

EXPLANATORY MEMORANDUM TO
THE SINGLE COMMON MARKET ORGANISATION (EMERGENCY AID)
(ENGLAND AND NORTHERN IRELAND) REGULATIONS 2017

2017 No. 599

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs 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 in England and Northern Ireland of Commission Delegated Regulation (EU) 2016/1613 of 8 September 2016 providing exceptional adjustment aid for milk producers and/or farmers in the beef and veal, pigmeat and sheepmeat and goatmeat sectors ('farmers in other livestock sectors'). It requires the Secretary of State to determine (and to make available) the basis for calculating the amount of aid to be provided to milk producers based on the amount of milk and milk products they produced in 2015-16. It also provides for the recovery of overpayments, and for the application of the control and enforcement (including the application of criminal offences and penalties) and appeals regimes set out in other secondary legislation implementing the common agricultural policy.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 We had planned to make these Regulations on 21 April 2017 and then lay them before Parliament on 28 April 2017. This would have allowed a period of 21 days before the Regulations came into force on 22 May 2017. However, due to the decision to call a general election and the consequent dissolution of Parliament currently scheduled for the evening of 2 May 2017 there are not 21 days available between the laying date and the date on which the Regulations need to come into force in order to meet the deadline of 22 May 2017. A failure to meet this deadline could result in the Rural Payments Agency (RPA) not being able to make payments by the Commission deadline of 30 September 2017, and any payments made after that date may not be reimbursed by the Commission.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been 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) 2016/1613 of 8 September 2016 provides for exceptional adjustment aid to milk producers and farmers in other livestock sectors.

The Commission Regulation was made under Articles 219(1) and 228 of Regulation (EU) No 1308/2013 which empowers 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 United Kingdom. However, domestic legislation is necessary to provide for enforcement and recovery of any payments made in error or to which a beneficiary is not entitled. If the national competent authority makes undue payments and is unable to recover them, they may not be reimbursed by the Commission.
- 4.3 This Statutory Instrument amends the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014, the Common Agricultural Policy (Control and Enforcement) Regulations (Northern Ireland) 2015 and the Common Agricultural Policy (Review of SCMO Decisions) Regulations (Northern Ireland) 2015 to make provision for the application of existing appeals provisions, powers of entry and inspection, and related criminal offences and penalties.

5. Extent and Territorial Application

- 5.1 The instrument extends to England and Wales and Northern Ireland.
- 5.2 The instrument applies in England and Northern Ireland.

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 The milk sector is confronted with market disturbance due to a worldwide supply-demand imbalance, which was exacerbated by the Russian ban on the import of agricultural products and foodstuffs originating in the European Union. Global demand for milk and milk products slightly increased in 2015 and in the first months of 2016, but at a much lower rate than production. Small farms have been particularly hard hit, putting at risk the social fabric of rural areas. Other livestock sectors such as pigmeat, beef and veal, and sheepmeat and goatmeat sectors, have also experienced market difficulties.
- 7.2 As measures available under Regulation (EU) No 1308/2013 appear to be insufficient and in order to cater for a situation where prices would further deteriorate and deepen market disturbances, Exceptional Adjustment Aid has been made available to milk producers and farmers in other livestock sectors in the European Union with the aim of fostering economic sustainability and market stabilisation.
- 7.3 This instrument makes provisions for the payment of emergency aid to milk producers, and for the recovery of undue payments, set-off, interest, notices and process for appeals for measures and activities implemented in England and Northern Ireland under the Exceptional Adjustment Aid Scheme.

- 7.4 Member states have had a degree of flexibility in determining how to spend this aid. In England, in line with activities allowed for under the EU Delegated Regulation we have decided to use EU aid to run schemes focusing on improving air quality by encouraging environmentally-friendly on-farm practices, training farmers in risk management and business planning, and by providing one-off payments to small farmers. Payments will be made by the RPA. In line with activities allowed for under Regulation (EU) No 2016/1613 and following a consultation with industry, dairy and beef farmers in England can make an application to Natural England for funding for a slurry store cover to establish more environmentally friendly production methods. Small scale dairy farmers (those producing under the average 1m litres milk/year) in England and Northern Ireland can submit an application to the RPA, which will make payments to individual dairy farmers on behalf of the Department for Environment, Food and Rural Affairs (for dairy farmers in England) and the Department of Agriculture, Environment and Rural Affairs (for dairy farmers in Northern Ireland). In Northern Ireland, schemes are also being run to incentivise the removal of BVD infected calves and support the eradication of pig endoparasites. Consideration is also being given to a soil testing measure. These schemes will reduce greenhouse gas and ammonia emissions, improve pig meat quality and land management and help struggling dairy farmers recover from a difficult period.
- 7.5 This instrument amends the instruments referred to in paragraph 4.3 of this Explanatory Memorandum. Those amendments are minor, so we do not propose to consolidate either instrument.

8. Consultation outcome

- 8.1 In order to ensure that EU Exceptional Adjustment Aid schemes in England could be administered within the tight timeframes set out in the Commission Delegated Regulation, a short consultation was run for a two week period between 23 September 2016 and 7 October 2016. 10 responses were received from key stakeholders and representative organisations, and were largely positive and constructive. Following the consultation Defra has worked closely with farmers' representatives in developing schemes and in order to ensure that scheme provisions are understood and publicised and farmers are clear on how the schemes will be administered within England. Schemes to date have been welcomed by farm businesses, with a high degree of take-up. In Northern Ireland the Department of Agriculture, Environment and Rural Affairs engaged directly with key industry stakeholders, including through two specific workshops in September 2016, in the development of its schemes. The package of schemes announced drew broad support.

9. Guidance

- 9.1 Details of the schemes, including eligibility criteria and information on how to apply are available on the gov.uk website. For farmers in Northern Ireland the relevant information is available on the daera-ni.gov.uk website. Further information about the amount of aid to be paid to dairy farmers will be available on request and published on the gov.uk website, and the daera-ni.gov.uk website once the information becomes available.

10. Impact

- 10.1 No significant impact on business, charities or voluntary bodies is foreseen.

- 10.2 No significant impact on the public sector is foreseen.
- 10.3 An Impact Assessment has not been produced for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 This SI puts in place provisions to ensure that it is possible to recover any sums of money paid in error under the EU Exceptional Adjustment Aid. These may include setting off any overpayments against direct payment or rural development payment due to farmers under the Common Agricultural Policy.

12. Monitoring & review

- 12.1 The instrument makes provision in connection with the giving of grants by a public authority, and therefore makes no formal provision for review – see section 28(3)(c) of the Small Business, Enterprise and Employment Act 2015. However, the schemes financed by the EU Exceptional Adjustment Aid will be monitored pursuant to Commission Regulation (EU) 2016/1613, and a report will be sent to the Commission by 15 October 2017 to establish whether EU objectives have been met.

13. Contact

- 13.1 Charlotte Petersen at the Department for Environment, Food and Rural Affairs
Telephone: 02082258040 or email: charlotte.petersen@defra.gsi.gov.uk can answer any queries regarding the instrument.