

EXPLANATORY MEMORANDUM TO

The Agricultural (2017 North West Area) Flooding (Income Support) Scheme (Northern Ireland) 2021

S.R. 2021 No. 187

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 1(1) and 2 of the Agriculture (Temporary Assistance) Act (Northern Ireland) 1954 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of this Statutory Rule is to provide for income support payments to be made by the Department of Agriculture, Environment and Rural Affairs (DAERA) to producers who in 2017 made Force Majeure applications and area based scheme applications for land from which they have suffered a financial loss as a consequence of income forgone and/or land restoration costs as a consequence of flooding and resulting landslides due to rainfall caused by Storm Lorenzo from 22 August 2017 – 23 August 2017.
- 2.2. The Statutory Rule provides that the Department shall invite applications for funding under the scheme, details of the eligibility criteria for payments, how the amount of payment is calculated and the maximum amount of payment payable.
- 2.3. The Statutory Rule also includes a review mechanism and a provision for the recovery of payment where applicable.

3. Background

- 3.1. The unprecedented flooding had an immediate and ongoing significant financial impact on the farmers in the affected area due to income forgone from loss of use of productive agricultural land and land restoration costs.
- 3.2. In order to respond to the ongoing financial impact, on 26 April 2021 the Minister of Agriculture, Environment and Rural Affairs, Edwin Poots MLA announced an income support package of up to £3.45m for the farm businesses based in the North West who had made a Force Majeure application for damage to land for which they had claimed an area based scheme in 2017.
- 3.4. The funding provided for in this Statutory Rule is available to a farm business based in North West of Northern Ireland that: —
 - (a) At the date of the rainfall impact had a DAERA business ID;
 - (b) Had made a claim for any area-based scheme in 2017 which included the land damaged by the flooding; and

- c) Had made a Force Majeure application in 2017 in respect of the land damaged as a result of the flooding in the North West area on 22 and 23 August.

4. Consultation

- 4.1. Formal written consultation has not taken place, however since the flooding/landslide event in August 2017 Department officials have met with stakeholders including industry representatives and have considered their views in developing this policy. In addition to this since his appointment in January 2020 the Minister has met with elected representatives, industry stakeholders and some farmers directly affected.

5. Equality Impact

- 5.1. The Department considers that the proposed Statutory Rule complies with section 75 of the Northern Ireland Act 1998 and has screened this out of a full equality impact assessment.
- 5.2. The scheme design has been developed following discussion with the industry to facilitate the allocation of funding in an equitable manner.
- 5.3. The entitlement to financial support is based on the self-declared area on the Force Majeure applications made at the time of the flooding and the relevant payment rate, either £4,092 for severely disadvantaged/disadvantaged land per hectare of eligible area, or £792 for lowland land per hectare of eligible area, or £145 for common land per hectare of eligible area.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment is not considered necessary as no additional financial impact on trade or the public or voluntary sectors is anticipated.

7. Financial Implications

- 7.1. It is estimated that this scheme will cost up to £3.45 million.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. This Statutory Rule complies with the provisions set out in section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Article 10.2 of the Northern Ireland Protocol provides for a derogation from EU State aid rules where they are applicable to the UK in respect of measures to support the production of and trade in agricultural products in Northern Ireland. This derogation is subject to a maximum annual level of allowable support as decided by the Joint Committee Decision of 17 December 2020 (baseline £382.2m per annum). As subsidies granted pursuant to this measure are exclusively provided in support of agricultural product sectors and UK authorities have not yet made any additional spending commitments with respect to the 10.2 limit, it is considered that the measure meets the conditions for the derogation.

10. Parity or Replicatory Measure

- 10.1. The flooding event was localised in Northern Ireland. The measure does not replicate, nor is it required to maintain parity with, legislation in other administrations.

11. Additional Information

- 11.1. For further information contact Steven Millar (Tel 028 9052 4239) or Noreen Donnelly (Tel. 028 90378556) at the Department of Agriculture, Environment and Rural Affairs or e-mail steven.millar@daera-ni.gov.uk or covid19.support@daera-ni.gov.uk.