

**Explanatory Memorandum to the Common Agricultural Policy Single
Payment and Support Schemes (Cross Compliance) (Wales)
(Amendment) Regulations 2014**

This Explanatory Memorandum has been prepared by Sustainable Futures and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2014.

Alun Davies AM

Minister for Natural Resources and Food

DATE

1. Description

The application of the new European Common Agricultural Policy (CAP) Regulations, which will govern how farmers receive funding and replace the current Single Payment Scheme and Rural Development area based scheme payments (e.g. Glastir), have been postponed until 1 January 2015.

In the interim, a Transitional Regulation which enables the existing regime to continue until 1 January 2015 and, amongst other things, removes the current groundwater Statutory Management Requirement (SMR) and replaces it with a requirement for a minimum standard of Good Agricultural and Environmental Condition (GAEC) in relation to groundwater. These Regulations therefore establish such a GAEC.

These Regulations also reduce the surface water buffer zone for the spreading of organic manure from 10 meters to 6 meters for those using precision spreading equipment.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Transitional Regulation, which enables Single Payment Scheme and Rural Development area based scheme payments to be made in 2014, was published on 20 December 2013. It has not been possible to implement these Regulations domestically by 1 January 2014. Until these Regulations come into force the cross compliance requirements in respect of groundwater are not enforceable in Wales, should any breaches be found by the Rural Inspectorate of Wales. Section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, introduces the rule that statutory instruments come into force at least 21 days from the date of laying.

Due to the very short period between the adoption of the Transitional Regulation, its entry into force and in order to minimise the period in which the enforcement gap exists, this Instrument breaches the 21 day rule.

A letter of notification of any non-compliance has been prepared for the Minister for Local Government and Government Business to send to the Presiding Officer.

3. Legislative background

The CAP is the system of subsidies and programmes under which European farmers work. The CAP covers farming, environmental measures and rural development, and controls EU agricultural markets.

On 16 December 2013, the Council of EU Agriculture Ministers formally adopted the four Basic Regulations for the reformed CAP as well as the Transitional Regulation.

The current European Regulations which govern the single payment scheme and rural development programmes expired on 31 December 2013. As the suite of new CAP Regulations were only published in the Official Journal on the 20 December 2013, there was insufficient time available for the administrative and practical arrangements needed for the lodging of applications by farmers in 2014 to be set up in time by Member States. As a result, the Transitional Regulation has been introduced in order to extend application of the current schemes for the 2014 payment year.

The Transitional Regulation has been implemented by the European Parliament and Council, namely Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014 (“the Transitional Regulation”).

The content of the Transitional Regulation means that it is necessary to amend the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004.

Section 2(2) of the European Communities Act 1972 provides for a designated Minister to make provision for the purpose of implementing any European Union (EU) obligation of UK or to exercise any EU right enjoyed by the UK. The Welsh Ministers are designated in relation to the Common Agricultural Policy of the EU by virtue of article 3 of the European Communities (Designation) (No. 5) Order 2010. The obligations imposed by the Transitional Regulation requiring the replacement of the groundwater Statutory Management Requirement with a minimum requirement of Good Agricultural and Environmental Condition necessitates the Welsh Ministers to legislate in relation to Wales.

The instrument is subject to the Negative resolution procedure (annulment).

4. Purpose & intended effect of the legislation

Cross Compliance Statutory Management Requirement 2, which aims to protect groundwater by controlling the discharge or disposal of potentially harmful and polluting materials, is removed and replaced by a new minimum standard of Good Agricultural and Environmental Condition. In practice, this amendment will have no effect on farmers, as the requirements and penalty matrix will remain the same. This change is required by the Transitional Regulation.

These Regulations also enable farmers in Wales who claim Single Farm Payment Scheme and Rural Development area based scheme payments to

spread organic manure up to within 6 meters of surface water if using precision spreading equipment (a trailing shoe, dribble bar or injector system). The aim of this change is to encourage more accurate spreading of slurry and utilisation of slurry nutrients over a larger field area. This results in more efficient use of the nitrogen in organic manures, increasing crop yields and/or reducing the need for farmers to buy manufactured fertilisers. Studies of more precise slurry spreading techniques have shown they significantly reduce harmful emissions compared with broadcast spreading.

5. Consultation

The proposal to reduce the buffer strip from 10 meters to 6 meters for those using precision spreading equipment was consulted upon as part of the Review of Nitrate Vulnerable Zones in Wales. Other than this change, the Regulations simply retain the existing regime. Therefore no consultation has been carried out.

6. Regulatory Impact Assessment (RIA)

No Regulatory Impact Assessment has been conducted. Although precision slurry spreading techniques minimise the risk of pollution and improve efficiency of manure spreading, the cost of the equipment (contractor) is considerably higher than that of conventional spreading. However, the use of precision spreading techniques is optional and thus we would expect those farmers who already use, or plan to use, such equipment to take-up this opportunity in some cases. Therefore, the proposal is not anticipated to impose any costs but does provide some farmers with increased flexibility. There will be some environmental benefits, and cost savings for the farmer, should farmers choose to take-up this opportunity. These are not expected to be large given that the option could only be applied in limited circumstances. The change from Statutory Management Requirement to standard of Good Agricultural and Environmental Condition will have no impact on costs or benefits.