

EXPLANATORY MEMORANDUM TO
THE SINGLE COMMON MARKET ORGANISATION (EMERGENCY AID FOR
MILK PRODUCERS) REGULATIONS 2015

2015 No. 1896

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes provision for the implementation of Commission Delegated Regulation (EU) No 2015/1853 of 15 October 2015 in the UK. It provides for emergency payments to UK milk producers who are suffering significant price falls as a result of falling global demand for milk and milk products. It sets out the basis for making payments to milk producers based on the amount of milk and milk products that they produced in 2014-15. It provides for an additional payment to dairy farmers in Northern Ireland who have suffered more extensive price falls. It also provides for the recovery of any overpayments.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 In order to make the emergency payments to farmers immediately, this instrument will come into force in breach of the 21 day rule. Under Commission Regulation 2015/1853, which entered into force on 17 October 2015, Member States are encouraged to distribute aid to farmers without delay. UK dairy farmers are under severe pressure as a result of recent price falls and the National Farmers Union has emphasised that urgent help is needed to support the industry. The Rural Payments Agency (acting as agent for the UK authorities) will be able to commence payments as soon as possible after this instrument has come into force. The Department has made farmers aware of how the money will be paid following communications with representative organisations and announcements by Ministers.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and as far as the Department is aware is not likely to be prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Commission Delegated Regulation (EU) No 2015/1853 of 15 October 2015 provides for temporary exceptional aid to farmers in the livestock sector. It provides Member States with a one-time financial grant to support those farmers in the livestock sectors who are experiencing significant price falls, financial consequences as the result of the ongoing Russian ban on the import of agricultural products, and/or the impact of

drought on feed crops. The Commission Regulation was made under Articles 219(1) and 228 of Regulation (EU) No 1308/2013 which empower the Commission to adopt delegated acts under an urgency procedure to deal with significant market disturbance. It is subject to the rules on the recovery of undue payments in Regulation (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy.

- 4.2 This EU legislation has direct effect in the UK. However, the Commission has given each Member State the flexibility to distribute its financial grant as required in order to target the support to those farmers most affected. Domestic legislation is therefore necessary to set out the basis for targeting financial assistance in the UK and to provide for enforcement and recovery of any undue payments in order to protect the financial interests of the Union.

5. Extent and Territorial Application

- 5.1 This instrument extends to the United Kingdom. It does not extend the geographical extent of any other legislation.
- 5.2 This instrument applies throughout the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 EU livestock farmers have experienced a substantial period of low prices as a result of falling global demand for milk and milk products, the ongoing Russian ban on the import of agricultural products, and increased production costs as a result of drought conditions which have affected yields for key feed crops in several Member States.
- 7.2 Under Commission Delegated Regulation (EU) 2015/1853, the UK has been allocated a one-time financial grant of approximately €36.1 million to support those farmers most affected by the current market conditions. The UK is permitted to distribute this grant in a targeted way, on the basis of objective and non-discriminatory criteria. The Commission has emphasised that farmers should receive the aid as soon as possible.
- 7.3 In the UK, dairy farmers have experienced the deepest and most prolonged price falls throughout 2014 and the first half of 2015, notably as a result of the ending of the EU milk quota regime and the slowdown in EU dairy exports to China, the main importer of milk products in the world. It is therefore appropriate to target support to farmers in this sector.
- 7.4 From the financial grant allocation available to the UK, €34.6m will be allocated to individual dairy farmers in England, Scotland, Northern Ireland and Wales on the basis of their milk production from 1 April 2014 to 31 March 2015. As milk prices in Northern Ireland have fallen 34% over the last year compared to 24% in the rest of the UK an additional €1.5m has been allocated to milk producers in Northern Ireland.
- 7.5 The Rural Payments Agency (RPA) will make payments to individual dairy farmers on behalf of the four UK agriculture departments. This is the quickest and most

efficient way to distribute the support to farmers. Under Regulation (EU) No 1306/2013 payments must go out from a Member State's Paying Agency.

- 7.6 This Statutory Instrument sets out the basis on which payments will be made to farmers (at a flat rate calculated in accordance with their milk production during the relevant period). It makes provision for the recovery of funds only in the event of overpayments and provides limited powers of entry where it appears that false information has been provided to the RPA. Farmers may opt to receive their EU payments under the Common Agricultural Policy in pounds sterling or in euro and the instrument provides for both options.

Consolidation

- 7.7 This instrument does not amend another instrument and therefore consolidation is not applicable.

8. Consultation outcome

- 8.1 Defra worked closely with industry representative organisations and the Devolved Administrations throughout the negotiations on the EU aid package in September and October 2015. In order to ensure that UK dairy farmers can receive the emergency aid as soon as possible, we have not conducted a formal, written consultation. However, our approach to distributing payments to dairy farmers is based on objective criteria and closely reflects the delivery of the EU dairy fund in 2010 (under the Dairy (Specific Market Support Measure) Regulations 2010). The response from farmers' groups has been broadly positive, and most people have emphasised the importance of a rapid and straightforward distribution of funds, which avoids placing undue burdens on farmers.

9. Guidance

- 9.1 Details of the scheme are available on the gov.uk website.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 This SI sets out the basis on which the appropriate authorities will distribute the UK's allocation of EU aid to dairy farmers, and puts in place provisions to ensure that it is possible to recover any sums of money paid in error. These may include setting off any overpayments of emergency aid against direct payment or rural development payment due to farmers.

12. Monitoring & review

- 12.1 The instrument includes a statutory review provision. It must be formally reviewed within five years of the date on which it comes into force, and then regularly on a five year cycle.

13. Contact

- 13.1 Brendon Lancaster at Defra can answer any queries regarding this instrument. Telephone: 020 7238 2191 or email: brendon.lancaster@defra.gsi.gov.uk.