

Explanatory Memorandum to the Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2009 to allow for Single Payments to be paid from 1 December 2009.

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

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 (Wales) (Amendment) Regulations 2009.

Elin Jones
Minister for Rural Affairs

30 November 2009

1. Description

The Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2005 (“the principal Regulations”) make provision for the administration of European Regulations for operating the Single Payment Scheme and other Direct Support schemes in Wales.

Amendments need to be made to the principal Regulations to reflect the changes resulting from the European Union’s Common Agricultural Policy Health Check, and to update references to European Regulations.

Due to repeated delays on the part of the European Commission in making the EU new Regulations, it has not been possible to revoke and remake the principal Regulations in time to make the opening of the payment window (1 December 2009). It is therefore necessary to allow minimal amendments to the Welsh SPS SI at this stage to allow the opening of the payment window. This will be followed by the revoking and replacing of the principal Regulations once the EC have published the new EU Regulations.

The amendments confirm the:

- minimum requirement for a SPS claim as being 1 ha for farmers without special entitlements, and 100 Euros for farmers with special entitlements.
- voluntary modulation rates for 2010.
- date for the deadline of the SAF 2010 (17th May as the 15th May falls on a weekend).

2. Matters of special interest to the Subordinate Legislation Committee –

Amendments to the principal Regulations need to be in place on 1 December to enable Welsh Ministers to make payments. The Amendment SI needs to come into force on 30 November before the opening of the Single Payment window in order to enable Welsh Ministers make payments. Repeated delays and complications concerning the new EU Regulations mean that it is not feasible to allow for the usual 21 day laying period between making the SI and the date it comes into force. For the same reason, the SI will be made in English only, with a Welsh translation following shortly.

3. Legislative background

Welsh Ministers have the powers 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 in S.I. 2005/2766

4. Purpose & intended effect of the legislation

The Regulations make provision for the administration of European Regulations for operating the Single Payment Scheme and other Direct Support schemes in Wales. Amendments are necessary to reflect the changes resulting from the European Union's Common Agricultural Policy Health Check and to update references.

Although we had been working to revoke and replace the principal Regulations it has not been possible due to the repeated EC delays in publishing the new EU Regulations. These amendment regulations will therefore allow the opening of the payment window (1 December). Once the new EU Regulations are published we will revoke and replace the principal Regulations to appropriately reference the new EU Regulations.

It will not be possible to make payments until amendments have been made to the principal Regulations.

5. Consultation

The European Commission's "Health Check" proposals published on 20 November offered proposed changes to the UK's Common Agricultural Policy. Widespread consultation on these proposals has taken place which will ultimately influence the final (pending) draft of the new EU Regulations.

The Welsh Assembly Government has engaged with key stakeholders throughout the Health Check process. The views of the stakeholders have been used to influence negotiations on the draft regulations. This has ensured that the needs of Wales and Welsh Farming are fully recognised.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Appraisal in respect of the policy changes put into force via these Regulations is below:

Voluntary Modulation – CAP Health Check Changes

1 Introduction

This Regulatory Impact Assessment relates to Article 7 of Council Regulation (EC) No 73/2009 on the Modulation (VM) of direct payments under the Common Agricultural Policy. The analysis looks specifically at the impact of changes to the rates of voluntary modulation as a consequence of the overall changes to modulation.

2 Background

Member States who decided to use voluntary modulation in accordance with Article 1 of regulation (EC) 378/2007 were required to communicate the rates of voluntary modulation that would be applied to direct payments during the period 2007 to 2012 to the European Commission within 2 months of the regulation entering into force (12th April). That regulation also imposed a requirement on those Member States to submit an assessment of the impact of the application of voluntary modulation, *“in particular on the economic situation of the farmers concerned, taking into account the need to avoid unjustified unequal treatment between farmers”*.

Since 2001, the United Kingdom has made use of the facility to transfer voluntarily (or ‘modulate’) a proportion of its budget for payments under Pillar 1 of the Common Agricultural Policy and to make the money available for spending on rural development measures under Pillar 2. This has allowed the UK to compensate for a disproportionately low allocation of rural development funds (see Annex 2) from both the European Agricultural Fund for Rural Development (EAFRD) and its predecessor the European Agricultural Guidance and Guarantee Fund (EAGGF); and to operate much more meaningful, ambitious and far-reaching rural development programmes than would otherwise have been the case. Quite simply, without the application of voluntary modulation, the rural development programmes for 2007-2013 would not have contained sufficient funds for entering into new agreements with beneficiaries, as most of the funds from the EAFRD would have been used for existing contractual commitments carried forward from the period 2000-2006 and earlier. This would have considerably weakened the UK’s ability to contribute to the Göteborg and Lisbon agendas.

The facility for voluntary modulation was first introduced under Council regulation No (EC) 1259 of 1999 and voluntary modulation was first applied on a UK-wide basis at an initial rate of 2.5%. Following the CAP reforms of 2003, the voluntary modulation rules were adjusted by Commission Regulation 1655 of 2004. This regulation allowed modulation to be applied on a regional basis within Member States. During calendar years 2005 and 2006, different rates of voluntary modulation applied in England, Scotland, Wales and Northern Ireland. Crucially, and in line with devolved arrangements for Government, this allowed the constituent parts of the United Kingdom to set their voluntary modulation rates at a level appropriate to their circumstances, preferences and rural development needs.

3 CAP Health Check Changes

3.1 Compulsory Modulation

The Commission proposed to increase compulsory modulation (CM) with the intention to provide additional funding for rural development purposes. The then current rate of CM was 5%. Final agreement on CM provides the following increases:

2009	$5\% + 2\% = 7\%$
2010	$7\% + 1\% = 8\%$

2011 8% + 1% = 9%
 2012 9% + 1% = 10%

An additional CM rate of 4% applies to CAP direct payments above euro 300,000 per annum.

The CM receipts are transferred for use under the RDP to reinforce programmes in the fields of climate change, renewable energy, water management, biodiversity and bioenergy and related innovation. Restructuring in the dairy sector is a permissible inclusion.

The euro5000 franchise level is maintained whereby direct payment receipts below that level are not subject to CM.

3.2 *Voluntary Modulation*

Table 1 below sets out the rates of modulation that were to be applied in Wales in the period 2009 to 2012 before the CAP Health Check changes were proposed and also details the planned changes to the Wales' rates following the Health Check which reached political agreement on the 20 November 2008.

Table 1 – Rates of Modulation in Wales

	2009 %	2010 %	2011 %	2012 %
Pre Health Check – compulsory modulation (over euro 5000)	5	5	5	5
Pre Health Check – voluntary modulation	4.20	5.8	6.5	6.5
Pre Health Check – total modulation	9.2	10.8	11.5	11.5
Post Health Check – compulsory modulation	7	8	9	10
Post Health Check – voluntary modulation	2.2	2.8	2.5	1.5
Post Health Check – total modulation	9.2	10.8	11.5	11.5

4 Impact of changes to modulation

As shown in Table 1, from 2009 the rate of voluntary modulation will follow a reducing trend from 2009 which relates to the increases in CM so that overall or total modulation remains the same as before the Health Check changes.

4.1 Costs and Benefits

There are two main types of impact on farming (i) impacts on agricultural production and prices and implications for the comparative position of Welsh

agriculture and (ii) impact on farm incomes and implications for the economic situation of Welsh farmers.

4.1.1 *Impact on Production and Prices*

Farming in Wales is dominated by livestock production – sheep, beef and dairy. Arable represents around 10 per cent of production. The impact on production and prices is estimated using the FAPRI-UK model which gives results on the impacts of modulation for the dairy, beef, sheep and arable sectors in Wales. The FAPRI-UK model uses a much higher voluntary modulation (VM) rate of 20% plus the baseline rate of 5% for compulsory modulation to give a cumulative rate of 25%. Although Wales is applying voluntary modulation at a rate well below this, it is not possible to alter the FAPRI-UK rates and so it has been used here for illustrative purposes.

The results of the analysis are summarised in Table 2. As concluded in the FAPRI-UK report, a modulation rate of 25% yields a marginal production impact on the Welsh beef and sheep sectors and negligibly small price increases. The dairy sector, together with the pork and poultry sectors, shows virtually no response. By implication, the application of the significantly lower rates proposed by Wales will have either negligible or zero impacts.

Table 2 – Summary of FAPRI-UK Analysis for Wales

Sector	Impacts
Dairy	<ul style="list-style-type: none"> • There are no discernable impacts on dairy production; • No change in the milk producer price.
Beef	<ul style="list-style-type: none"> • Slight negative impact on beef production; • Negligible upward impact on projected cattle prices.
Sheep	<ul style="list-style-type: none"> • Projected Welsh ewe numbers will drop by 1% with a similar drop in production; • Negligible upward impact on sheep meat prices.
Arable	<ul style="list-style-type: none"> • Small impact on the production of wheat, barley and rapeseed; • Crop prices remain unchanged.

4.1.2 *Impact on Incomes*

The impact on farm incomes can be assessed in two ways. At the farm level we can consider the impact on cash income. At the aggregate level the impact on Total Income from Farming (TIFF) is relevant.

Given that the total rate of modulation does not change there will be no impact on cash income or TIFF. Increase in CM are compensated for by reductions in VM for payments between euro 5000 and euro 300,000. Payments below the franchise (euro 5000) are not subject to CM and consequently the original (pre Health Check) VM rates apply. Payments above euro 300,000 are subject to the increase in CM plus the additional 4%; consequently VM is

reduced by both the increase in CM plus the 4% which results in a VM rate of 0%. However the proportion of the payment in excess of euro 300,000 will be subjected to a higher rate of CM than before the Health Check because of the additional 4%. The total modulation on the proportion of the Single Payment exceeding euro 300,000 will be 11%, 12%, 13%, and 14% in the years from 2009 to 2012. It is important to note that there are only 6 claimants in Wales receiving payments in excess of euro 300,000.

4.1.3 Impact on the Environment

The changes to both CM and VM are not anticipated to impact on the environment any differently to the previous modulation arrangements. It is expected that there will be both positive and negative environmental impacts associated with voluntary modulation but these are effectively the same as before the Health Check.

Briefly, it is expected that positive impacts will be sustained from the continuing emphasis on agri-environment and land management schemes including the enhanced package of measures anticipated as a result of the Axis 2 review. Possible areas where negative impacts might be expected include reductions in suckler cow numbers, which could lead to under-grazing and damage to biodiversity and habitat, and intensification of dairy and beef farming, which could adversely affect water quality. However these potential impacts were as relevant to the former arrangements.

Competition Assessment

There should be no impact, positive or detrimental on the competitive position of Welsh agriculture.

Post Implementation Review

The positive and negative impacts will be monitored as part of the ongoing monitoring and evaluation arrangements for the Rural Development Plan as a whole and at scheme level.