



# Agriculture Act 2020

## 2020 CHAPTER 21

### PART 1

#### FINANCIAL ASSISTANCE

### CHAPTER 2

#### DIRECT PAYMENTS AFTER EU EXIT

## 7 Meaning of “basic payment scheme” and other expressions in Chapter 2

- (1) This section defines or explains expressions used in this Chapter.
- (2) The “basic payment scheme” is the Basic Payment Scheme under the Direct Payments Regulation (see Title III of that Regulation), as it operates in relation to England, including the arrangements relating to each of the following elements of direct payments under that scheme—
  - (a) so much of a direct payment that does not consist of a greening or young farmers payment (see Chapter 1 of Title III),
  - (b) a greening payment (see Chapter 3 of Title III), and
  - (c) a young farmers payment (see article 50 of that Regulation).
- (3) The “legislation governing the basic payment scheme” is—
  - (a) the following retained direct EU legislation—
    - (i) the Direct Payments Regulation;
    - (ii) any Council Delegated Regulation, or Commission Delegated Regulation, made under the Direct Payments Regulation;
    - (iii) any other retained direct EU legislation which relates to the operation of the basic payment scheme, and
  - (b) any subordinate legislation relating to retained direct EU legislation falling within paragraph (a).

*Status: Point in time view as at 11/11/2020.*

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- (4) The “agricultural transition period for England” is the period for the time being specified in section 8(1).
- (5) References to a direct payment under the basic payment scheme are to any payment under that scheme, whether or not including a greening payment, a young farmers payment or both elements.
- (6) “Delinked payment” has the meaning given by section 12(2)(a).
- (7) “Relevant payment” means—
  - (a) a direct payment under the basic payment scheme, or
  - (b) a delinked payment.
- (8) The “Direct Payments Regulation” is [Regulation \(EU\) No 1307/2013](#) of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.

**Commencement Information**

**II** [S. 7](#) in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see [s. 57\(1\)\(b\)\(c\)\(6\)](#)

**8 The agricultural transition period for England and the termination of relevant payments**

- (1) The agricultural transition period for England is the period of seven years starting with 2021.
- (2) After the end of that period no relevant payments are to be made in relation to England, otherwise than in respect of the last year of that period (or an earlier year).
- (3) The Secretary of State may by regulations amend subsection (1) for the purpose of extending the period specified there.
- (4) That power—
  - (a) may be exercised more than once;
  - (b) may not be exercised if the agricultural transition period for England has already ended.
- (5) Regulations under subsection (3) are subject to affirmative resolution procedure.

**Commencement Information**

**I2** [S. 8](#) in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see [s. 57\(1\)\(b\)\(c\)\(6\)](#)

**9 Power to modify legislation governing the basic payment scheme**

- (1) The Secretary of State may by regulations modify legislation governing the basic payment scheme, so far as it operates in relation to England, for or in connection with making changes the Secretary of State considers would serve any one or more of the following purposes—

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- (a) simplifying the administration of the scheme or otherwise making its operation more efficient or effective;
  - (b) removing provisions which are spent or of no practical utility;
  - (c) removing or reducing burdens, or the overall burdens, on persons applying for, or entitled to, direct payments under the scheme or otherwise improving the way that the scheme operates in relation to them;
  - (d) securing that any sanction or penalty imposed under the scheme is appropriate and proportionate;
  - (e) limiting the application of the scheme to land in England only.
- (2) The provision which may be made under subsection (1) includes provision made for or in connection with terminating greening payments in relation to England before the end of the agricultural transition period for England so long as that provision does not reduce the amount of a direct payment to which a person would have been entitled had the provision not been made.
- (3) In this section, “burden” includes—
- (a) a financial cost;
  - (b) an administrative inconvenience;
  - (c) an obstacle to efficiency, productivity or profitability.
- (4) Regulations under this section are subject to negative resolution procedure (unless section 50(5) applies).

#### **Commencement Information**

**I3** S. 9 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

### **10 Power to provide for the continuation of the basic payment scheme beyond 2020**

- (1) The Secretary of State may by regulations modify legislation governing the basic payment scheme to make provision for or in connection with securing that the basic payment scheme continues to operate in relation to England for one or more years beyond 2020 until payments cease by virtue of section 8(2) or 12(7)(a).
- (2) The power conferred by subsection (1) includes power to provide for the direct payments ceiling for England for any relevant year to be determined, in a specified manner, by the Secretary of State.
- (3) Provision made by virtue of subsection (2)—
- (a) must require a determination in respect of a relevant year to be published as soon as practicable after it has been made, and
  - (b) may confer functions on any person in connection with, or with the making of, a determination in respect of a relevant year.
- (4) In this section—
- “the direct payments ceiling for England” is the national ceiling of the kind referred to in Article 6 of the Direct Payments Regulation that is applicable in relation to England for any relevant year;
- “relevant year” means a year within the agricultural transition period for England in respect of which direct payments under the basic payment scheme fall to be made in relation to England;

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“specified” means specified in regulations under this section.

- (5) Nothing in this section affects any power under this Chapter or any other enactment to amend or revoke provisions of the legislation governing the basic payment scheme for any year or years beyond 2020.
- (6) Regulations under this section are subject to affirmative resolution procedure.

**Commencement Information**

**I4** S. 10 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

**11 Power to provide for phasing out direct payments**

- (1) The Secretary of State may by regulations make provision for or in connection with phasing out direct payments under the basic payment scheme in relation to England over the agricultural transition period for England.
- (2) See section 12(7) for circumstances in which subsection (1) (with any regulations made under it) may cease to have effect before the end of that period by virtue of provision for delinked payments having been made.
- (3) In subsection (1) “phasing out” means taking steps to secure that, on one or more occasions before the end of the agricultural transition period for England, there are reductions in the amounts paid out to some or all of those entitled to receive direct payments under the basic payment scheme.
- (4) If provision for terminating greening payments is made under section 9(2) (whether before or after the start of the agricultural transition period for England) subsection (1) above has effect as if the reference to direct payments does not include (or no longer includes) the greening payment element of direct payments.
- (5) Regulations under this section are subject to affirmative resolution procedure.

**Commencement Information**

**I5** S. 11 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

**12 Power to make delinked payments**

- (1) The Secretary of State may by regulations make provision for or in connection with the making of delinked payments in relation to England (in place of direct payments under the basic payment scheme in relation to England).
- (2) For this purpose—
  - (a) a delinked payment is a payment, with respect to a year within the delinking period, which is made in accordance with the regulations to a person who is under the regulations entitled to receive it, and
  - (b) the delinking period is the period which—
    - (i) begins with a year (other than 2021) that is specified in the regulations, and
    - (ii) ends on the last day of the agricultural transition period for England.

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- (3) Regulations under this section making provision for the making of delinked payments must—
- (a) specify the descriptions of persons who, in respect of a year within the delinking period, are entitled to receive a delinked payment (whether or not they are required by the regulations to make an application or do anything else before anything becomes payable), and
  - (b) make provision setting out rules for determining the amount of the delinked payment to be made to an entitled person with respect to any year.
- (4) Regulations under this section may make provision—
- (a) for a person who makes a request in accordance with the regulations to cease to be regarded as a person entitled to receive delinked payments,
  - (b) for other circumstances in which a person ceases to be entitled to receive such payments, and
  - (c) for the repayment (with or without interest) of any amount paid as a delinked payment to which the recipient was not entitled.
- (5) A description of persons specified under subsection (3)(a) may (but need not) be framed by reference to whether they were entitled to a direct payment under the basic payment scheme in respect of a specific year (or one of several specific years) prior to the first year of the delinking period.
- (6) Rules set out under subsection (3)(b) for determining the amount of any delinked payment to be made to a person may (but need not) be framed by reference to the amount of a direct payment to which the person was entitled, or if specific assumptions are made would have been entitled, under the basic payment scheme.
- (7) If provision for the making of delinked payments is made under this section—
- (a) no direct payments under the basic payment scheme in relation to England are to be made otherwise than in respect of the last year before the delinking period (or an earlier year), and
  - (b) section 11(1) (with any regulations made under it) ceases to have effect at the end of that last year, except in relation to direct payments in respect of that last year (or an earlier year).
- (8) Regulations under this section are subject to affirmative resolution procedure.

#### **Commencement Information**

**I6** S. 12 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

### **13 Power to provide for lump sum payments in lieu of relevant payments**

- (1) The Secretary of State may by regulations make provision for or in connection with the payment of lump sums to eligible persons.
- (2) For this purpose an eligible person is a person who—
- (a) applies for payment of a lump sum under the regulations,
  - (b) is entitled to a relevant payment in respect of a year other than the last year of the agricultural transition period for England (whether or not an application for that payment has been made), and

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- (c) meets any other eligibility conditions set out in the regulations.
- (3) A lump sum paid to such a person under the regulations is received in lieu of the payment mentioned in subsection (2)(b) and any further relevant payment or payments to which the person might otherwise have become entitled.
- (4) Regulations under this section may make provision as to the circumstances in which lump sums are to be payable (in addition to the requirements of subsection (2)).
- (5) Regulations under this section are subject to affirmative resolution procedure.

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**Commencement Information**

**I7** S. 13 in force at Royal Assent for specified purposes and otherwise at 11.1.2021, see s. 57(1)(b)(c)(6)

**Status:**

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