Commission Implementing Decision (EU) 2019/871 of 26 March 2019 on the clearance of the accounts of the paying agencies of the United Kingdom concerning expenditure financed by the European Agricultural Guarantee Fund (EAGF) for financial year 2018 (notified under document C(2019) 2357) (Only the English text is authentic)

COMMISSION IMPLEMENTING DECISION (EU) 2019/871

of 26 March 2019

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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, 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 first 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 monthly payments for the financial year concerned from 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', 'Welsh Government' and 'Rural Payments Agency' as regards the expenditure financed by the European Agricultural Guarantee Fund (EAGF). 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) In accordance with Article 5(5) of Commission Delegated Regulation (EU) No 907/2014[(3)], any overrun of deadlines during August, September and October is to be taken into account in the clearance of accounts decision. Some of the expenditure declared by the United Kingdom during those months in 2018 was effected after the applicable deadlines. This Decision should therefore fix the relevant reductions.

(8) Pursuant to Article 41 of Regulation (EU) No 1306/2013, the Commission has already reduced a number of monthly payments related to the United Kingdom for financial year 2018 due to failure to comply with payment deadlines. In this Decision, the Commission should take into account such reduced amounts in order to avoid making any inappropriate, or untimely, payments or reimbursements which could later be subject to financial correction. The amounts in question may be examined, where appropriate, under conformity clearance proceedings pursuant to Article 52 of Regulation (EU) No 1306/2013.

(9) 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.

(10) 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 to 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 the 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 borne by the Union budget.

(11) 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', 'Welsh Government' and 'Rural Payments Agency' are hereby cleared as regards expenditure financed by the European Agricultural Guarantee Fund (EAGF) in respect of financial year 2018.

The amounts recoverable from, or payable to the United Kingdom pursuant to this Decision, including those resulting from the application of Article 54(2) of Regulation (EU) No 1306/2013, are set out in the Annex to this Decision.

Article 2

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 3

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