Commission Implementing Decision (EU) 2019/872 of 26 March 2019 on the clearance of the accounts of the paying agencies in the United Kingdom concerning expenditure financed by the European Agricultural Fund for Rural Development (EAFRD) for financial year 2018 (notified under document C(2019) 2358) (Only the English text is authentic)

COMMISSION IMPLEMENTING DECISION (EU) 2019/872

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(Only the English text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(1)], and in particular Article 51 thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) Pursuant to Article 51 of Regulation (EU) No 1306/2013, the Commission, on the basis of the annual accounts submitted by the Member States, accompanied by the information required for the clearance of accounts and an audit opinion regarding the completeness, accuracy and veracity of the accounts and the reports established by the certification bodies, has to clear the accounts of the paying agencies referred to in Article 7 of that Regulation prior to 31 May of the year following the budget year in question.

(2) In accordance with Article 39 of Regulation (EU) No 1306/2013, the agricultural financial year begins on 16 October of year N-1 and ends on 15 October of year N. When clearing the accounts for financial year 2018, for the purpose of aligning the reference period for European Agricultural Fund for Rural Development (EAFRD) expenditure with that of the European Agricultural Guarantee Fund (EAGF), account should be taken of expenditure incurred by the United Kingdom between 16 October 2017 and 15 October 2018, as provided for in Article 11(1) of Commission Implementing Regulation (EU) No 908/2014[(2)].

(3) Since the United Kingdom has already communicated the necessary accounting information to the Commission, it is appropriate to proceed to the adoption of the

relevant clearance of accounts decision pursuant to Article 51 of Regulation (EU) No 1306/2013.

(4) The second subparagraph of Article 33(2) of Implementing Regulation (EU) No 908/2014 provides that the amounts that are recoverable from, or payable to, each Member State, in accordance with the accounts clearance decision referred to in Article 33(1) of that Regulation, are to be established by deducting the intermediate payments for the financial year concerned from the expenditure recognised for that year in accordance with Article 33(1).

(5) Following the transmission by the United Kingdom of the information, and after all necessary checks and amendments, the Commission can take a decision on the completeness, accuracy and veracity of the accounts of the following paying agencies: 'Department of Agriculture, Environment and Rural Affairs', 'The Scottish Government Rural Payments and Inspections Directorate' and 'Rural Payments Agency' as regards the expenditure financed by the EAFRD. The Commission has checked the information submitted by the United Kingdom and has communicated the results of its checks to the United Kingdom before the date of adoption of this decision, along with the necessary amendments.

(6) For these paying agencies, the annual accounts and the accompanying documents permit the Commission to take a decision on the completeness, accuracy and veracity of the annual accounts submitted.

(7) The information submitted by the United Kingdom's paying agency 'Welsh Government' requires additional inquiries and its accounts cannot therefore be cleared in this Decision.

(8) Pursuant to Article 54(2) of Regulation (EU) No 1306/2013, 50 % of the financial consequences of non-recovery of irregularities should be borne by the Member State concerned, if recovery has not taken place within four years from the date of the recovery request, or within eight years where the recovery is taken before the national courts. Article 54(4) of Regulation (EU) No 1306/2013 requires Member States to attach to the annual accounts that they have to submit to the Commission, pursuant to Article 29 of Implementing Regulation (EU) No 908/2014, a certified table reflecting the amounts to be borne by them under Article 54(2) of Regulation (EU) No 1306/2013. Rules on the application of the Member States' obligation to report the amounts to be recovered are laid down in Implementing Regulation (EU) No 908/2014. Annex II to Implementing Regulation (EU) No 908/2014 sets out the model of the table that Member States have to use to provide information about amounts to be recovered. On the basis of the tables completed by the Member States, the Commission should decide on the financial consequences of non-recovery of irregularities older than four or eight years respectively.

(9) Pursuant to Article 54(3) of Regulation (EU) No 1306/2013, on duly justified grounds, Member States may decide not to pursue recovery. Such a decision may be taken only if the costs already, and likely to be, incurred total more than the amount to be recovered, or if the recovery proves impossible owing to the insolvency recorded and recognised under national law, of the debtor or the persons legally responsible for the

irregularity. If the decision has been taken within four years from the date of the recovery request, or within eight years where the recovery is taken before the national courts, 100 % of the financial consequences of the non-recovery should be borne by the Union budget. The amounts for which the United Kingdom decided not to pursue recovery and the grounds for its decision are shown in the summary report referred to in Article 54(4) of Regulation (EU) No 1306/2013 in conjunction with point (c)(iv) of the first subparagraph of Article 102(1) of that Regulation. Therefore, such amounts should not be charged to the United Kingdom and are consequently to be borne by the Union budget.

(10) This Decision should also take into account the amounts that are still to be charged to the United Kingdom, as a result of the application of Article 54(2) of Regulation (EU) No 1306/2013 in relation to the 2007-2013 programming period for EAFRD.

(11) Article 36(3)(b) of Regulation (EU) No 1306/2013 provides that intermediate payments are to be made without overrun of the total financial programmed EAFRD contribution. Pursuant to Article 23(2) of Implementing Regulation (EU) No 908/2014, where the combined total of declarations of expenditure exceeds the total programmed contribution for a rural development programme, the amount to be paid shall be capped at the programmed amount, without prejudice to the ceiling provided for in Article 34(2) of Regulation (EU) No 1306/2013. The capped amount will be subject to a later reimbursement by the Commission following the adoption of the amended financial plan or at the closure of the programming period.

(12) In accordance with Article 51 of Regulation (EU) No 1306/2013, this Decision should be without prejudice to the decisions the Commission may take subsequently to exclude from Union financing expenditure not effected in accordance with Union rules,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the paying agencies of the United Kingdom, ‘Department of Agriculture, Environment and Rural Affairs’, ‘The Scottish Government Rural Payments and Inspections Directorate’ and ‘Rural Payments Agency’ are hereby cleared as regards expenditure financed by the European Agricultural Fund for Rural Development (EAFRD), in respect of financial year 2018.

The amounts recoverable from or payable to the United Kingdom under each rural development programme pursuant to this Decision are set out in Annex I.

Article 2

For financial year 2018, the accounts of the United Kingdom's paying agency ‘Welsh Government’ in respect of expenditure for Rural Development programmes financed by the EAFRD relating to the 2014-2020 programming period, as set out in Annex II, are not covered by this Decision and shall be the subject of a future clearance of accounts Decision.

Article 3

The amounts to be charged to the United Kingdom, as a result of the application of Article 54(2) of Regulation (EU) No 1306/2013 relating to the 2014-2020 programming

period and to the 2007-2013 programming period for EAFRD, are set out in Annex III to this Decision.

Article 4

This Decision is without prejudice to future conformity clearance decisions that the Commission may take pursuant to Article 52 of Regulation (EU) No 1306/2013 to exclude from Union financing expenditure not effected in accordance with Union rules.

Article 5

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 26 March 2019.

For the Commission

Phil HOGAN

Member of the Commission