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WELSH STATUTORY INSTRUMENTS

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**2014 No. 3223 (W. 328)**

**AGRICULTURE, WALES**

**The Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014**

<i>Made</i>	- - - -	<i>8 December 2014</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>10 December 2014</i>
<i>Coming into force</i>	- -	<i>1 January 2015</i>

The Welsh Ministers are designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in that section and it appears to the Welsh Ministers that it is expedient for any reference in these Regulations to EU instruments to be construed as a reference to those instruments as amended from time to time.

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972.

**PART 1**

**INTRODUCTION**

**Title, application and commencement**

1. (1) The title of these Regulations is the Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 1<sup>st</sup> January 2015.

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(1) [S.I. 2010/2690](#).

(2) [1972 c. 68](#). Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c. 7](#)). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.

## Interpretation

### 2. (1) In these Regulations—

“the Direct Payments Delegated Regulation” (“*y Rheoliad Dirprwyedig Taliadau Uniongyrchol*”) means Commission Delegated Regulation (EU) No. 639/2014 supplementing the Direct Payments Regulation<sup>(3)</sup>;

“the Direct Payments Implementing Regulation” (“*y Rheoliad Gweithredu Taliadau Uniongyrchol*”) means Commission Implementing Regulation (EU) No. 641/2014 laying down rules for the application of the Direct Payments Regulation<sup>(4)</sup>;

“the Direct Payments Regulation” (“*y Rheoliad Taliadau Uniongyrchol*”) means Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy<sup>(5)</sup>;

“the European Regulations” (“*y Rheoliadau Ewropeidd*”) means—

- (a) the Direct Payments Regulation;
- (b) the Direct Payments Delegated Regulation;
- (c) the Direct Payments Implementing Regulation;
- (d) the Horizontal Regulation;
- (e) the Horizontal Delegated Regulation;
- (f) the Horizontal Finance Implementing Regulation;
- (g) the Horizontal Implementing Regulation;
- (h) the Rural Development Regulation;
- (i) the Rural Development Delegated Regulation; and
- (j) the Rural Development Implementing Regulation.;

“the Horizontal Delegated Regulation” (“*y Rheoliad Dirprwyedig Llorweddol*”) means Commission Delegated Regulation (EU) No. 640/2014 supplementing Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance<sup>(6)</sup>;

“the Horizontal Finance Implementing Regulation” (“*y Rheoliad Gweithredu Cyllid Llorweddol*”) means Commission Implementing Regulation (EU) No. 908/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy<sup>(7)</sup>;

“the Horizontal Implementing Regulation” (“*y Rheoliad Gweithredu Llorweddol*”) means Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance<sup>(8)</sup>;

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(3) OJ No. L 181, 20.6.2014, p. 1.

(4) OJ No. L 181, 20.6.2014, p. 74.

(5) OJ No. L 347, 20.12.2013, p. 608, as amended by Regulation (EU) No. 1310/2013 (OJ No. L 347, 20.12.2013, p. 865).

(6) OJ No. L 181, 20.6.2014, p.48.

(7) OJ No. L 255, 28.8.2014, p. 59.

(8) OJ No. L 227, 31.7.2014, p. 69.

“the Horizontal Regulation” (“*y Rheoliad Llorweddol*”) means Regulation (EU) No. 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy<sup>(9)</sup>;

“the Rural Development Regulation” (“*y Rheoliad Datblygu Gwledig*”) means Regulation (EU) No. 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development<sup>(10)</sup>;

“the Rural Development Delegated Regulation” (“*y Rheoliad Dirprwyedig Datblygu Gwledig*”) means Commission Delegated Regulation (EU) No. 807/2014 supplementing the Rural Development Regulation<sup>(11)</sup>;

“the Rural Development Implementing Regulation” (“*y Rheoliad Gweithredu Datblygu Gwledig*”) means Commission Implementing Regulation (EU) No. 808/2014 laying down rules for the application of the Rural Development Regulation<sup>(12)</sup>;

“Regulation 1698/2005” (“*Rheoliad 1698/2005*”) means Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) etc<sup>(13)</sup>;

“area-related aid schemes” (“*cynlluniau cymorth ar sail arwynebedd*”) has the meaning given by point (20) of the second sub-paragraph of Article 2(1) of the Horizontal Delegated Regulation;

“authorised person” (“*person awdurdodedig*”) means any person who is authorised by the Welsh Ministers, either generally or specifically, to act in relation to matters arising under these Regulations;

“beneficiary” (“*buddiolwr*”), unless the context otherwise requires, has the meaning given by sub-paragraph (2) of Article 2(1) of the Horizontal Delegated Regulation except that in Part 3 and Schedule 1 it means a beneficiary to whom Article 91 of the Horizontal Regulation applies;

“direct payments” (“*taliadau uniongyrchol*”) has the meaning given by Article 2(1)(e) of the Horizontal Regulation;

“farmer” (“*ffermwr*”) has the meaning given by Article 4(1)(a) of the Direct Payments Regulation;

“non-compliance” (“*methiant i gydymffurfio*”) has the meaning given by point (2)(b) of the second sub-paragraph of Article 2(1) of the Horizontal Delegated Regulation;

“single application” (“*cais sengl*”) means an application for direct payments in relation to area-related aid schemes.

(2) Other terms used in these Regulations that are also used in any of the European Regulations have the meaning they bear in those Regulations.

(3) Any reference in these Regulations to any of the European Regulations is a reference to those Regulations as amended from time to time.

(9) OJ No. L 347, 20.12.2013, p.549, amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No. L. 347, 20.12.2013, p.865).

(10) OJ No. L 347, 20.12.2013, p.487, amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No. L. 347, 20.12.2013, p.865).

(11) OJ No. L 227, 31.7.2014, p. 1.

(12) OJ No. L 227, 31.7.2014, p. 18.

(13) OJ No. L 277, 21.10.2005, p. 1, as last amended by Regulation (EU) No 1312/2011 of the European Parliament and of the Council (OJ No. L 339, 21.12.2011, p. 1).

## PART 2

### INTEGRATED ADMINISTRATION AND CONTROL SYSTEM AND ENFORCEMENT

#### **Applications**

**3.** (1) For the purposes of Article 13(1) of the Horizontal Implementing Regulation and Article 12 of the Horizontal Delegated Regulation, the final date on which a single application, aid application or payment claim may be submitted to the Welsh Ministers is 15<sup>th</sup> May or, if 15<sup>th</sup> May is a Saturday, Sunday, Bank Holiday or other public holiday, the next working day.

(2) In paragraph (1)—

- (a) “Bank Holiday” (“*Gŵyl Banc*”) means a day specified in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971(14);
- (b) “payment claim” (“*hawliad am daliad*”) means a claim for support under the integrated system as provided by Article 67(2) of the Horizontal Regulation;
- (c) “working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

#### **Minimum size of agricultural area**

**4.** For the purposes of Article 72(1) of the Horizontal Regulation, the minimum size of an agricultural parcel in respect of which a single application may be made is 0.1 hectare.

#### **Recovery of undue payments**

**5.** (1) Where a beneficiary is liable to repay all or part of a direct payment in accordance with Article 7(1) of the Horizontal Implementing Regulation, the amount of the repayment, together with the interest on that amount calculated in accordance with regulation 6, is recoverable as a debt.

(2) In any legal proceedings brought pursuant to paragraph (1), a certificate of the Welsh Ministers which—

- (a) sets out the London interbank offered rate (LIBOR) applicable during a specified period; and
- (b) includes a statement that the Bank of England or the coordinating body notified the Welsh Ministers of that rate for that period,
- (c) is evidence of the rate applicable during that period.

(3) In this regulation, “the coordinating body” (“*corf cydgysylltu*”) means the coordinating body referred to in Article 7(4) of the Horizontal Regulation.

#### **Interest**

**6.** (1) Interest may be charged in respect of each day of the period referred to in Article 7(2) of the Horizontal Implementing Regulation and for this purpose the rate of interest applicable on any day is one percentage point above the sterling three month London interbank offered rate (LIBOR) on that day.

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(14) 1971, c. 80.

### **Powers of entry**

7. (1) An authorised person may exercise any of the powers specified in this regulation and regulations 8 and 9 for the purpose of—

- (a) enforcing—
  - (i) the European Regulations except Chapters III and IV of Title V of the Horizontal Regulation; or
  - (ii) these Regulations;
- (b) providing a control report in accordance with Article 54(1) of the Horizontal Regulation;
- (c) determining whether there has been a non-compliance.

(2) An authorised person, on producing, if so required, a duly authenticated document showing that person's authority, may at any reasonable hour enter any land or premises other than premises used wholly or mainly as a private dwelling.

(3) Paragraph (2) does not affect any right of entry conferred by a warrant issued in accordance with paragraph (4).

(4) A justice of the peace may by signed warrant permit an authorised person to enter any land or premises, if necessary by reasonable force, if the justice, sworn on information in writing, is satisfied that—

- (a) there are reasonable grounds for an authorised person to enter the land or premises for any purpose mentioned in paragraph (1); and
- (b) one of the conditions in paragraph (5) is met.

(5) The conditions are that—

- (a) entry to the land or premises has been refused, or is likely to be refused, and—
  - (i) notice of the intention to apply for a warrant has been served on the occupier, or
  - (ii) no such notice has been served on the occupier because serving such a notice would interfere with the purpose or effectiveness of the entry;
- (b) entry is required urgently; or
- (c) the premises are unoccupied or the occupier is temporarily absent.

(6) A warrant is valid for three months.

(7) An authorised person entering any land or premises by virtue of this regulation may be accompanied by—

- (a) any representative of the European Commission; and
- (b) such other persons as the authorised person considers necessary for any purpose mentioned in paragraph (1).

(8) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before entry.

### **Powers of inspection etc**

8. (1) An authorised person who has entered any land or premises in exercise of a power conferred by regulation 7 may—

- (a) carry out any inquiries, checks, examinations, measurements and tests;
- (b) take samples;
- (c) inspect all or any part of the land, whether it is farmed or is withdrawn from agricultural production, or premises;

- (d) inspect any livestock, crops, machinery or equipment;
- (e) mark any animal or other thing for identification purposes;
- (f) have access to, inspect, copy and print any documents or records (in whatever form they are held) or remove such documents to enable them to be copied or retained as evidence;
- (g) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the documents or records;
- (h) take a photograph of, or record in digital form, anything on the land;
- (i) remove anything reasonably believed to be evidence of any non-compliance;
- (j) remove a carcass on the land or premises for the purpose of carrying out a post-mortem examination on it.

(2) An authorised person who enters any land or premises under a power under other legislation may exercise any of the powers specified in this regulation for the purposes of enforcing these Regulations.

(3) Paragraph (1) applies in relation to a person referred to in regulation 7(7)(b) when such person is acting under the instructions of an authorised person, as if such person were an authorised person.

#### **Assistance to authorised persons**

9. The beneficiary in respect of any land or premises entered by an authorised person in exercise of a power conferred by regulation 7 and any employee, servant or agent of that beneficiary, must give an authorised person (“AP”) such assistance as AP may reasonably request so as to enable AP to exercise any power conferred on AP by regulation 7 or 8.

#### **Offences and penalties**

10. (1) It is an offence for any person to—

- (a) intentionally obstruct any person acting in execution of these Regulations;
- (b) without reasonable cause, proof of which lies with that person, fail to give any person acting in execution of these Regulations any assistance or information that that person may reasonably require under these Regulations; or
- (c) knowingly or recklessly furnish to any person acting in execution of these Regulations any information that is false or misleading in any material particular.

(2) A person guilty of an offence under paragraph 1(a) or (b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person guilty of an offence under paragraph 1(c) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or both; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(4) Subject to paragraph (5), for an offence under paragraph (1) proceedings must be brought within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings came to the prosecutor’s knowledge.

(5) No proceedings for an offence under paragraph (1) may begin more than two years after the date of the commission of the offence.

(6) For the purposes of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient, in the opinion of the prosecutor, to justify the proceedings came to their knowledge is conclusive of that fact.

### **Liability of directors etc**

**11.** (1) If an offence under regulation 10 committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “officer” (“*swyddog*”) means—

- (a) a director, manager, secretary or other similar officer of the body, or
- (b) a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and omissions of a member in connection with the member’s functions of management as it applies to an officer of a body corporate.

### **Offences by bodies corporate, partnerships and unincorporated associations**

**12.** (1) Proceedings for an offence under regulation 10 alleged to have been committed by a partnership or unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate, and
- (b) section 33 of the Criminal Justice Act 1925(**15**) (procedure on charge of offence against corporation) and Schedule 3 to the Magistrates Courts’ Act 1980(**16**) (corporations),

apply in relation to the partnership or association as they apply in relation to a body corporate.

(3) A fine imposed on a partnership or association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) If an offence under regulation 10 committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to the negligence of a partner,

that partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) If an offence under regulation 10 committed by a body corporate is proved—

- (a) to have been committed with the consent of an officer, or

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(15) 1925 c. 86. Subsections (1), (2) and (5) were repealed by the Magistrates’ Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, Part 2, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39), section 109(1) and (3), Schedule 8, paragraph 71, and Schedule 10.

(16) 1980 c. 43. Paragraph 2(a) of Schedule 3 was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, Part 2, paragraph 51(1) and (13)(a), and Schedule 37, Part 4 (partly commenced by S.I. 2012/1320 and S.I. 2012/2574 and with full effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53) sections 25(2) and 101(2) and Schedule 13; paragraph 6 was repealed by the Criminal Justice Act 2003, section 41, Schedule 3, Part 2, paragraph 51(1) and (13)(b) (partly commenced by S.I. 2012/1320 and S.I. 2012/2574 and with full effect from a date to be appointed).

(b) to be attributable to the negligence of an officer, that officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(6) If an offence under regulation 10 committed by an unincorporated association (other than a partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the association or member of its governing body, or

(b) to be attributable to the negligence of that officer or member, that officer or member, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In paragraphs (4), (5) and (6), any reference to an officer, partner or member, as the case may be, includes any person purporting to act in such capacity.

(8) In this regulation—

(a) “partnership” (“*partneriaeth*”) does not include a limited liability partnership;

(b) “unincorporated association” (“*cymdeithas anghorfforedig*”) does not include a partnership.

## PART 3

### CROSS COMPLIANCE

#### **Standards for good agricultural and environmental condition**

**13.** (1) The standards for good agricultural and environmental condition set out in Schedule 1 apply as minimum requirements for the purposes of Article 94 of, and Annex II to, the Horizontal Regulation.

(2) But the provisions of Schedule 2 set out the circumstances in which a breach of a provision of Schedule 1 does not constitute a non-compliance.

#### **Competent control authorities**

**14.** (1) The Welsh Ministers are the competent control authority for the purposes of Article 67 of the Horizontal Implementing Regulation except as otherwise specified in this regulation.

(2) For the purposes of Article 67(1)(a) of the Horizontal Implementing Regulation, the Secretary of State is the specialised control body who bears the responsibility of carrying out the controls in respect of statutory management requirements under numbers 5 and 11 to 13 of Annex II to the Horizontal Regulation.

(3) The Welsh Ministers and the Secretary of State may, in respect of the standards for which they are responsible, require a relevant authority to carry out controls or checks for the purposes of Article 65, Chapter I of Title III and Chapter II of Title IV of the Horizontal Implementing Regulation.

(4) A relevant authority, if required by the Welsh Ministers or the Secretary of State to carry out the controls referred to in paragraph (3), must—

(a) send a provisional control report, in relation to the controls carried out, to the Welsh Ministers or Secretary of State (as the case may be);

(b) where, in the course of its other activities, it considers that there has been a non-compliance, notify the person or body responsible under paragraph (1) or (2) of this regulation for carrying out the controls in relation to that non-compliance.



(5) In this regulation, “a relevant authority” (“*awdurdod perthnasol*”) means—

- (a) Natural Resources Wales;
- (b) Animal and Plant Health Authority; or
- (c) Veterinary Medicines Directorate.

(6) The Welsh Ministers enforce this Part of the Regulations, and the Welsh Ministers may authorise in writing persons to enforce this Part of these Regulations.

## PART 4

### FINAL PROVISIONS

#### Revocations and savings

15. (1) The instruments listed in Schedule 3 are revoked subject to the following savings.

(2) The Single Payment Regulations continue to apply in relation to a single application as defined in regulation 2(1) of the IACS Regulations.

(3) Regulations 1 to 13 of the Rural Development Regulations continue to apply in relation to any financial assistance as referred to in regulation 2(1) of those Regulations.

(4) Any appointment of an authorised person for the purposes of the Rural Development Regulations or the Cross Compliance Regulations in effect immediately before 1<sup>st</sup> January 2015 shall continue to have effect as if it were an appointment of that person as an authorised person by the Welsh Ministers or the Secretary of State (as the case may be) for the purposes of these Regulations.

(5) In this regulation—

“the Cross Compliance Regulations” (“*y Rheoliadau Trawsgydymffurfio*”) means the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004(17);

“the Rural Development Regulations” (“*y Rheoliadau Datblygu Gwledig*”) means the Rural Development Programmes (Wales) Regulations 2006(18);

“the IACS Regulations” (“*y Rheoliadau IACS*”) means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009(19);

“the Single Payment Regulations” (“*y Rheoliadau Taliadau Sengl*”) means the Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2010(20).

*Rebecca Evans*  
Deputy Minister for Farming and Food, under  
the authority of the Minister for Natural  
Resources, one of the Welsh Ministers

8 December 2014

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(17) S.I. 2004/3280 (W. 284).

(18) S.I. 2006/3343 (W. 304).

(19) S.I. 2009/3263.

(20) S.I. 2010/1892 (W. 185).

## SCHEDULE 1

Regulation 13(1)

## Standards for Good Agricultural and Environmental Condition

**Establishment of buffer strips along water courses**

1. (1) Manufactured nitrogen fertiliser must not be spread within 2 metres of surface water.
- (2) Plant Protection Products must not be applied within 2 metres of surface water other than to control invasive non-native species and only where a permit has been granted in accordance with the Control of Pesticides Regulations 1986(21).
- (3) Organic manure must not be spread within 10 metres of surface water unless precision spreading equipment is used, in which case organic manure must not be spread within 6 metres of surface water.
- (4) Livestock manure (other than slurry and poultry manure) may be spread in the areas covered by sub-paragraphs (1), (2) and (3) if—
  - (a) it is spread on land managed for breeding wader birds or as a species-rich semi-natural grassland and the land is—
    - (i) notified as a Site of Special Scientific Interest under the Wildlife and Countryside Act 1981; or
    - (ii) subject to an agri-environment commitment entered into under the Rural Development Regulation;
  - (b) it is spread between 1 June and 31 October, both dates inclusive;
  - (c) it is not spread directly on to surface water; and
  - (d) the total annual amount does not exceed 12.5 tonnes per hectare.
- (5) Organic manure must not be spread within 50 metres of a borehole, spring or well.
- (6) Sites where supplementary feeding for livestock is provided must not be located within 10 metres of a watercourse on any land.
- (7) For the purposes of this paragraph—
 

“livestock” (“*da byw*”) means cattle, chickens, deer, ducks, goats, horses, ostriches, pigs, sheep and turkeys;

“manufactured nitrogen fertiliser” (“*gwrtaiith nitrogen a weithgynhyrchwyd*”) means any nitrogen fertiliser (other than organic manure) manufactured by an industrial process;

“nitrogen fertiliser” (“*gwrtaiith nitrogen*”) means any substance containing one or more nitrogen compounds used on land to enhance growth of vegetation and includes organic manure;

“organic manure” (“*tail organig*”) means any nitrogen fertiliser or phosphate fertiliser derived from animal, plant or human sources and includes livestock manure;

“precision spreading equipment” (“*cyfarpar taenu manwl*”) means a trailing shoe, dribble bar or injector system;

“phosphate fertiliser” (“*gwrtaiith ffosffad*”) means any substance containing one or more phosphorous compounds used on land to enhance growth of vegetation and includes organic manure;

“poultry” (“*dofednod*”) means chickens, ducks, ostriches and turkeys;

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(21) S.I. 1986/1510; amended by S.I. 1997/188; there are other amendments but none is relevant.

“slurry” (“*slyri*”) means excreta produced by livestock (other than poultry) while in a yard or building (including any bedding, rainwater or washings mixed in with it) that has a consistency that allows it to be pumped, or discharged by gravity (in the case of excreta separated into its liquid and solid fraction, the slurry is the liquid fraction);

“spread” (“*taenu*”) includes the application to the surface of the land, injection into the land or mixing with the surface layers of the land but does not include the direct deposit of excreta on to land by animals.

### **Abstraction of water for irrigation**

2. The abstraction of water for irrigation purposes must comply with section 24 (Restrictions on abstraction) of the Water Resources Act 1991(22).

### **Protection of groundwater**

3. (1) A beneficiary must not cause, or knowingly permit, a groundwater activity except under and to the extent authorised by an environmental permit in accordance with regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(23).

(2) A beneficiary must comply with the requirements relating to groundwater activities in accordance with regulation 35(2)(p) of, and Schedule 22 to, the Environmental Permitting Regulations (England and Wales) 2010.

(3) For the purposes of this paragraph—

“groundwater activity” (“*gweithgaredd dŵr daear*”) has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010;

“environmental permit” (“*trwydded amgylcheddol*”) has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2010.

### **Minimum soil cover**

4. (1) A beneficiary must protect all soil by ensuring that all land is covered by crops, stubbles, residues or other vegetation at all times, except where establishing such cover would mean breaching any of the requirements of paragraph 5.

(2) Where land has been harvested using a combine harvester, forage harvester or mower, a beneficiary must ensure that, throughout the period beginning with the first day after harvest and ending on the first day of March in the following year, one of the following conditions is met on that land at all times—

(a) the stubble of the harvested crop remains in the land; or

(b) the land is prepared as a seedbed for a crop or temporary cover crop within 14 days, and

(i) the crop, or temporary cover crop, is sown within a period of 10 days beginning with the day after final seedbed preparation, or

(ii) if sowing within that 10-day period would mean breaching the requirement in paragraph 6(1), the crop, or temporary cover crop, is sown as soon as is practicable after the land ceases to be waterlogged.

### **Minimum land management reflecting site specific conditions to limit erosion**

5. (1) A beneficiary must—

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(22) 1991 c. 57. Section 24(1) was amended by section 120 of, and paragraph 128 of Schedule 22 to, the Environment Act 1995 and article 4(1) of, and paragraph 270(a) of Schedule 2(1) to, the Natural Resources Body for Wales (Functions) Order 2013.

(23) S.I. 2010/675; amended by S.I. 2012/630; there are other amending instruments but none is relevant.

- (a) not allow, on any land, poaching and rutting to occur at a level which causes soil erosion down slope or off-site to a watercourse or road; and
  - (b) either chisel-plough or install sediment fencing, to limit soil erosion if it is not possible to sow a cover crop on land which has been late harvested or where a forage or root crop has been grazed out.
- (2) In this paragraph—
- “off-site” (“*oddi ar y safle*”) means any area beyond the boundary of a field on a holding, including another field that is part of the same holding;
6. (1) A beneficiary must not carry out a mechanical field operation on waterlogged soil unless—
- (a) the soil is within 20 metres of the access point to an area of soil which is not waterlogged;
  - (b) the soil forms part of a track to an area of soil which is not waterlogged;
  - (c) the mechanical field operation is necessary—
    - (i) to improve the drainage of the soil, or
    - (ii) to incorporate gypsum into the soil following an intrusion of saltwater, or
    - (iii) for reasons of animal welfare or human safety, or
    - (iv) in order to harvest a crop of fruit or vegetables—
      - (aa) in order to meet contractual obligations, or
      - (bb) where the quality of the crop would deteriorate if it was not harvested;
  - (d) the Welsh Ministers have, in accordance with their obligations under sub-paragraph (2), published written directions stating, with reasons—
    - (i) that in their opinion an area of Wales is affected by exceptional weather conditions,
    - (ii) that in their opinion those weather conditions justify the suspension or variation of the requirement in this paragraph, taking into consideration the economic impact of the weather conditions and the environmental effects of any variation or suspension of the requirements,
    - (iii) the details of the suspension or variation, and
    - (iv) the period during which the suspension or variation will apply, provided that the period does not last more than two months,

in which case any beneficiary in the area of Wales concerned must comply with the requirement as varied in the directions, or in the case of a suspension of the requirement, need not comply with the requirement, during the period stated.

(2) The Welsh Ministers must publish such directions, in such a way as they consider appropriate to bring to the notice of those likely to be affected by them, whenever they consider it justified in consequence of such weather conditions to do so.

(3) In this paragraph—

“mechanical field operation” (“*gwaith maes mecanyddol*”) includes any harvesting, cultivation or spreading operation (including the spreading of manure or slurry) and all vehicle activity over the land in question.

### **Maintenance of soil organic matter**

7. (1) Subject to sub-paragraph (2), a beneficiary must not, on any agricultural area, burn any crop residue of a kind specified in Schedule 1 to the Crop Residues (Burning) Regulations 1993<sup>(24)</sup> unless the burning is for the purposes of—

- (a) disease control or the elimination of plant pests where a notice has been served under article 32 of the Plant Health (Wales) Order 2006<sup>(25)</sup>;
- (b) education or research; or
- (c) the disposal of straw stack remains or broken bales.

(2) A beneficiary must obtain the consent of the Welsh Ministers prior to commencing burning for the purposes of sub-paragraph (1)(b) or (c).

8. A beneficiary must not, on any agricultural area, burn—

- (a) any crop residue of a kind specified in Schedule 1 to the Crop Residues (Burning) Regulations 1993 to which an exemption specified in paragraph 7(1)(a) or (b) applies;
- (b) any linseed residues;

other than in accordance with the restrictions and requirements set out in Schedule 2 to those Regulations.

### **Heather and grass burning**

9. (1) A beneficiary must not commence burning heather, rough grass, bracken, gorse or vaccinium on any land between sunset and sunrise.

(2) A beneficiary must not burn heather, rough grass, bracken, gorse or vaccinium unless—

- (a) a burning plan has been prepared and the proposed burning is in accordance with the provisions of that plan;
- (b) there are, where the burning is taking place, sufficient persons and equipment to control and regulate the burning during the entire period of the operation;
- (c) the beneficiary takes, before commencing burning and during the entire period of the operation, all reasonable precautions to prevent injury or damage to any adjacent land, or to any person or thing on that land;
- (d) the beneficiary has, not less than 24 hours and not more than 72 hours before commencing burning on any land, given notice in writing of the date or dates, time and place at which, and the extent of the area on which it is the intention to burn—
  - (i) to any person who has an interest in that land either as an owner or an occupier, and
  - (ii) except in the case of any burning carried out on railway land, to any other person whom is known, or could with reasonable diligence have been discovered, to be in charge of any land adjacent to that on which the burning is to take place.

(3) A beneficiary must not burn heather, rough grass, bracken, gorse or vaccinium—

- (a) on land which is within an upland area, during the period within any year from 1 April to 30 September, both dates inclusive; or
- (b) on all other land, during the period within any year from 16 March to 31 October, both dates inclusive,

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<sup>(24)</sup> S.I. 1993/1366.

<sup>(25)</sup> S.I. 2006/1643 (W. 158) as last amended by S.I. 2014/2368 (W. 231).

except under and in accordance with a licence granted pursuant to regulation 7 of the Heather and Grass etc. Burning (Wales) Regulations 2008<sup>(26)</sup>.

### Environmental impact assessment

**10.** (1) A beneficiary must not begin or carry out an uncultivated land project or a restructuring project—

- (a) in breach of regulation 4 of, or
- (b) in breach of regulation 8 of,

the EIA (Agriculture) Regulations.

(2) A beneficiary must not breach a stop notice that has been served on him under regulation 24 of the EIA (Agriculture) Regulations.

(3) A beneficiary must not, without reasonable excuse, fail to comply with any requirement of a remediation notice served on him under regulation 26 of the EIA (Agriculture) Regulations.

(4) In this paragraph, “uncultivated land project” (“*prosiect tir heb ei drin*”) has the meaning given to it by regulation 2(1) of the EIA (Agriculture) Regulations.

(5) In this paragraph, “the EIA (Agriculture) Regulations” (“*y Rheoliadau AEA (Amaethyddiaeth)*”) means the Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007<sup>(27)</sup>

**11.** (1) A beneficiary must not carry out, on any land, work or operations relating to a relevant project unless—

- (a) consent has been granted for that project by the appropriate forestry body or by the appropriate authority; and
- (b) the project is carried out in accordance with the consent (including any conditions to which the consent is subject).

(2) A beneficiary must not carry out work in relation to a relevant project in contravention of a requirement to discontinue that work in an enforcement notice served in accordance with regulation 20 of the EIA (Forestry) Regulations.

(3) Subject to sub-paragraph (2), a beneficiary on whom an enforcement notice has been served in accordance with regulation 20 of the EIA (Forestry) Regulations must not fail, within the period specified in the enforcement notice, to carry out any measure required by the enforcement notice.

(4) In this paragraph—

- (a) “the appropriate authority” (“*yr awdurdod priodol*”) and “the appropriate forestry body” (“*y corff coedwigaeth priodol*”) have the meanings given to them by regulation 2(1) of the EIA (Forestry) Regulations, and “relevant project” (“*prosiect perthnasol*”) has the meaning given to it by regulation 3(1) of those Regulations; and
- (b) “the EIA (Forestry) Regulations” (“*y Rheoliadau AEA (Coedwigaeth)*”) means the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999<sup>(28)</sup>.

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<sup>(26)</sup> S.I. 2008/1081 (W. 115).

<sup>(27)</sup> S.I. 2007/2933 (W. 253) amended by S.I. 2013/755 (W. 90).

<sup>(28)</sup> S.I. 1999/2228. Regulation 2(1) was amended by article 4(2) of, and paragraph 99(2) of Schedule 4 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)). There are other amendments but none which are relevant.

### **Retention of landscape features - scheduled monuments**

**12.** (1) Subject to sub-paragraph (3), a beneficiary must not, without consent under section 2(3) of the Ancient Monuments and Archaeological Areas Act 1979<sup>(29)</sup>, execute any of the following works—

- (a) any works resulting in the demolition or destruction of, or any damage to, a scheduled monument;
- (b) any works for the purpose of removing or repairing a scheduled monument or any part of it;
- (c) any works for the purpose of making any alteration or additions to a scheduled monument or any part of it;
- (d) any flooding or tipping operations on land in, on or under which there is a scheduled monument.

(2) Subject to sub-paragraph (3), if a beneficiary executes any works to which a scheduled monument consent relates, the beneficiary must comply with all conditions attached to that consent.

(3) Sub-paragraphs (1) and (2) do not apply where a beneficiary can show that—

- (a) in relation to works prohibited under sub-paragraph (1)(a), that beneficiary took all reasonable precautions and exercised all due diligence to avoid or prevent damage to the monument;
- (b) in relation to works prohibited under sub-paragraph (1)(a) or (c), that beneficiary did not know and had no reason to believe that the monument was within the area affected by the works or, as the case may be, that it was a scheduled monument; and
- (c) in relation to any works under sub-paragraph (1) or (2), the works were urgently necessary in the interests of safety or health and that notice in writing of the need for the works was given to the Welsh Ministers as soon as reasonably practicable.

(4) In this paragraph, “scheduled monument” (“*heneb gofrestredig*”) has the meaning given to it in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979 and “scheduled monument consent” (“*caniatâd heneb gofrestredig*”) is to be construed in accordance with sections 2(3) and 3(5) of that Act.

### **Retention of other landscape features**

**13.** (1) Except where sub-paragraph (2) or (3) apply, a beneficiary must not remove, destroy or damage stone walls, stone faced banks, hedges, earth banks, slate fences, ponds or ditches without the prior consent of—

- (a) the Welsh Ministers,
- (b) another authority, by or under any enactment, as shall be notified to the beneficiary by the Welsh Ministers when the beneficiary applies to them for consent.

(2) A beneficiary may remove, or remove stone from, a stone feature—

- (a) to widen an existing gap in the stone feature to no more than 10 metres in order to provide access to the land for machinery or livestock, but the ends of the feature created by the widening operation must be finished with a vertical face; or
- (b) if the Welsh Ministers have given the beneficiary written permission to do so because they consider that the removal is necessary in the circumstance of the particular case.

(3) A beneficiary may widen an existing gap in a hedge, earth bank or ditch to no more than 10 metres in order to provide access to the land for machinery or livestock but the end of the hedge, earth bank or ditch created by the widening operation must be finished with a vertical face.

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(29) 1979 c. 46.

(4) A beneficiary must not cultivate land within 1 metre of a hedge, earth bank or watercourse adjacent to an agricultural area.

(5) A beneficiary must not remove a hedgerow in breach of regulation 5(1) or (9) of the Hedgerows Regulations 1997<sup>(30)</sup>.

(6) A beneficiary must not, in breach of a tree preservation order made under section 198(1) of the Town and Country Planning Act 1990<sup>(31)</sup>—

- (a) cut down, uproot or wilfully destroy a tree; or
- (b) wilfully damage, top or lop a tree in such a manner as to be likely to destroy it.

(7) In this paragraph—

“ditch” (“*ffos*”) includes a dry ditch;

“hedge” (“*perth*”) means any hedgerow with a maximum width of 10 metres or less;

“pond” (“*pwll dŵr*”) means a body of water occurring naturally, or created under a rural development commitment, up to 0.1 hectare surface area;

“rural development application” (“*cais datblygu gwledig*”) means an application to the Welsh Ministers to enter into a rural development commitment;

“rural development applicant” (“*ceisydd datblygu gwledig*”) means any person who makes a rural development application;

“rural development commitment” (“*ymrwymiad datblygu gwledig*”) means an undertaking by a rural development applicant to the Welsh Ministers to comply with any requirement which is a condition of receiving a rural development payment;

“rural development payment” (“*taliad datblygu gwledig*”) means any payment made by the Welsh Ministers under Title III of the Rural Development Regulation;

“stone feature” (“*nodwedd gerrig*”) includes a stone wall, a stone faced bank and a slate fence;

“stone wall” (“*wal gerrig*”) means a traditional stone wall and includes Penclawdd walls and Pembrokeshire hedges;

“Penclawdd wall” (“*wal Penclawdd*”) and “Pembrokeshire hedge” (“*perth Sir Benfro*”) means an earth bank with two constructed stone faces;

“stone faced bank” (“*clawdd cerrig*”) means an earth bank with one constructed stone face.

### **Retention of landscape features - ban on cutting hedges and trees**

**14.** (1) Except where sub-paragraphs (2), (3), (4) or (5) apply, a beneficiary must not cut or trim any hedgerow or tree on a holding during the period beginning on 1 March and ending on 31 August, both dates inclusive.

(2) A beneficiary may cut or trim a hedgerow or tree at any time if—

- (a) it is necessary to cut or trim it because it—
  - (i) overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians;
  - (ii) obstructs or interferes with the view of drivers of vehicles or the light from a public lamp;
  - (iii) overhangs a highway so as to endanger or obstruct the passage of horse-riders; or
- (b) it is necessary to cut or trim it because—
  - (i) it is dead, diseased, damaged or insecurely rooted, and

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<sup>(30)</sup> S.I. 1997/1160. There are amendments, none of which are relevant.

<sup>(31)</sup> 1990 c. 8.



- (ii) because of its condition it, or part of it, is likely to cause danger by falling on the highway road or footpath; or
  - (c) the cutting or trimming is carried out in order to maintain a ditch; or
  - (d) the tree is in an orchard,
- and the beneficiary does not disturb any birds nesting in the hedgerow or tree.
- (3) A beneficiary may carry out hedgerow-laying and hedgerow and tree coppicing—
    - (a) during the period beginning on 1 March and ending on 31 March if the beneficiary does not disturb any birds nesting in the hedgerow or tree; or
    - (b) during the period beginning on 1 March and ending on 30 April if the Welsh Ministers have given the beneficiary written permission to do so because the Welsh Ministers consider it necessary for purposes of a competition or training event.
  - (4) A beneficiary may trim a hedgerow by hand during a period of six months beginning with the first day after the hedge was laid.
  - (5) A beneficiary may cut or trim a hedgerow or tree on arable land during August if the beneficiary is planting winter arable crops on that land as part of the beneficiary's normal farming practice and the beneficiary does not disturb any birds nesting in the hedgerow or tree.

#### **Retention of landscape features - felling of trees**

- 15. (1) A beneficiary must not fell a tree without the authority of a felling licence, in circumstances where a felling licence is required under section 9(1) of the Forestry Act 1967(32).
- (2) A beneficiary must not, without reasonable excuse, fail to take any steps required by a notice given to him or her under section 24 of the Forestry Act 1967 (notice to require compliance with conditions or directions)(33).

### SCHEDULE 2

Regulation 13(2)

#### Circumstances where a breach of Schedule 1 is not a non-compliance

- 1. Any action carried out under a commitment under—
  - (a) a management agreement entered into under—
    - (i) section 16 of the National Parks and Access to the Countryside Act 1949(34);
    - (ii) section 15 of the Countryside Act 1968(35);
    - (iii) section 39 of the Wildlife and Countryside Act 1981(36);
  - (b) a measure—
    - (i) listed in Article 96 of Regulation 1698/2005;

(32) 1967 c. 10, as amended by section 46(3) of, and paragraph 2 of Schedule 4 to, the Countryside and Rights of Way Act 2000 (2000 c. 37) and article 4(1) of, and paragraph 53 of Part 1 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)) in relation to Wales.

(33) As last amended by article 4(1) of, and paragraph 64 of Part 1 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).

(34) 1949 c. 97, as amended by section 105(1) of, and paragraph 14 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (2006 c. 16) and article 4(1) of, and paragraph 17 of Part 1 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).

(35) 1968 c. 41, as last amended by article 4(1) of, and paragraph 95 of Part 1 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).

(36) 1981 c. 69, as amended by section 96 of the Countryside and Rights of Way Act 2000 and article 4(1) of, and paragraph 176 of Part 1 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).

(ii) referred to in Title III of the Rural Development Regulation.

2. Any action carried out on the land—

- (a) by virtue of, or in connection with, any power or authorisation conferred by or under any enactment, provided that following completion of the action the agricultural land will be in good agricultural and environmental condition for the purposes of Article 94 of the Horizontal Regulation;
- (b) in the interests of human or animal health or safety;
- (c) either to enable a serious cause of harm to plant health or serious infestation of any pest or specified weed to be treated, or to permit measures to be taken to prevent the development of any such cause of harm or infestation.

SCHEDULE 3

Regulation 15(1)

Revocations

<i>(1)</i>	<i>(2)</i>
<i>Regulations revoked</i>	<i>References</i>
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004	S.I. 2004/3280 (W. 284)
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2005	S.I. 2005/3367 (W. 264)
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2006	S.I. 2006/2831 (W. 252)
Rural Development Programmes (Wales) Regulations 2006	S.I. 2006/3343 (W. 304)
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2007	S.I. 2007/970 (W. 87)
Rural Development Programmes (Wales) (Amendment) Regulations 2009	S.I. 2009/3270 (W. 287)
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2010	S.I. 2010/38 (W. 11)
The Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2010	S.I. 2010/1892 (W. 185)
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2011	S.I. 2011/2941 (W. 317)
The Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2012	S.I. 2012/3093 (W. 311)
The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2014	S.I. 2014/371 (W. 39)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1<sup>st</sup> January 2015 make provision, in relation to Wales, for the implementation of the European Regulations (as defined in regulation 2(1)) relating to the administration of the Common Agricultural Policy of the European Union. Any reference in this Note to a Regulation is a reference to that EU Regulation as defined in regulation 2(1).

Part 2 (regulations 3 to 12) sets out provisions on control and enforcement in relation to payments granted directly to farmers under the Direct Payments Regulation (“direct payments”) and rural development payments under the Rural Development Regulation (“RD payments”).

Regulation 3 specifies that the final date on which a single application, aid application or payment claim may be submitted to the Welsh Ministers is 15<sup>th</sup> May or the following working day if 15<sup>th</sup> May is a Saturday, Sunday, Bank Holiday or other public holiday.

Regulation 4 prescribes the minimum size of agricultural parcel in respect of which a single application may be made.

Regulation 5 provides that a repayment due from the beneficiary of a direct payment is recoverable as a debt and regulation 6 provides for the rate of interest that may be charged on that repayment.

Regulations 7 and 8 confer powers of entry and inspection on persons authorised by the Welsh Ministers for enforcement purposes. Regulation 9 requires certain persons to assist authorised persons on request.

Regulation 10 creates offences and penalties. Regulation 11 contains provisions relating to the liability of directors and regulation 12 relates to proceedings against bodies corporate, partnerships and unincorporated associations.

Part 3 implements Articles 91 to 101 (cross-compliance) of the Horizontal Regulation, and associated Regulations made under Article 101, and sets out further requirements on beneficiaries of direct payments and certain RD payments relating to the maintenance of standards for good agricultural and environmental condition as prescribed by Schedule 1. Schedule 2 lists exceptions from those requirements. These provisions replace the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004 (S.I. 2001/3280 (W. 284)), as amended, which are revoked by regulation 15(1) and Schedule 3.

Part 4 makes provision for revocations and savings (regulation 15 and Schedule 3). Paragraphs (1) to (4) of regulation 15, and Schedule 3, revoke with savings previous Regulations which make provision for the enforcement of the Common Agricultural Policy.

A Regulatory Impact Assessment has been prepared, of the effects of these Regulations on the costs to farm businesses in Wales. Copies can be obtained from the Department of Sustainable Futures, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.