

Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No.

EXITING THE EUROPEAN UNION

The European Structural and Investment Funds Common Provisions and Common Provision Rules etc. (Amendment) (EU Exit) Regulations 2019

Made - - - -

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(a)(ii) and (b) of Schedule 7, to the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the European Structural and Investment Funds Common Provisions and Common Provision Rules etc. (Amendment) (EU Exit) Regulations 2019 and come into force on whichever is the later of—

- (a) exit day, and
- (b) the day after the day on which these Regulations are made.

Interpretation

2. In these Regulations—

“beneficiary” has the meaning given in Article 2(10) of Regulation 1303/2013 as it had effect in EU law immediately before exit day or Article 2(4) of Regulation 1083/2006 as it had effect in EU law immediately before exit day (as appropriate);

“Cohesion Fund” has the meaning given in Article 177 of the Treaty on the Functioning of the European Union;

“cooperation programme” has the meaning given in Article 1(2) of Regulation 1299/2013 as it had effect in EU law immediately before exit day;

“ESIF Regulations” means the Regulations listed in Schedules 1 and 2 as they had effect in EU law immediately before exit day;

“European Regional Development Fund” has the meaning given in Article 176 of the Treaty on the Functioning of the European Union;

“European Social Fund” has the meaning given in Article 162 of the Treaty on the Functioning of the European Union;

“managing authority” means an authority or body designated as a managing authority in accordance with Article 123 of Regulation 1303/2013 as it had effect in EU law immediately before exit day;

“operation” has the meaning given in Article 2(9) of Regulation 1303/2013 as it had effect in EU law immediately before exit day or Article 2(3) of Regulation 1083/2006 as it had effect in EU law immediately before exit day (as appropriate);

“Regulation 1083/2006” means Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, as it has effect by virtue of Article 152 of Regulation 1303/2013;

“Regulation 1299/2013” means Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal(2);

“Regulation 1303/2013” means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006(3).

Disapplication of retained direct EU legislation

3.—(1) The retained direct EU legislation listed in Schedule 1 shall cease to have effect insofar as it applies to each of the funds mentioned in paragraph (2).

(2) The funds are the European Regional Development Fund, the European Social Fund and the Cohesion Fund.

Revocation of retained direct EU legislation

4. The retained direct EU legislation listed in Schedule 2 is revoked.

Transitional provision for existing ERDF and ESF operations

5.—(1) Regulations 3 and 4 do not affect the operation of a relevant document or any agreement entered into in connection with the funding to be provided under the terms of a relevant document before exit day.

(2) OJ L 347, 20.12.2013, p. 259–280.

(3) OJ L 347, 20.12.2013, p. 320–469, relevant amendments are article 272 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012.

(2) Any reference to the ESIF Regulations (as they have effect from time to time) included in a relevant document immediately before exit day is to be read, on or after exit day, as a reference to those Regulations as they had effect in relation to the beneficiary and operation to which the document relates immediately before exit day.

(3) Any reference to the 2007-13 Regulations (as they have effect from time to time) included in a relevant document immediately before exit day is to be read, on or after exit day, as a reference to those Regulations as they had effect in relation to the beneficiary and operation to which the document relates immediately before exit day.

(4) Paragraphs (2) and (3) do not apply to any variation or amendment to a relevant document which is to have effect on or after exit day.

(5) Any authority or body designated before exit day, as—

(a) a managing authority, certifying authority or audit authority for the purposes of Article 123 of Regulation 1303/2013 or Article 59(1) of Regulation 1083/2006, or

(b) an intermediate body for the purposes of Article 36(3), or Article 123(6) or (7) of Regulation 1303/2013 or Article 59(2) of Regulation 1083/2006,

may continue to exercise any powers, rights and remedies it has by virtue of the ESIF Regulations or the 2007-13 Regulations as they had effect in relation to the beneficiary and an operation and any expenditure incurred by the beneficiary under a relevant document immediately before exit day.

(6) Nothing in these Regulations affects the application of paragraph 37(1) and (2) of Schedule 8 to the European Union (Withdrawal) Act 2018 to anything done in connection with the ESIF Regulations or the 2007-13 Regulations before exit day.

(7) In this regulation—

(a) “2007-13 Regulations” means—

(i) Regulation 1083/2006,

(ii) Regulation 1828/2006,

(iii) Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999, as it has effect by virtue of Article 13 of Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006,

(iv) Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999, as it has effect by virtue of Article 26 of Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006,

(b) “financial engineering instrument” has the meaning given in Article 44 of Regulation 1083/2006,

(c) “financial instrument” has the meaning given in Article 2(11) of Regulation 1303/2013 as it had effect in EU law immediately before exit day,

(d) “holding fund” has the meaning given in Article 44 of Regulation 1083/2006,

(e) “Regulation 1828/2006” means Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund, as it has effect by virtue of Article 152 of Regulation 1303/2013, and

(f) “relevant document” means (subject to paragraph (8))—

- (i) a document setting out the conditions for support for funding from the European Regional Development Fund or European Social Fund in accordance with Article 125(3)(c) of Regulation 1303/2013 or Article 13(1) of Regulation 1828/2006 which has been provided to a beneficiary immediately before exit day,
- (ii) a funding agreement setting out the terms and conditions for contributions from programmes to financial instruments in accordance with Article 38(7) of Regulation 1303/2013 which has been provided to a beneficiary immediately before exit day,
- (iii) a funding agreement setting out the terms and conditions for contributions from programmes to financial engineering instruments in accordance with Article 43 of Regulation 1828/2006 which has been provided to the duly mandated representative of a financial engineering instrument immediately before exit day,
- (iv) a funding agreement setting out funding arrangements and objectives in accordance with Article 44(1) of Regulation 1828/2006 which has been concluded with a holding fund immediately before exit day,
- (v) a funding agreement setting out terms and conditions for contributions to a venture capital fund, guarantee funds, loan funds or urban development funds in accordance with Article 44(3) of Regulation 1828/2006 which has been concluded with a holding fund immediately before exit day.

(8) A document is not to be treated as a relevant document for the purposes of this Regulation where it has been provided in respect of funding from the European Regional Development Fund under a cooperation programme.

Transitional provision for cooperation programmes

6.—(1) Regulations 3 and 4 do not affect any right or remedy of a managing authority for a co-operation programme based in the UK in relation to an act or omission by a beneficiary which occurred in connection with funding from the European Regional Development Fund provided before exit day.

(2) The Secretary of State, the Treasury, or a devolved authority may give, or make arrangements for the giving of financial assistance to any person under such conditions as they consider appropriate for the purpose of—

- (a) ensuring the operability of an operation (whether or not commenced) which a monitoring committee approved as eligible for funding from the European Regional Development Fund under a cooperation programme before exit day;
- (b) ensuring the operability of an operation in respect of which an application for funding from the European Regional Development Fund under a cooperation programme was made to a managing authority before exit day;
- (c) enabling the United Kingdom to continue to participate in a cooperation programme which was approved before exit day.

(3) Financial assistance may not be given under paragraph (2)(b) unless the operation was eligible for funding from the European Regional Development Fund before exit day.

(4) In this Regulation, “monitoring committee” means a committee set up in accordance with Article 47(3) of Regulation 1303/2013 as it had effect in EU law immediately before exit day.