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STATUTORY INSTRUMENTS

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**2019 No. 785**

**The European Structural and Investment Funds Common Provisions (Amendment) (EU Exit) Regulations 2019**

**PART 3**

Amendments to retained direct EU legislation

**Amendment of Part 1**

**4.—(1) In Article 1—**

- (a) for the first paragraph substitute—

“This Regulation lays down the common rules applicable to support for rural development and support under Regulation (EU) No 508/2014. It also lays down the provisions necessary to ensure the effectiveness of the support and co-ordination with other retained direct EU legislation. The common rules that apply are set out in Part Two.”;
  - (b) omit the second paragraph;
  - (c) in the third paragraph, for “the funds and the EMFF” substitute “support under Regulation (EU) No 508/2014”;
  - (d) in the fourth paragraph—
    - (i) omit points (1) to(4);
    - (ii) for point (5), substitute—

“(5) “Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (‘Regulation (EU) No 1305/2013’);”;
    - (iii) for point (6), substitute—

“(6) Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund (‘Regulation (EU) No 508/2014’);”;
  - (e) for the fifth paragraph substitute—

“Part Two of this Regulation applies to support for rural development and support under Regulation (EU) No 508/2014 except when it explicitly allows for derogations. Part Four of this Regulation establishes complementary rules to Part Two that apply to support under Regulation (EU) No 508/2014 and may explicitly allow for derogations in the Fund-specific Regulations concerned. The Fund-specific Regulations may establish complementary rules to Parts Two and Four of this Regulation. The complementary rules in the Fund-specific Regulations must be read consistently with Parts Two and Four of this Regulation. In case of doubt about the application between provisions, Part Two and Four of this Regulation prevail over the Fund-specific Regulations.”.
- (2) In Article 2—
- (a) omit point (1);

- (b) for point (4) substitute—  
 “(4) “Fund-specific rules” means the provisions laid down in, or established on the basis of, Part Four of this Regulation or Regulation (EU) No 1305/2013 or Regulation (EU) No 508/2014”;
- (c) for point (5) substitute—  
 “(5) “programming” means the process of organisation, decision-making and allocation of financial resources in several stages, with the involvement of partners in accordance with Article 5, intended to implement, on a multi-annual basis, action by the relevant authority;”;
- (d) for point (6) substitute—  
 “(6) “programme” means an ‘operational programme’ as referred to in Part Four of this Regulation and in Regulation (EU) No 508/2014, and ‘rural development programme’ as referred to in Regulation (EU) No 1305/2013;”;
- (e) for point (8) substitute—  
 “(8) “priority”, in Parts Two and Four of this Regulation, means a priority for rural development referred to in Regulation (EU) No 1305/2013 or a priority for support under Regulation (EU) No 508/2014;”;
- (f) in point (10), for “Member State” substitute “relevant authority”;
- (g) for point (15) substitute—  
 “(15) “public expenditure” means any public contribution to the financing or operations the source of which is the budget of national, regional or local public authorities, the budget of the Union related to the European Agricultural Fund for Rural Development or the European Maritime and Sustainable Fisheries Fund, the budget of public law bodies or the budget of associations of public authorities or of public law bodies;”;
- (h) for point (16) substitute—  
 “(16) “public law body” means any body governed by public law within the criteria in paragraphs (a) to (c) of point 9 of Article 1 of [Directive 2004/18/EC](#) of the European Parliament and of the Council<sup>(1)</sup>”
- (i) in point (19) omit “and which contributes to achieving the Union strategy for smart, sustainable and inclusive growth;”;
- (j) omit points (20), (22) and (23);
- (k) in point (21), at the end insert “as it had effect immediately before exit day”;
- (l) in point (28), at the end, insert “as it had effect immediately before exit day”;
- (m) in points (29) and (30) omit “Part Three and”;
- (n) omit points (31) and (32);
- (o) in points (33) and (34), for “Union priority”, in each place it occurs, substitute “priority for rural development or priority for support under Regulation (EU) No 508/2014”;
- (p) omit point (35);
- (q) for point (36) substitute—  
 “(36) “irregularity” means any breach of the law as it applies in the constituent nation resulting from an act or omission by an economic operator involved in the implementation of support for rural development or support under Regulation (EU) No 508/2014, which

(1) OJ L 134, 30.4.2004, p. 114, as repealed by [Directive 2014/24/EU](#) of the European Parliament and of the Council on public procurement (OJ L 94, 28.3.2014, p. 65).

has, or would have, the effect of charging an unjustified item of expenditure to a programme budget;”;

(r) for point (37) substitute—

“(37) ”economic operator” means any natural or legal person or other entity taking part in the implementation of support for rural development or support under Regulation (EU) No 508/2014, with the exception of a relevant authority exercising its prerogatives as a public authority;”;

(s) in point (39), for “the Funds and the EMFF”, in both places it occurs, substitute “support under Regulation (EU) No 508/2014;”;

(t) at the end insert—

“(40) ‘Financial Regulation’ means Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union as it had effect immediately before exit day;

(41) “CMO support” means financial support granted under Regulation (EU) No 1308/2013 or any of the delegated or implementing acts adopted on the basis of that regulation or of [Commission Regulation \(EU\) No 1234/2007](#);

(42) “direct payment support” means financial support granted under any of the support schemes listed in Annex I to Regulation (EU) No 1307/2013;

(43) “constituent nation” means England, Wales, Scotland or Northern Ireland, as the case may be; and, in the context of support under Regulation 508/2014—

(a) “Wales” includes the Welsh zone where “the Welsh zone” has the same meaning as it has by virtue of section 158(1) of the Government of Wales Act 2006(2);

(b) “Scotland” includes the Scottish zone where “the Scottish zone” has the same meaning as in section 126(1) of the Scotland Act 1998(3);

(c) “Northern Ireland” includes the Northern Ireland zone where “the Northern Ireland zone” has the same meaning as in section 98(1) of the Northern Ireland Act 1998(4); and

(d) “England” includes British fishery limits excluding the Welsh, Scottish and Northern Ireland zones where “British fishery limits” has the same meaning as in section 1 of the Fishery Limits Act 1976(5);

(44) “relevant authority” means—

(a) in respect of support under rural development

(i) in England, the Secretary of State,

(ii) in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs,

(iii) in Scotland, the Scottish Ministers,

(iv) in Wales, the Welsh Ministers,

(b) in respect of support under Regulation (EU) No 508/2014, the Managing Authority;

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(2) [2006 c.32](#). Section 158(1) was amended by section 43(2) of the Marine and Coastal Access Act 2009. [S.I. 2010/760](#) determines the extent of the area of the sea which is to be treated as adjacent to Wales for the purposes of the definition of the Welsh zone.

(3) [1998 c.46](#). [S.I. 1999/1126](#) determines the extent of the area of the sea which is to be treated as adjacent to Scotland for the purposes of the definition of the Scottish zone.

(4) [1998 c.47](#). [S.I. 2002/791](#) determines the extent of the area of the sea which is to be treated as adjacent to Northern Ireland for the purposes of the definition of the Northern Ireland zone.

(5) [1976 c. 86](#). By virtue of section 1(1) of the Fishery Limits Act 1976, “British fishery limits” are designated by [S.I. 2013/3161](#); section 1 of the Fishery Limits Act 1976 was amended (in relation to England and Wales) by paragraph 2(2) and (3) of Schedule 4, and Part 1 of Schedule 22, to the Marine and Coastal Access Act [2009 \(c. 23\)](#).

(45) “support for rural development” means financial support granted under Title 3 of Regulation (EU) No 1305/2013 or Title 3, Chapter 2 of this Regulation;

(46) “support under Regulation (EU) No 508/2014” means financial support granted under Regulation (EU) No 508/2014;”.

(u) Omit Article 3.