

EXPLANATORY MEMORANDUM TO

The Direct Payments to Farmers (Simplifications) Regulations (Northern Ireland) 2022

S.R. 2022 No. 0000

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Development (“the Department”) to accompany this statutory rule (SR) which is laid before the Northern Ireland Assembly.
- 1.2 The SR is made under schedule 6 paragraphs 2 and 5 and section 50(3) of the Agriculture Act 2020, and is subject to the draft affirmatory resolution procedure.

2. Purpose

- 2.1 The SR gives legal effect to the following improvements/simplifications to the rules governing the direct agricultural support schemes for the 2022 Scheme Year.
- 2.2 **Limit the number of times applicants/businesses can submit an application for the Young Farmers Payment and the Regional Reserve**
The Direct Payments to Farmers (Simplifications) Regulations (Northern Ireland) 2021 limits to 3 the number of applications that can be submitted to the Young Farmers Payment. It is intended that this Regulation will extend this restriction to also include the Regional Reserve.
- 2.3 **Limiting the allocation of entitlements from the Regional Reserve**
It is intended to introduce a rule to prevent entitlements being transferred out by a business in the year of application to the Regional Reserve or permanently transferred out in the 2 years prior to the application. While very few farm businesses do this, selling entitlements prior to submitting an application to the Regional Reserve could result in a business not only receiving entitlements at the Regional Average, which could be higher than the value of its original entitlements, but also profiting from the sale of the original entitlements.
- 2.4 **Introduce a rule to prevent a change in the head of holding extending the time a farm business can receive the Young Farmers Payment**
It is intended to introduce a rule to limit to 5 years the length of time a farm business can receive the Young Farmers Payment even if there is a change in the head of holding during that period. We are finding that in a small number of cases, farm businesses are changing the head of holding to another young farmer to get the Young Farmers Payment for a further 5 years.

2.5 The amendments contained within these Regulations amend retained EU legislation.

3. Background

3.1 The United Kingdom leaving the EU and the Common Agricultural Policy is the most significant change in policy affecting the agri-food sector in over 40 years. It means that our policies no longer have to be constrained by the existing CAP Pillar 1 and Pillar 2 construct and gives us the opportunity to develop new approaches and support systems which better address the needs of Northern Ireland agriculture, the environment and rural communities.

3.2 Whilst work is progressing to develop this long term agricultural support strategy for NI, it is inevitable that new schemes will take time to develop and implement. In the interim, DAERA has reviewed its approach to the current schemes and implemented a number of improvements/simplifications for the 2021 year through the introduction of the Direct Payments to Farmers (Simplification) Regulations (Northern Ireland) 2021.

3.3 DAERA has continued to review its approach with a view to making the schemes simpler for both applicants and those administering the schemes and has identified the above simplifications/improvements for the 2022 scheme year.

3.4 These improvements/simplifications build on the simplifications already introduced for the 2020 and 2021 scheme years.

4. Consultation

4.1 The improvements/simplifications for the 2022 scheme year take account of the views provided by stakeholders during the Northern Ireland Future Agricultural Policy Framework stakeholder engagement exercise in 2018.

5. Equality Impact

5.1 These changes make minimal or no impact on the amount of payments going to the overwhelming majority of individual farmers. There are therefore no equality implications associated with the improvements/simplifications for the 2022 Scheme Year for society generally, or Section 75 stakeholders specifically.

6. Regulatory Impact

6.1 These changes make simplifications/improvements to the Rules governing the Direct Agricultural Support Schemes which will make the schemes simpler for both applicants and those administering the schemes. There are therefore no

adverse regulatory impacts on the private, voluntary or public sector as a result of these changes.

7. Financial Implications

7.1 £293m has been allocated to Northern Ireland for Direct Payments for 2022 scheme year. These amendments have no impact on the financial allocation.

8. Section 24 of the Northern Ireland Act 1998

8.1 These changes make simplifications/improvements to the Rules governing the Direct Agricultural Support Schemes which will make the schemes simpler for both applicants and those administering the schemes. They therefore will have no impact on human rights. The legislation that is amended by this SR was assessed for human rights impacts prior to it being made. In each case it was concluded that the legislation would have no impact on human rights. Given that the amendments contained in these Regulations introduce no new policy, this conclusion remains unchanged.

8.2 These Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 The United Kingdom leaving the EU and the Common Agricultural Policy means that our policies no longer have to be constrained by the existing CAP Pillar 1 and Pillar 2 construct and gives us the opportunity to develop new approaches and support systems which better address the needs of Northern Ireland agriculture, the environment and rural communities.

10. Parity or Replicatory Measure

10.1 England is not planning any changes to the Young Farmer Payment as they intend to stop BPS (and the Young Farmer Payment) at the end of 2023, and introduce delinked payments instead. The only change they plan to make for the 2022 scheme year is to stop issuing entitlements from the national reserve to new and young farmers in relation to land they have recently taken on.

10.2 The issues set out in paragraphs 2.2 and 2.3 above do not affect Scotland as they only accept one National Reserve application and do not allow businesses to apply for further entitlements for land bought in after the initial application. The issue set out in paragraph 2.4 does apply in Scotland and they are considering introducing a similar measure to address this.

10.3 Wales consulted on stopping new applications for the Young Farmer Payment from 2021 but this was not taken forward. They plan to look at this again as part of deciding how to introduce new scheme(s). They reached a flat rate for BPS entitlements in 2019 and now calculate the value of all entitlements based on the number claimed. As a result there is no incentive for a business to

transfer out entitlements in the year of application to the Regional Reserve or permanently transfer them out in the years prior to the application. Businesses changing the head of holding to another young farmer to extend the period of time they get the Young Farmers Payment has not been identified as an issue in Wales.

11. Additional Information

11.1 Not applicable.