Welsh Regulations would mean that the Welsh Assembly Government has no confirmed legal basis in respect of some important aspects for making SPS payments. This would mean the Welsh Assembly Government not implementing obligations in EU Regulations, which could lead to infraction proceedings being brought by the European Commission.
  
- (vi) **Consultation** – The change from the 10 - month rule to a single day at which farmers are required to have SPS land at their disposal was a European Commission requirement and not discretionary. Whilst not subject to consultation it was highly welcomed in Wales and eased the pressure on traditional land-letting practices.

DEFRA were responsible for the previous payment of aid under the sugar regime for the two sugar producers in Wales. They conducted a formal consultation during February to May 2006 and respondents included industry representative organisations and individual growers. The arrangements finally decided on reflected the favoured options in the consultation document, but also took account of specific changes which the National Farmers Union and individuals requested. No separate consultation took place in Wales.

Widespread consultation was undertaken throughout Wales on both inclusion of fruit and vegetables as eligible crops for the SPS from 2008 and setting the voluntary modulation rate at 2.5% for 2008. Responses received informed the decision making process.

- (vii) **Regulatory Impact Assessment** – No impact assessment has been prepared in respect of this Statutory Instrument as it has no material effect on the costs of farming businesses or the voluntary sector.