

This Statutory Instrument has been made to correct errors in S.I. 2019/764, 2019/823, 2019/831, 2019/1402, 2019/1422 and substantially replaces provision made in S.I. 2019/1344, the scrutiny period for which expired on 7 January 2020 without the instrument having been approved, and is being issued free of charge to all known recipients of those Statutory Instruments.

Draft Regulations laid before Parliament under paragraphs 1(1) and 8F(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. 000

EXITING THE EUROPEAN UNION AGRICULTURE

The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020

Made - - - - 2020

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) and 8C(1) and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾ and section 6(1) of the Direct Payments to Farmers (Legislative Continuity) Act 2020⁽²⁾.

In accordance with paragraphs 1(1) and 8F(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with section 6(5) of the Direct Payments to Farmers (Legislative Continuity) Act 2020, the Secretary of State has obtained consent from the Scottish Ministers, Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

(1) 2018 c.16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 21 of Schedule 7 was amended by paragraph 53(2) of Schedule 5 to that Act. Section 8C was inserted by section 21 of that Act and paragraph 8F of Schedule 7 was inserted by paragraph 51 of Schedule 5 to that Act.

(2) 2020 c. 2.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020.

(2) These regulations come into force—

- (a) as regards Part 3 on IP completion day;
- (b) otherwise immediately before IP completion day.

PART 2

CAP Horizontal Legislation

Treatment of CAP Horizontal Legislation

2.—(1) On IP completion day, each of the Regulations listed in paragraph (2) is to be treated as though section 3 of the European Union (Withdrawal) Act 2018 resulted in that Regulation forming part of domestic law in the form in which it applied on exit day, but—

(a) insofar as it applies to the CAP direct payment schemes—

- (i) excluding any Articles or parts of Articles which were not incorporated by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020; and
- (ii) insofar as it applies in each constituent nation, amended in accordance with any amendments in force in the constituent nation immediately before IP completion day;

(b) in all other cases, amended in accordance with any amendments made to the Regulation as it had effect in EU law by the European Commission or the European Parliament and the Council between exit day and the coming into force of this regulation.

(2) The Regulations referred to in paragraph (1) are—

- (a) Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy⁽³⁾;
- (b) Commission Delegated Regulation (EU) No 907/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro⁽⁴⁾;
- (c) 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 with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency⁽⁵⁾;
- (d) 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

(3) EUR 2013/1306, amended in relation to direct payment schemes by [S.I. 2020/90](#) and 576. EUR 2013/1306 is also amended prospectively with effect from IP completion day by [S.I. 2019/748](#) (as amended by [S.I. 2019/831](#)), 763 (as amended by [S.I. 2019/812](#)), 831 and 1402.

(4) EUR 2014/907, amended in relation to direct payment schemes by [S.I. 2020/90](#). EUR 2014/907 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#).

(5) EUR 2014/908, amended in relation to direct payment schemes by [S.I. 2020/90](#). EUR 2014/908 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#).

Council with regard to the integrated administration and control system, rural development measures and cross compliance(6);

- (e) 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(7).

(3) In this regulation “constituent nation” means England, Wales, Scotland or Northern Ireland, as the case may be.

The Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019

3.—(1) The Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019(8) is amended as follows.

(2) In regulation 2, after “amended” insert “, insofar as it relates to common organisation of the markets and rural development measures(9),”

(3) In regulation 3, in paragraph (2)(a)—

(a) before paragraph (i) insert—

“(ai) omit point (e)”;

(b) in paragraph (i), in the substituted text, after “means” insert “, insofar as it relates to agricultural support”;

(c) in paragraph (iii), for points (h) to (n) in the substituted text, substitute—

“(h) “constituent nation” means England, Wales, Scotland or Northern Ireland, as the case may be;

(i) “agricultural support” means support for rural development and CMO support;

(j) “economic operator” means any person or public entity or group of such persons or entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market;

(k) “relevant authority”, unless otherwise defined in this Regulation, means:

(i) in England, the Secretary of State;

(ii) in Wales, the Welsh Ministers;

(iii) in Scotland, the Scottish Ministers;

(iv) in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

(6) EUR 2014/809, amended in relation to direct payment schemes by [S.I. 2020/90](#) and 576. EUR 2014/809 is also amended in relation to direct payment schemes in England by [S.I. 2020/510](#) and 575, in relation to direct payment schemes in Wales by [S.I. 2020/473](#) and 531, in relation to direct payment schemes in Scotland by [S.S.I. 2020/244](#) and in relation to direct payment schemes in Northern Ireland by [S.R. 2020/81](#) and 105. EUR 2014/809 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#).

(7) EUR 2014/640, amended in relation to direct payment schemes by [S.I. 2020/90](#), in relation to direct payment schemes in England by [S.I. 2020/551](#) and in relation to direct payment schemes in Northern Ireland by [S.R. 2020/94](#). EUR 2014/640 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#).

(8) [S.I. 2019/763](#); amended by [S.I. 2019/812](#).

(9) The Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2) incorporated Regulation (EU) 1306/2013 with effect from exit day insofar as it relates to direct payment schemes and that Regulation has been amended in relation to direct payment schemes. Under Article 138 of the withdrawal agreement and section 7A of the European Union (Withdrawal Agreement) Act 2018 certain programmes and activities committed under the MFF 2014-20 and previous financial perspectives continue to be governed by directly applicable EU law. This affects rural development and the common organisation of the markets.

- (l) “relevant accounting officer” means:
- (i) in England, the accounting officer for the Department for Environment, Food and Rural Affairs;
 - (ii) in Wales, the Permanent Secretary of the Welsh Government;
 - (iii) in Scotland, the Permanent Secretary of the Scottish Government;
 - (iv) in Northern Ireland, the Permanent Secretary of the Department of Agriculture, Environment and Rural Affairs;
- (n) “CMO support” means financial support granted under:
- (i) Regulation (EU) No 1308/2013⁽¹⁰⁾ or any regulations made under, or delegated or implementing acts adopted on the basis of, that Regulation;
 - (ii) any delegated or implementing acts adopted on the basis of Regulation (EC) No 1234/2007;
 - (iii) Regulation (EU) No 1144/2014⁽¹¹⁾ or any regulations made under, or delegated or implementing acts adopted on the basis of, that Regulation;”.
- (4) In regulation 4, for paragraph (3) substitute—
- “(3) In Article 7, for paragraphs 1 to 6 substitute—
- “1. Paying agencies shall be departments or bodies designated by the relevant authority, which have an administrative organisation and a system of internal control that provide sufficient guarantees that payments are legal and regular, and properly accounted for.
2. The number of paying agencies shall be restricted to no more than one per constituent nation. However, the relevant authorities may jointly designate a single paying agency for the UK to manage aid schemes which, by their nature, have to be managed at UK level.
3. Paying agencies shall be responsible for the management and control of expenditure on agricultural support. With the exception of payment, the carrying out of those tasks may be delegated.
4. The relevant authorities shall have joint responsibility for the following tasks:
- (a) to take or coordinate, as the case may be, actions with a view to resolving deficiencies of a common nature;
 - (b) to promote and, where possible, ensure harmonised application of sectoral agricultural legislation.
5. The paying agencies shall manage and ensure the control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.””.
- (5) In regulation 5(1)(b)—
- (a) the words from “for points” to the end become paragraph (ii) of that sub-paragraph;
 - (b) before that paragraph, insert—
 - “(i) omit point (b);”.
- (6) In regulation 6—

⁽¹⁰⁾ EUR 2013/1308, amended prospectively with effect from IP completion day by S.I. 2019/821, 828, 831, 1402, 1422.

⁽¹¹⁾ EUR 2014/1144, amended prospectively with effect from IP completion day by S.I. 2019/821 and 831.

- (a) in paragraph (2), omit “Direct payment support and”;
 - (b) in paragraph (5), for “25” substitute “29”;
 - (c) omit paragraphs (6) and (7);
 - (d) for paragraph (17) substitute—
 - “(17) In Article 50—
 - (a) for the heading, substitute—

“Powers”;
 - (b) omit paragraph 1.”;
 - (e) in paragraph (20), in the substituted heading and text, in both places it occurs, omit “direct payment support and”.
- (7) In regulation 7—
- (a) in paragraph (5)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) in paragraph 1—
 - (i) in the first subparagraph, omit the words from “and, where relevant” to the end;
 - (ii) in the second subparagraph, omit “national or Union”;
 - (ii) after sub-paragraph (b) insert—
 - “(c) in paragraph 3, omit “and payment entitlements.”;
 - (b) in paragraph (9)—
 - (i) for sub-paragraph (b) substitute—
 - “(b) in paragraph 2—
 - (i) omit “to the support schemes listed in Annex I of Regulation (EU) No 1307/2013 and”;
 - (ii) for “34 and 40” substitute “and 34”;
 - (ii) in sub-paragraph (c)—
 - (aa) in paragraph (i), after “for” insert “the words from “where” to”;
 - (bb) for paragraph (ii) substitute—
 - “(ii) omit point (b).”;
 - (c) for paragraph (10) substitute—
 - “(10) In Article 68—
 - (a) in paragraph 1, omit point (c);
 - (b) omit paragraphs 3 and 4.”;
 - (d) in paragraph (12), for sub-paragraph (b) substitute—
 - “(b) omit paragraph 2.”;
 - (e) for paragraph (13) substitute—
 - “(13) Omit Article 71.”;
 - (f) in paragraph (14)—
 - (i) in sub-paragraph (a), before paragraph (i) insert—
 - “(zi) omit “an application for direct payments or”;