

Explanatory Memorandum to The Rural Development Programmes and Agricultural Subsidies and Grants Schemes (Appeals) (Amendment) Wales Regulations 2007

This Explanatory Memorandum has been prepared by the Rural Affairs Division and is laid before the National Assembly for Wales.

(i) Description

These regulations amend both the Rural Development Programmes (Wales) Regulations 2006 and the Agricultural Subsidies and Grants Schemes (Appeals) (Wales) Regulations 2006 (the 2006 Regulations) in order to update reference to Community Regulations and to make additional minor amendments to the Rural Development Programmes (Wales) Regulations 2006.

(ii) Matters of special interest to the Subordinate Legislation Committee

There are no issues of special interest to the Subordinate Legislation Committee.

(iii) Legislative Background.

Both the Rural Development Programmes (Wales) Regulations 2006 and the Agricultural Subsidies and Grants Schemes (Appeals) (Wales) Regulations 2006 (the 2006 Regulations) came into force 1 January 2007.

(iv) Purpose and Intended effect of the legislation

The purpose of the legislation is to amend the 2006 Regulations in order to update references to Community Regulations and to make additional minor amendments to the Rural Development Programmes (Wales) Regulations 2006.

The amendments to the 2006 Regulations are proposed for the following reasons:

- a. **Incorporating references to new Commission legislation** – At the time that the 2006 Regulations were made, the European Commission legislation that provides for the detailed implementation of Council Regulation 1698/2005 (the Rural Development Regulation) had not been published in the Official Journal. Accordingly, it was not possible to include reference to that Commission legislation in the 2006 Regulations. The two Commission Regulations (1974 and 1975/2006) were subsequently published on 23 December 2006. For the sake of completeness and clarity in the implementation of the rural development plan in Wales, it is necessary to incorporate references to Commission Regulations 1974 and 1975/2006 into the 2006 Regulations.
- b. **Including *ambulatory* references to future Community legislation** – The 2006 Regulations refer to a range of EC instruments which may be subject to future amendments. Since the 2006 Regulations were made, the Legislative and Regulatory Reform Act 2006 (which came into force on 8 January 2007) has made it possible to insert into domestic law provision that any reference in these Regulations to a Community instrument is a reference to that instrument as amended from time to time (or words to similar effect). Where such provisions are incorporated into domestic law, it means that future amendments to that Community legislation do not require corresponding amendments to domestic legislation. It is proposed that this provision be inserted into the 2006 Regulations (thus avoiding the need for minor amendments to them in the future).
- c. **Clarifying certain terms and powers** – Since making the Rural Development Programmes (Wales) Regulations 2006, it has become apparent that some clarification of certain technical matters would be helpful. These are to:

- i. clarify the term “beneficiary”. This is currently described as “a person who has been granted assistance”. The proposed amendment will expand that definition to read “a person who has been granted assistance or a person who has taken over the commitments of such a person”;
 - ii. clarify that the Welsh Ministers may enter into arrangements with groups selected to implement a local development strategy and that such groups may make payments on behalf of the Welsh Ministers and to recover of any overpayments;
 - iii. clarify that the purposes for which an authorised person may enter land include: the provision of a control report and determining whether the rules have been complied with;
 - iv. clarify that an authorised person may enter land in order to inspect and count livestock on the land and to instruct the beneficiary or other relevant person to arrange for the collection and penning of such livestock.
- d. **Amendments to transitional provisions** – Finally, since the RDP (Wales) Regulations 2006 were made, it has become apparent that there is a need to amend some of the detailed transitional provisions in relation to the continued operation of the earlier RDP schemes. Regulation 14 of the RDP (Wales) Regulations 2006 revokes a range of earlier legislation relating to rural development programmes (para 1), but saves the legislation in relation to financial assistance paid or applied for under it (para 2). Para 3 sets out exceptions to the savings provisions. The effect of these amendments will be to:
- i. Disapply the savings provisions in relation to regulation 16 of the Organic Farming Scheme (Wales) Regulations 2006;
 - ii. Apply the savings provisions in relation to regulation 14 of the Agricultural Processing and Marketing Grants (Wales) Regulations 2001 ; and
 - iii. Disapply the savings provisions in relation to regulation 16 of the Farm Enterprise Grant and Farm Improvement Grant (Wales) Regulations 2001.

(v) **Implementation**

As soon as possible.

(vi) **Consultation**

The proposed amendments are of a minor nature and a tidying up process consequently the proposals in this legislation have not been the subject of a consultation exercise.

(vii) **Regulatory Impact Assessment**

These amending regulations simply update references to Community Regulations in the 2006 Regulations and make additional minor amendments to the Rural Development Programmes (Wales) Regulations 2006. Consequently there is no need to undertake a Regulatory Impact Assessment.