

EXPLANATORY MEMORANDUM TO

The Direct Payments to Farmers (Crop Diversification Derogation) Regulations (Northern Ireland) 2020

S.R. 2020 No. 75

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Agriculture, Environment and Rural Development (“the Department”) to accompany the statutory rule (SR) which is laid before the Northern Ireland Assembly.

2. Purpose

- 2.1 The amendment made by this instrument will exempt farmers in Northern Ireland from the need to follow crop diversification requirements during 2020. This requirement is removed for 2020 only, in response to the recent prolonged period of wet weather particularly in February 2020. This amendment means farmers in Northern Ireland will not be required to plant more than one crop for the 2020 Direct Payments Scheme year.

3. Background

- 3.1 Crop Diversification rules were introduced in 2015 in Northern Ireland as part of the greening requirements under reforms to the EU Common Agricultural Policy (CAP) agreed in 2013. They require farmers who have between 10-30 hectares of arable land to grow at least two different crops and farmers with more than 30 hectares of arable land to grow three crops. There are some exemptions and requirements on the area that has to be covered by the various crops. In 2019, 316 farmers in Northern Ireland had a two crop requirement and 333 farmers had a three crop requirement.
- 3.2 There was adverse weather in Northern Ireland during this winter (most notably in February 2020 where there was record rainfall recorded) leaving many fields waterlogged at a time when crop planting decisions were being made. Therefore, the Department came to the view that arable farmers could not comply with the crop diversification requirements in 2020 or could only do so with great difficulty. A complete derogation from the crop diversification requirements for the 2020 scheme year was announced on 26 March 2020. This will allow farmers to grow only one arable crop such as spring barley which has a later planting time. Similar decisions have been taken in England, Scotland and Wales.
- 3.3 The Direct Payments to Farmers (Crop Diversification Derogation) Regulations (Northern Ireland) 2020 (Annex A) have been made to provide for this derogation.

- 3.4 This is possible under Article 69(1) of Regulation (EU) 1307/2013 which allows a derogation to resolve specific problems which are both necessary and justifiable in an emergency. Following the operability amendments made in UK SIs under the Direct Payments to Farmers (Legislative Continuity) Act 2020 which incorporated the EU Regulation into domestic law, this is now in respect of 2020 scheme year exercisable by a Statutory Rule subject to the confirmatory procedure in the Assembly.
- 3.5 Under the Withdrawal Agreement the UK must run equivalent schemes to the EU in 2020. The Department considers that this derogation would still meet this requirement as the derogation is also available for the EU Commission to exercise in 2020 if justified by the evidence and the Department is of the view that the evidence is robust for Northern Ireland to justify the derogation.
- 3.6 As specified in Article 71C of Regulation (EU) 1307/2013, the Regulations are being made by the confirmatory procedure. This means they will be laid before the Assembly after being made, but shall cease to have effect upon the expiration of a period of 28 days from the date of their coming into operation, unless at some time before the expiration of that period, the Regulations have been approved by a resolution of the Assembly.

4. Consultation

- 4.1 The Direct Payments to Farmers (Crop Diversification Derogation) Regulations (Northern Ireland) 2020 have not been subject to formal consultation but are being made in response to requests from industry representatives to introduce a derogation from crop diversification requirements in 2020 due to adverse weather. In 2019, 316 farmers in Northern Ireland were required to grow 2 crops while 333 farmers had a 3 crop requirement under crop diversification rules.

5. Equality Impact

- 5.1 The Statutory Rule will introduce a total derogation to crop diversification requirements in 2020 scheme year. It will apply to all farmers and therefore there is no equality impact.

6. Regulatory Impact

- 6.1 Given the nature of the amendment, there are no impacts on the private, voluntary or public sector as a result of these changes. Farmers will have increased flexibility on the number of crops they can grow and meet the requirements for Direct Payments in 2020 scheme year.

7. Financial Implications

- 7.1 £293m has been allocated to Northern Ireland for Direct Payments for 2020 scheme year. These amendments have no impact on the financial allocation.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Statutory Rule is assessed to have no impact on human rights. The Statutory Rule is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Under the Withdrawal Agreement the UK must run equivalent schemes to the EU in 2020. This Statutory Rule would still meet this requirement as the derogation is also available for the Commission to exercise in 2020 if justified by the evidence.

10. Parity or Replicatory Measures

- 10.1 Defra and the other Devolved Administrations will make equivalent legislation.

11. Additional Information

- 11.1 N/A