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STATUTORY INSTRUMENTS

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**2020 No. 90**

**AGRICULTURE**

**The Financing, Management and Monitoring of Direct  
Payments to Farmers (Amendment) Regulations 2020**

*Approved by both Houses of Parliament*

*Made - - - - 30th January 2020*

*Laid before Parliament 31st January 2020*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 3(1), (7) and (9) of the Direct Payments to Farmers (Legislative Continuity) Act 2020<sup>(1)</sup>, and in accordance with paragraph 1(2) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020<sup>(2)</sup>.

**PART 1**

**Introductory**

**Citation, commencement, application and extent**

**1.—**(1) These Regulations may be cited as the Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020.

(2) These Regulations come into force on exit day and paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 does not apply.

(3) Subject to paragraph 4, these Regulations extend to the United Kingdom.

(4) Regulation 16 extends to England and Wales and applies in England only.

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(1) 2020 c.2.

(2) 2020 c.1.

## PART 2

### Amendment of Regulation (EU) 1306/2013

#### Amendment of Regulation (EU) 1306/2013

2. Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy in so far as it relates to the Common Agricultural Policy (“CAP”) direct payment schemes is amended in accordance with regulations 3 to 11.

#### Amendment of Title 1 (Scope and Definitions)

3.—(1) In Article 1—

- (a) in point (a), for the words from “under” to the end substitute “for direct payments”;
- (b) in point (c), for “Member States” substitute “relevant authority”;
- (c) omit point (e).

(2) In Article 2—

(a) in paragraph 1—

(i) for point (f), substitute—

“(f) “sectoral agricultural legislation” means, insofar as it relates to direct payments:

- (i) any applicable acts adopted within the framework of the common agricultural policy on the basis of Article 43 TFEU;
- (ii) any delegated or implementing acts adopted on the basis of acts referred to in point (i);
- (iii) regulations made in the exercise of powers under any act referred to in point (i);”;

(ii) for point (g), substitute—

“(g) “irregularity” means any infringement of a provision of sectoral agricultural legislation resulting from an act or omission by an economic operator, where the infringement results, or would result, in a reduction or loss of public revenue or an unjustified item of expenditure;”;

(iii) after point (g), insert—

“(h) “constituent nation” means England, Wales, Scotland or Northern Ireland, as the case may be;

- (i) “direct payment support” means financial support granted under any of the support schemes listed in Annex I to Regulation (EU) No 1307/2013;
- (j) “economic operator” means any person or public entity or group of such persons or entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market;

(k) “relevant authority” means:

- (i) in England, the Secretary of State;
- (ii) in Wales, the Welsh Ministers;
- (iii) in Scotland, the Scottish Ministers;

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

(l) “relevant accounting officer” means:

(i) in England, the accounting officer for the Department for Environment, Food and Rural Affairs;

(ii) in Wales, the Permanent Secretary of the Welsh Government;

(iii) in Scotland, the Permanent Secretary of the Scottish Government;

(iv) in Northern Ireland, the Permanent Secretary of the Department of Agriculture, Environment and Rural Affairs;”.

(m) “appropriate authority” means:

(i) subject to point (ii), the relevant authority for the constituent nation in which the regulations apply;

(ii) the Secretary of State:

(aa) in relation to Scotland, if consent is given by the Scottish Ministers;

(bb) in relation to Northern Ireland, if consent is given by the Department of Agriculture, Environment and Rural Affairs.”.

(iv) in paragraph 2, for “the CAP” substitute “expenditure on direct payments and for the purposes of sectoral agricultural legislation”.

#### **Amendment of Title 2 (General Provisions on Agricultural Funds)**

4.—(1) Omit Articles 3, 4 and 6.

(2) For Article 7 substitute—

##### *“Article 7*

##### *Designation of paying agencies and coordinated action by relevant authorities*

1. Paying agencies shall be departments or bodies designated by the relevant authority, which have an administrative organisation and a system of internal control that provide sufficient guarantees that payments are legal and regular, and properly accounted for.

2. The number of paying agencies shall be restricted to no more than one per constituent nation.

3. Paying agencies shall be responsible for the management and control of expenditure on direct payments. With the exception of payment, the carrying out of those tasks may be delegated.

4. The relevant authorities shall have joint responsibility for the following tasks:

(a) to take or coordinate, as the case may be, actions with a view to resolving deficiencies of a common nature;

(b) to promote and, where possible, ensure harmonised application of sectoral agricultural legislation.”.

(3) Omit Articles 8 to 10.

(4) In Article 11, omit “for in Union law”.

**Amendment of Title 3 (Farm Advisory System)**

5.—(1) For Articles 12 to 15 substitute—

*“Article 12**Farm Advisory System*

The relevant authority must have in place a system for advising beneficiaries on land management and farm management (“farm advisory system”). That farm advisory system shall be operated by designated public bodies and/or selected private bodies. That system shall cover the agricultural practices beneficial for the climate and the environment laid down in Chapter 3 of Title III of Regulation (EU) No 1307/2013 and the maintenance of the agricultural area as referred to in point (c) of Article 4(1) of that Regulation.”.

**Amendment of Title 4 (Financial Management)**

6.—(1) In the heading of Title 4, omit “of the Funds”.

(2) For the heading of Chapter 1 substitute—

*“Direct payment support”.*

(3) Omit Articles 16 to 19, and 21 to 25.

(4) For Article 26 substitute—

*“Article 26**Financial Discipline*

1. Where the relevant authority has an obligation to reimburse in respect of the 2019 adjustment rate, as provided for in Article 26(5) as it had effect immediately before exit day, the reimbursement must only be paid to relevant farmers.

2. For the purposes of paragraph 1, a relevant farmer is a person who would be liable to be subject to an adjustment rate under Article 26 as it had effect immediately before exit day.”.

(5) Omit Articles 27 to 29.

(6) Omit Articles 39 to 45.

(7) In Article 46—

(a) omit paragraphs 1 to 4;

(b) for paragraph 5 substitute—

“5. The appropriate authority may make regulations laying down specific conditions applying to the information to be booked in the accounts kept by paying agencies.”.

(8) Omit Articles 47 and 48.

(9) In Article 49—

(a) in the first paragraph—

(i) omit “accredited”;

(ii) for the words from “Union” to the end substitute “the law applying in the constituent nation”;

(b) in the second paragraph omit “accredited”.

(10) In Article 50—

- (a) omit paragraph 1;
- (b) for paragraph 2 substitute—
  - “2. The appropriate authority may make regulations laying down rules on the conditions on which the supporting documents referred to in Article 49 are to be kept, including their form and the time period of their storage.”.
- (11) Omit Articles 51 to 53.
- (12) In Article 54—
  - (a) in paragraph 1 for “Member States” substitute “the relevant authority”;
  - (b) omit paragraph 2;
  - (c) in paragraph 3—
    - (i) in the first subparagraph, for “Member States” substitute “the relevant authority”;
    - (ii) in point (a)(ii)—
      - (aa) for “Member State” substitute “relevant authority”;
      - (bb) for “its national law” substitute “the law applying in the constituent nation”;
    - (iii) in point (b), for “national law” substitute “the law applying in the constituent nation”;
    - (iv) omit the last subparagraph;
  - (d) omit paragraphs 4 and 5.
- (13) For Article 55 substitute—

*“Article 55*

*Provisions specific to direct payment support*

Sums recovered following the occurrence of irregularity or negligence and the interest thereon must be made over to the paying agency and booked by it as revenue collected in connection with direct payment support.”.

- (14) For Article 57 substitute—

*“Article 57*

*Power to make regulations*

In order to ensure correct and efficient application of the provisions relating to the conditions for the recovery of undue payments and interest thereon, the appropriate authority may make regulations setting out procedures for such recovery as set out in this Section.”.

**Amendment of Title 5 (Control systems and penalties)**

- 7.—(1) For the heading of Article 58 substitute—

*“Financial Management”.*

- (2) In Article 58—
  - (a) in paragraph 1—
    - (i) for the words from “Member States” to “Union”, in the first place it occurs, substitute “The relevant authority must take all measures necessary to ensure proper management of public money”;
    - (ii) in point (a), for “the Funds” substitute “direct payment support”;

- (iii) for point (d) substitute—
  - “(d) enforce penalties through legal proceedings, as necessary;”;
- (b) in paragraph 2—
  - (i) for “Member States” substitute “The relevant authority”;
  - (ii) for “Union”, in the first place it occurs, substitute “direct payment”;
  - (iii) for the words from “minimising” to “Union” substitute “ensuring proper management of public money”;
- (c) for paragraph 3 substitute—
  - “3. Any conditions established by the relevant authority to supplement conditions for receiving direct payment support contained in retained direct EU legislation shall be verifiable.”;
- (d) omit paragraph 4.
- (3) In Article 59—
  - (a) in paragraph 1, for “Member States” substitute “relevant authority”;
  - (b) for paragraph 4 substitute
    - “4. Where appropriate, all on-the-spot checks provided for in sectoral agricultural legislation shall be carried out at the same time.”;
  - (c) in paragraph 5 for “Member States”, in both places it occurs, substitute “The relevant authority”;
  - (d) in paragraph 6—
    - (i) omit “to be”;
    - (ii) omit “by the Commission”.
- (4) In Article 62—
  - (a) In the heading, remove “Commission”;
  - (b) in paragraph 2—
    - (i) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
    - (ii) in point (a)—
      - (aa) for “Member States” substitute “relevant authority”;
      - (bb) omit the words from “resulting” to the end;
    - (iii) for point (d) substitute—
      - “(d) the authorities responsible for performing compliance checks and the content and frequency of those checks;”;
    - (iv) omit point (f);
    - (v) omit the second subparagraph.
- (5) In Article 63—
  - (a) In paragraph 1, omit the second subparagraph;
  - (b) in paragraph 2—
    - (i) for “Member States” substitute “the relevant authority”;
    - (ii) omit “Article 64 and”;

- (c) in paragraph 4, for the words from “Commission” to “Article 115” substitute “appropriate authority may make regulations”;
- (d) in paragraph 5—
  - (i) for “The Commission shall adopt implementing acts” substitute “The appropriate authority may make regulations”;
  - (ii) omit the second subparagraph.
- (6) In Article 67—
  - (a) in paragraph 1, for “Each Member State shall set up and” substitute “The relevant authority must”;
  - (b) for paragraph 2 substitute—

“2. The integrated system shall apply to the support schemes listed in Annex I of Regulation (EU) No 1307/2013.”;
  - (c) in paragraph 4—
    - (i) in point (a), for “Member States may lay” substitute “nothing in this Regulation prevents the relevant authority from laying”;
    - (ii) in point (b)—
      - (aa) omit “the single area payment scheme and”;
      - (bb) for “Chapters 1 and” substitute “Chapter”;
      - (cc) "omit “; the payment for areas with natural constraints referred to in Chapter 4 of Title III of Regulation (EU) No 1307/2013”;
      - (dd) omit the words from “; the crop” to the end.
- (7) In Article 68, omit paragraphs 3 and 4.
- (8) In Article 69—
  - (a) in paragraph 1—
    - (i) in the second subparagraph—
      - (aa) for “Member State” substitute “constituent nation”;
      - (bb) for the last sentence substitute “The database shall allow direct and immediate access to the data relating to at least the previous four consecutive years and for data related to “permanent grassland and permanent pasture” as defined in point (h) of Article 4(1) of Regulation (EU) No 1307/2013, relating to at least the previous five consecutive calendar years.”
    - (ii) omit the third subparagraph;
  - (b) for paragraph 2, substitute—

“2. A decentralised computerised database may be set up in each constituent nation on condition that these, and the administrative procedures for recording and accessing data must be designed to be homogenous throughout the United Kingdom and are compatible with one another to allow for cross checks.”.
- (9) In Article 70—
  - (a) in paragraph 1—
    - (i) in the first subparagraph, omit the last sentence;
    - (ii) in the second subparagraph, for “Member States” substitute “the relevant authority”;
  - (b) in paragraph 2, for “Member States” substitute “The relevant authority”.

- (10) In Article 71(2), for “Member State” substitute “constituent nation”.
- (11) In Article 72—
- (a) for paragraph 1 substitute—
- “1. Each year, a beneficiary of direct payment support must submit an application, indicating, where applicable:
- (a) all the agricultural parcels on the holding, as well as the non-agricultural area for which support referred to in Article 67(2) is claimed;
- (b) the payment entitlements declared for activation;
- (c) any other information provided for in this Regulation or the relevant sectoral agricultural legislation or by the relevant authority concerned.
- The relevant authority must determine the minimum size of agricultural parcels in respect of which an application may be made. However, the minimum size shall not exceed 0,3 .”.
- (b) in paragraph 2—
- (i) for “Member States” substitute “the relevant authority”;
- (ii) omit point (b);
- (c) in paragraph 3—
- (i) in the first subparagraph, for “Member States” substitute “The relevant authority”;
- (ii) in the second subparagraph, for “A Member State” substitute “The relevant authority”;
- (iii) omit the third subparagraph;
- (d) in paragraph 4, for “A Member State” substitute “The relevant authority”.
- (e) in paragraph 5—
- (i) for the words from the beginning to “1182/71, the” substitute “The”;
- (ii) for the words “Commission” to “Article 115” substitute “appropriate authority may make regulations”.
- (12) In Article 74—
- (a) in paragraph 1—
- (i) for “Member States” substitute “the relevant authority”;
- (ii) for “them” substitute “the relevant authority”;
- (b) in paragraph 2, for “Member States” substitute “the relevant authority”;
- (c) in paragraph 3, for “Member States” substitute “The relevant authority”.
- (13) In Article 75—
- (a) in paragraph 1—
- (i) for “Member States” substitute “the relevant authority”;
- (ii) omit “of up to 50%”;
- (b) in paragraph 2, for “Member States” substitute “relevant authority”;
- (c) in paragraph (3)—
- (i) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
- (ii) for “implementing acts”, in the second place it occurs, substitute “regulations”;
- (iii) omit the last sentence.



- (14) In Article 76—
- (a) in paragraph 1—
    - (i) for “protects the financial interests of the Union” substitute “ensures proper management of public money”;
    - (ii) for the words from “Commission” to “Article 115” substitute “appropriate authority may make regulations”;
    - (iii) for point (a) substitute—
      - “(a) specific definitions needed to ensure a harmonised implementation of the integrated system;”;
    - (iv) in point (b), omit “by the Member States”;
  - (b) in paragraph 2—
    - (i) for the words from “Commission” to “Article 115” substitute “appropriate authority may make regulations”;
    - (ii) in point (c), for the words from “such” to “eligible area” substitute “such rules may allow, in relation to areas under permanent grassland, for scattered landscape features and trees, the total area of which does not exceed a specified percentage of the reference parcel, to be part of the eligible area automatically”.
- (15) In Article 77—
- (a) in paragraph 2—
    - (i) in point (e), for “to be set by the Commission” substitute “set”;
    - (ii) in point (f), for “to be defined by the Commission” substitute “as defined”.
  - (b) in paragraph 6, for the third subparagraph substitute—

“The amount of such administrative penalties for a given year shall not exceed 25% of the amount of the payment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013 to which the farmer concerned would be entitled if the farmer met the conditions for that payment.”.
  - (c) in paragraph 7—
    - (i) for the words from “Commission” to “Article 115” substitute “appropriate authority may make regulations”;
    - (ii) omit “by Member States”;
  - (d) in paragraph 8—
    - (i) for “The Commission shall adopt implementing acts” substitute “The appropriate authority may make regulations”;
    - (ii) omit the second subparagraph.
- (16) In Article 78—
- (a) for “The Commission shall adopt implementing acts” substitute “The appropriate authority may make regulations”;
  - (b) in point (b), for the words from “Member” to the end substitute “for the application of simplified procedures or correction of obvious errors”;
  - (c) omit the last sentence.

#### **Amendment of Title 6 (Cross-Compliance)**

- 8.—(1)** In Article 91(3)—

- (a) in point (a), for “territory of the same Member State” substitute “United Kingdom”;
  - (b) in point (b), omit “under Union law”.
- (2) For Article 92 substitute—
- “Article 91 shall apply to beneficiaries receiving direct payment support.”.
- (3) In Article 93—
- (a) in paragraph 1—
    - (i) omit “under Union law”;
    - (ii) for “at national level” substitute “in the constituent nation”;
  - (b) in paragraph 2, for “by the Member States” substitute “in the constituent nation”;
- (4) In Article 94—
- (a) in the first paragraph—
    - (i) for “Member States”, in the first place it occurs, substitute “The relevant authority”;
    - (ii) for the second sentence substitute “The minimum standards for beneficiaries for good agricultural and environmental conditions of land are as set out in the legislation applying in the constituent nation.”.
  - (b) in the second paragraph, for “Member States” substitute “The relevant authority”.
- (5) In Article 95 for “Member States” substitute “The relevant authority”.
- (6) In Article 96—
- (a) in paragraph 1—
    - (i) for “Member States”, in both places it occurs, substitute “The relevant authority”;
    - (ii) after “set up” insert “in the constituent nation”;
  - (b) in paragraph 2, for “Member States” substitute “the relevant authority”;
  - (c) in paragraph 3, for “Member States” substitute “The relevant authority”;
  - (d) in paragraph 4—
    - (i) for “The Commission shall adopt implementing acts” substitute “The appropriate authority may make regulations”;
    - (ii) omit the second subparagraph.
- (7) In Article 97(3)—
- (a) in the first subparagraph, for “Member States” substitute “the relevant authority”;
  - (b) in the second subparagraph, for “a Member State” substitute “the relevant authority”.
- (8) Omit Article 98.
- (9) In Article 99(2)—
- (a) for “Member States”, in both places it occurs, substitute “The relevant authority”;
  - (b) for “a Member State” substitute “the relevant authority”.
- (10) Omit Article 100.

#### **Amendment of Title 7 (Common Provisions)**

- 9.**—(1) In Article 101—
- (a) in the heading, omit “Commission”;
  - (b) in paragraph 1—

- (i) for the words from “Commission” to “Article 115” substitute “appropriate authority may make regulations”;
  - (ii) omit point (a);
- (c) for paragraph 2 substitute—
  - “2. The appropriate authority may make regulations laying down detailed procedural and technical rules concerning the calculation and application of administrative penalties referred to in Articles 97 and 99.”.
- (2) Omit Article 102.
- (3) In Article 103—
  - (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) for “Member States and the Commission” substitute “The relevant authority”;
      - (bb) omit “and clearance of accounts”;
    - (ii) omit the second subparagraph;
  - (b) in paragraph 2—
    - (i) for “national provisions relating” substitute “the law applying in the constituent nation in relation”;
    - (ii) omit “in the Member States or in the institutions of the Union”.
- (4) Omit Article 104.
- (5) For Article 105 substitute—

*“Article 105*

*General principles*

- 1. The amounts in declarations of expenditure by the relevant authority may be expressed in either euro or sterling.
- 2. The prices and amounts fixed in sectoral agricultural legislation may be expressed in either euro or sterling. Subject to Article 108, they shall be granted or collected in sterling.”.
- (6) In Article 106—
  - (a) for paragraph 1 substitute—
    - “1. Where the prices or amounts referred to in Article 105(2) are expressed in euro, they shall be converted into sterling by means of an exchange rate.”;
  - (b) in paragraph 4—
    - (i) for “EAGF” substitute “direct payment support”;
    - (ii) for “Member States which have not adopted the euro” substitute “the relevant authority”;
  - (c) omit paragraph 6.
- (7) Omit Article 107.
- (8) In the heading of Article 108, omit “by non-euro Member States”.
- (9) In Article 108—
  - (a) in paragraph 1—

- (i) for “a Member State which has not adopted the euro” substitute “the relevant authority”;
  - (ii) for “its national currency” substitute “sterling”;
  - (iii) for “Member State”, in the second place it occurs, substitute “relevant authority”;
  - (iv) for “national currency”, in the second place it occurs, substitute “sterling”;
  - (b) omit paragraph 2.
- (10) Omit Articles 109 and 110.
- (11) In Article 111—
- (a) in paragraph 1—
    - (i) for “Member States” substitute “The relevant authority”;
    - (ii) for “the Funds” substitute “direct payments”;
    - (iii) in point (a)(ii), for “of the Member State concerned” substitute “applying in the constituent nation”;
    - (iv) in point (c), for “financed by the Funds” substitute “under which direct payment support is granted, which is”;
    - (v) in point (d), for “financed by either of the Funds” substitute “under which direct payment support is granted”;
    - (vi) in the last subparagraph, for “per Member State” substitute “for the United Kingdom administered jointly by the relevant authorities”;
- (12) In Article 112—
- (a) for the first and second paragraphs substitute—
 

“The relevant authority shall not publish the name of a beneficiary as provided for in point (a) of the first subparagraph of Article 111(1) of this Regulation where the amount of aid from direct payment support and the Funds (as defined in Article 3(2) of Regulation (EU) No 1306/2013 as it had effect immediately before exit day) received in one year by a beneficiary is equal to or less than EUR 1250.”
  - (b) in the third paragraph—
    - (i) for “Member States”, in the first place it occurs, substitute “relevant authority”;
    - (ii) for “Member States”, in the second place it occurs, substitute “The relevant authority”.
- (13) In Article 113—
- (a) in the first paragraph—
    - (i) for “Member States”, in the first place it occurs, substitute “The relevant authority”;
    - (ii) omit “of the Union and the Member States”;
    - (iii) for “safeguarding the Union’s financial interests” substitute “ensuring proper management of public funds”;
  - (b) in the second paragraph—
    - (i) for “[Directive 95/46/EC](#)” substitute “Regulation (EU) No 2016/679 and the Data Protection Act 2018(3)”;
    - (ii) for “Member States” substitute “relevant authority”.
- (14) In Article 114—

- (a) In the heading, for “Commission” substitute “Appropriate authority”;
- (b) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
- (c) omit point (c);
- (d) omit the second subparagraph.

### **Amendment of Title 8 (Final Provisions)**

**10.**—(1) Title 8 of the Horizontal Regulation is amended as follows.

(2) For Article 115 substitute—

*“Article 115*

*Regulations: general*

- 1.** Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
- 2.** For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010(4).
- 3.** Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(5).
- 4.** Regulations under this Regulation may:
  - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);
  - (b) make different provision for different purposes.

*Article 115A*

*Regulations: the Secretary of State*

- 1.** Except as specified in paragraphs 2 to 6, a statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
- 2.** A statutory instrument containing regulations made by the Secretary of State under Article 26(1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- 3.** A statutory instrument containing regulations made by the Secretary of State under Article 75(3) must be laid before Parliament after being made.
- 4.** Regulations made by the Secretary of State under Article 75(3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by resolution of each House of Parliament.
- 5.** In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which:
  - (a) Parliament is dissolved or prorogued, or

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(4) 2010 asp. 10.

(5) S.I. 1979/1573 (N.I. 12).

(b) either House of Parliament is adjourned for more than 4 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

#### *Article 115B*

##### *Regulations: the Welsh Ministers*

1. Except as specified in paragraphs 2 to 5, a statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

2. A statutory instrument containing regulations made by the Welsh Ministers under Article 75(3) must be laid before the National Assembly for Wales after being made.

3. Regulations made by the Welsh Ministers under Article 75(3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument containing them is made unless, during that period, the instrument is approved by a resolution of the National Assembly for Wales.

4. In calculating the period of 28 days for the purposes of paragraph 3, no account is to be taken of any time during which the National Assembly for Wales:

- (a) is dissolved, or
- (b) in recess for more than 4 days.

5. If regulations cease to have effect as a result of paragraph 3, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

#### *Article 115C*

##### *Regulations: the Scottish Ministers*

1. Except as specified in paragraphs 2 to 5, regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

2. Regulations made by the Scottish Ministers under Article 75(3) must be laid before the Scottish Parliament after being made.

3. Regulations made by the Scottish Ministers under Article 75(3) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.

4. In calculating the period of 28 days for the purposes of paragraph 3, no account is to be taken of any time during which the Scottish Parliament is:

- (a) dissolved, or
- (b) in recess for more than 4 days.

5. If regulations cease to have effect as a result of paragraph 3, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

*Article 115D*

*Regulations: Northern Ireland*

1. Except as specified in paragraphs 2 to 5, regulations made by the Department of Agriculture, Environment and Rural Affairs (“the Department”) under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(6) as if they were a statutory instrument within the meaning of that Act.

2. Regulations made by the Department under Article 75(3) must be laid before the Northern Ireland Assembly after being made.

3. Regulations made by the Department under Article 75(3) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the instrument is approved by a resolution of the Northern Ireland Assembly.

4. In calculating the period of 28 days for the purpose of paragraph 3, no account is to be taken of any time during which the Northern Ireland Assembly is:

- (a) dissolved,
- (b) in recess for more than 4 days, or
- (c) adjourned for more than 6 days.

5. If regulations cease to have effect as a result of paragraph 3, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.”.

(3) Omit Article 116.

(4) In Article 117—

(a) in paragraph 1—

- (i) for “Member States and the Commission” substitute “The relevant authority”;
- (ii) omit “and Chapter III of Title VII”;

(b) in paragraph 2, omit the words from “for monitoring” to “as well as”;

(c) in paragraph 3—

- (i) for “[Directive 95/46/EC](#) and Regulation (EC) No 45/2001” substitute “Regulation (EU) No 2016/679 and the Data Protection Act 2018”;
- (ii) omit “national and Union”;

(d) in paragraph 4—

- (i) for “Member States” substitute “The relevant authority”;
- (ii) omit “and Union”;
- (iii) for “[Directive 95/46/EC](#) and Regulation (EC) No 45/2001” substitute “Regulation (EU) No 2016/679 and the Data Protection Act 2018”.

(5) Omit Article 118.

(6) Omit Articles 120 and 121.

(7) After Article 121, omit the words from “This” to “States”.

**Amendment of Annexes 1 and 2 (Information and rules on cross-compliance)**

**11.—(1)** Omit Annex 1.

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(6) [1954 c. 33 \(N.I.\)](#). Section 41(6) was amended by [S.I. 1999/663](#).

(2) In Annex 2, in the requirements and standards for SMR4, in the last column, for “17(1)” substitute “17”.

## PART 3

### Amendment of Delegated and Implementing Acts

#### **Amendment of Commission Delegated Regulation (EU) 907/2014**

**12.**—(1) Commission Delegated Regulation (EU) No. 907/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro, in so far as it relates to the CAP direct payment schemes, is amended as follows.

- (2) Omit Articles 1 and 2.
- (3) Omit Article 5.
- (4) Omit Articles 6 to 10.
- (5) In Article 11—
  - (a) in paragraph 1—
    - (i) for “EAGF” substitute “direct payment support”;
    - (ii) for “Member States which have not adopted the euro” substitute “the relevant authority may choose to express that expenditure in either euro or sterling and”;
    - (iii) omit the words from “For the clearance decisions referred in Articles 51” to the end;
- (6) Omit Articles 12 and 13.
- (7) Omit Article 45.
- (8) Omit Annex 1.
- (9) Omit Annex 5.

#### **Amendment of Commission Implementing Regulation (EU) 908/2014**

**13.**—(1) Commission Implementing Regulation 908/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency, in so far as it relates to the CAP direct payment schemes, is amended as follows.

- (2) Omit Articles 1 to 3.
- (3) In Article 4—
  - (a) in the heading, for “Coordinating body” substitute “Relevant authorities acting jointly”;
  - (b) for paragraph 1 substitute—
    - “**1.** In accordance with Article 7(4) of Regulation (EU) No 1306/2013 the relevant authorities will act jointly on the following:
      - (i) operating a monthly early warning and monitoring system;
      - (ii) publishing beneficiary data on a single website;
      - (iii) meeting international commitments;
      - (iv) all of the information set out in Article 7 of Regulation (EU) No 1306/2013.”;



- (c) omit paragraph 2;
  - (d) in paragraph 3—
    - (i) for “its tasks” substitute “their tasks”;
    - (ii) for “coordinating body” substitute “relevant authorities acting jointly”;
    - (iii) for “national procedures,” substitute “the procedures applying in the constituent nation,”;
  - (e) omit paragraphs 4 and 5.
- (4) Omit Articles 5 to 7.
- (5) In Chapter 2, in the title, omit “of the funds”.
- (6) Omit Articles 8 to 10.
- (7) In Article 11—
- (a) in paragraph 1—
    - (i) for “assigned revenue declared” substitute “declared revenue”;
    - (ii) in the second subparagraph, for “EAGF budget” substitute “direct payment support”;
    - (iii) omit the third subparagraph;
  - (b) in paragraph 2, for “assigned revenue” substitute “declared revenue”;
  - (c) in paragraph 3, omit the first subparagraph;
  - (d) in paragraph 5, for “the EAGF” substitute “direct payment support”;
  - (e) omit paragraph 6.
- (8) Omit Articles 13 and 14.
- (9) Omit Articles 24 to 26.
- (10) In Article 27, in paragraph 1, for “Member States” substitute “A relevant authority”.
- (11) In Article 28—
- (a) for “national law”, substitute “the law applying in the constituent nation”;
  - (b) for “Member States” substitute “the relevant authority”;
  - (c) after “payments to be made” insert “under direct payment support and support under the European Agricultural Guarantee Fund and European Agricultural Fund for Rural Development”.
- (12) Omit Articles 29 to 40.
- (13) In Article 41—
- (a) for paragraph 1 substitute—

“1. The relevant authorities may decide to reduce the minimum level of on-the-spot checks in accordance with Article 59(5) of Regulation (EU) No 1306/2013. For the reduced control rate to apply:

    - (i) the relevant constituent nation shall conduct an applicable audit that is appropriate in order to deliver an opinion (on the completeness, accuracy and veracity of the annual accounts);
    - (ii) the opinion must validate both that the internal control system is functioning properly and that the error rate for the population concerned was below the materiality threshold of 2.0%;
    - (iii) the opinion must cover at least the two consecutive financial years preceding the year in which the reduced rate is intended to apply.”;

- (b) omit paragraph 2;
- (c) in paragraph 3—
  - (i) omit “or any additional condition provided for in sector-specific legislation”;
  - (ii) for “Member States” substitute “the relevant authority”.
- (14) In Article 57—
  - (a) in paragraph 1, in point (b), for “Funds” substitute “direct payment support”;
  - (b) in paragraph 2, for the words from “expressed” to the end substitute “to be expressed in Sterling.”
  - (c) in paragraph 3, for “Member States” substitute “A relevant authority”.
- (15) In Article 58, for “Member State” substitute “relevant authority”.
- (16) In Article 59, in paragraph 1, omit the words from “That information shall be provided” to the end.
- (17) In Article 60—
  - (a) in the first paragraph, for “the Funds” substitute “direct payment support”;
  - (b) omit the second paragraph.
- (18) Omit Article 61.
- (19) In Article 62—
  - (a) in the heading, for “Cooperation between the Commission and Member States” substitute “The Single Website”;
  - (b) omit paragraphs 1 and 2;
  - (c) for paragraph 3, substitute—
    - “3. The body nominated by the relevant authorities in charge of setting up and maintaining the single website referred to in Article 59(1), shall keep records of the name and address details of that body.”;
  - (d) Omit Article 64 and the sentence which follows it.
- (20) Omit Annexes 1 to 4.

#### **Amendment of Commission Implementing Regulation (EU) 809/2014**

14.—(1) Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance, in so far as it relates to the CAP direct payment schemes, is amended as follows.

- (2) In Article 1—
  - (a) in the first paragraph—
    - (i) omit point (a);
    - (ii) in point (b), for “Member States”, substitute “relevant authority”;
    - (iii) omit point (g);
    - (iv) in point (m), for “Member States”, substitute “a relevant authority”.
- (3) In Article 2—
  - (a) in paragraph 1—
    - (i) for “, within a Member State,” substitute “a relevant authority has”;
    - (ii) after “more than one paying agency” omit “is”;

- (iii) for “Member State” substitute “relevant authority”;
  - (b) in paragraph 2, for “Member State” substitute “relevant authority”.
  - (c) In Article 3, in paragraph 1, in the second subparagraph, in both places it occurs, for “Member State” substitute “relevant authority”.
  - (d) In Article 5, in the second paragraph, for “Union or national law” substitute “the law applying in the constituent nation”.
- (4) In Article 6(1)—
- (a) for “Member States” substitute “relevant authority”;
  - (b) omit the words from “and with the programmes” to the end.
- (5) In Article 6(2)—
- (a) in point (c), for “point (b)” substitute “point (a)”;
  - (b) in point (f)—
    - (i) for “point (e)” substitute “point (d)”;
    - (ii) omit sub-point (iii) and (iv);
    - (iii) in sub-point (v)—
      - (aa) after “exceed the” insert “share of the”;
      - (bb) for “Article 42(2)” substitute “Article 42(1)”.
- (6) In Article 6(3), omit point (c).
- (7) In Article 7, in paragraph 2, in the second subparagraph—
- (a) for “national law” substitute “the law applying in the constituent nation”;
  - (b) for “national provisions” substitute “those provisions”.
- (8) In Article 8—
- (a) in paragraph 3, in point (a), for “Member States” substitute “relevant authority”;
  - (b) in paragraph 4, in point (b), for “Union rules” substitute “sectoral agricultural legislation”;
  - (c) in paragraph 5—
    - (i) for “Member States”, in the first place it occurs substitute “The relevant authority”;
    - (ii) for “Member States”, in the second place it occurs substitute “the relevant authority”.
- (9) Omit Articles 9 and 10.
- (10) In Article 11—
- (a) in paragraph 1, for “Member States” substitute “the relevant authority”;
  - (b) in paragraph 2—
    - (i) for “Member States”, in the first place it occurs, substitute “the relevant authority” and in the second place it occurs, substitute “The relevant authority”;
    - (ii) omit “national”;
    - (iii) for “Member State”, in the third place it occurs, substitute “the relevant authority”;
  - (c) in paragraph 4, for “Member States” in the first place it occurs, substitute “the relevant authority” and in the second place in occurs, substitute “The relevant authority”;
- (11) In Article 12, in paragraph 1, for “Member States decide” substitute “the relevant authority decides”.
- (12) In Article 13—
- (a) in paragraph 1—

- (i) for “Member States” substitute “The relevant authority”;
- (ii) omit the words from “However, Estonia, Latvia” to “15 June.”;
- (iii) in the second subparagraph, for “Member States” substitute “the relevant authority”;
- (b) omit paragraph 2.
- (13) In Article 14—
  - (a) omit paragraph 3;
  - (b) in paragraph 4, for “Member States” in the first place it occurs, substitute “the relevant authority” and in the second place it occurs, substitute “The relevant authority”.
- (14) In Article 15, in paragraph 2—
  - (a) in the first subparagraph, omit the words from “, except in the case of” to “year concerned”;
  - (b) in the third subparagraph, for “Member States” substitute “the relevant authority”.
- (15) In Article 17—
  - (a) in paragraph 4, omit “, the single area payment scheme”;
  - (b) in paragraph 7—
    - (i) in point (c), for “Member State” substitute “relevant authority”;
    - (ii) in the second subparagraph—
      - (aa) for “Member States”, in both places it occurs, substitute “relevant authority”;
      - (bb) omit “national”;
- (16) omit paragraph 8;
- (17) in paragraph 9, for “Titles III, IV and V” substitute “Titles III and IV”.
- (18) Omit Article 19.
- (19) In Article 20—
  - (a) for the first paragraph substitute—
 

“1. A beneficiary who does not apply for aid under any of the area-related aid schemes but applies for aid under another scheme listed in Annex 1 to Regulation (EU) 1307/2013 shall, if he has agricultural area at his disposal, declare those areas in his aid application form in accordance with Article 17 of this Regulation.”;
  - (b) In the third paragraph, for “Member States” substitute “the relevant authority”.
- (20) In Article 21—
  - (a) in paragraph 1, in point (d), for “Member State” substitute “relevant authority”;
  - (b) in paragraph 3, for “Member States” substitute “A relevant authority”;
  - (c) in paragraph 4—
    - (i) in the first subparagraph, for “Member States” substitute “A relevant authority”;
    - (ii) in the second subparagraph, for “Member State” substitute “relevant authority”;
    - (iii) in the third subparagraph, for “Member States” substitute “the relevant authority”;
  - (d) in paragraph 5, for “Member States” substitute “A relevant authority”.
- (21) In Article 22—
  - (a) in paragraph 1—
    - (i) omit “Article 20,”;
    - (ii) omit “and Article 39”;

- (iii) for “Member States” substitute “relevant authority”;
    - (iv) omit the second subparagraph;
  - (b) in paragraph 2, for “Member States” substitute “A relevant authority”.
- (22) In Article 23—
- (a) in paragraph 2—
    - (i) after “Article 26(2) of that Regulation”, insert “(as it had effect immediately before exit day)”;
    - (ii) after “Article 26(3) of that Regulation” insert “(as it had effect immediately before exit day)”;
    - (iii) after “Article 26(5) of that Regulation” insert “(as it had effect immediately before exit day)”;
    - (iv) omit the words from “, or the total value of aid received by a beneficiary” to “Article 40(3) of that Regulation”;
  - (b) in paragraph 5, for “Member States” substitute “The relevant authority”.
- (23) In Article 24, in paragraph 2—
- (a) for “Member States” in the first place it occurs, substitute “The relevant authority” and in the second place it occurs, substitute “relevant authority”;
  - (b) for “Union law or laid down in relevant national law” substitute “the law applying in the constituent nation”.
- (24) In Article 26, in paragraph 1, for “Union law” substitute “the law applying in the constituent nation”.
- (25) In Article 27, in the second paragraph, in both places it occurs, for “Member States” substitute “The relevant authority”.
- (26) In Article 28—
- (a) in paragraph 1, in point (b) omit “Union”;
  - (b) in paragraph 2 for “Member States” substitute “a relevant authority”.
- (27) In Article 29—
- (a) in paragraph 1, omit points (f) and (g);
  - (b) in paragraph 3, for “Member State” substitute “a relevant authority”.
- (28) In Article 30, in the first paragraph—
- (a) in point (a)—
    - (i) omit “or the single area payment scheme”;
    - (ii) for “Member States” substitute “The relevant authority”;
  - (b) omit point (c);
  - (c) omit points (f) and (h).
- (29) In Article 31—
- (a) in paragraph 1—
    - (i) in point (b), in sub-point (ii), omit “in a Member State”;
    - (ii) in point (c), omit “national or regional”;
    - (iii) in point (d), omit “a regional”;
  - (b) in paragraph 2, omit “or who participate in the small farmers scheme in accordance with Article 61 of that Regulation”.

## (30) In Article 34—

## (a) in paragraph 2—

(i) in point (a) of the first subparagraph, for “points (a) to (f) and (h)” substitute “points (a) to (e);

(ii) in the second subparagraph, for “Member States” substitute “the relevant authority”;

## (b) for paragraph 3, substitute—

“**3.** For the purposes of Article 33, between 20% and 25% of the minimum number of beneficiaries to be subject to on-the-spot checks shall be selected randomly. The remaining number of beneficiaries to be subject to on-the-spot checks shall be selected on the basis of a risk analysis.

For the purposes of Article 33, the random part of the sample may also include either the beneficiaries already randomly selected in accordance with points (a), (b) and (c) of paragraph 2 or the additional beneficiaries selected randomly in accordance with the second subparagraph of Article 26(4) or both. The number of such beneficiaries in the control sample shall not go beyond their proportion in the control population.”;

## (c) in paragraphs 4 and 4a, for “Articles 30 to 33” substitute “Articles 30, 31 and 33”

## (d) in paragraph 5, in point (c), for “Member State” substitute “constituent nation”.

## (31) In Article 36—

## (a) in paragraph 2, in the first subparagraph—

(i) for “Article 30(a), (b) and (f)” substitute “Article 30(a) and (b)”;

(ii) for “Member States” substitute “the relevant authority”;

(iii) for “, the single area payment scheme,” substitute “and”;

(iv) omit “and the small farmers scheme”;

## (b) in paragraph 3—

## (i) in the first subparagraph—

(aa) for “Article 30(a), (b) and (f)” substitute “Article 30(a) and (b)”;

(bb) for “Member States” substitute “the relevant authority”;

(cc) for “, the single area payment scheme,” substitute “and”;

(dd) omit “and the small farmers scheme”;

(ii) in the second subparagraph, for “Member States”, in both places it occurs, substitute “the relevant authority”;

(iii) in the third subparagraph, for “Member States” substitute “the relevant authority”;

## (c) in paragraphs 4, for “Member States” substitute “the relevant authority”;

## (d) in paragraph 5—

(i) for “Member States” substitute “the relevant authority”;

(ii) for “Article 30(a), (b) and (f)” substitute “Article 30(a) and (b)”;

## (e) in paragraph 6—

(i) in the first subparagraph, for “Member State” substitute “relevant authority”;

(ii) omit the second subparagraph.

## (32) In Article 37—

## (a) in paragraph 3—

(i) in the first subparagraph, omit “national or regional”;

- (ii) in the second subparagraph—
    - (aa) omit “a regional”;
    - (bb) for “Member State” substitute “relevant authority”;
  - (iii) in the third subparagraph—
    - (aa) in point (c), for “Member State” substitute “relevant authority”.
- (33) In Article 38—
  - (a) in paragraph 2, for “at Union level” substitute “in the relevant constituent nation”;
  - (b) in paragraph 8, omit “or the single area payment scheme”.
- (34) In Article 40, for “Member State” substitute “relevant authority”.
- (35) In Article 40a, in paragraph 2, in point (b), for “Member State” substitute “relevant authority”.
- (36) Omit Article 40b.
- (37) In Article 41—
  - (a) in paragraph 2—
    - (i) in the first subparagraph, for “Member States make” substitute “the relevant authority makes”;
    - (ii) in the third subparagraph for “Member States” substitute “relevant authority”.
- (38) In Article 42, in paragraph 1—
  - (a) in the second subparagraph—
    - (i) for “Member State” substitute “relevant authority”;
    - (ii) for “Member States” substitute “the relevant authority”;
  - (b) in the third subparagraph, for “Member State” substitute “relevant authority”.
- (39) In Article 43—
  - (a) in paragraph 2, for “Member States make” substitute “the relevant authority makes”;
  - (b) in paragraph 3, for “Member States carry” substitute “the relevant authority carries”.
- (40) In Article 64—
  - (a) in point (a), omit “national”;
  - (b) for point (d), substitute—
    - “(d) ‘areas of cross-compliance’ means any of the three different areas referred to in Article 93(1) of Regulation (EU) No 1306/2013.”.
- (41) In Article 65, in paragraphs 1 and 2, for “Member States”, in both places it occurs, substitute “The relevant authority”.
- (42) In Article 67, in paragraph 2—
  - (a) for “Member States” substitute “the relevant authority”;
  - (b) for “Member State” substitute “relevant authority”.
- (43) In Article 68—
  - (a) in paragraph 1—
    - (i) for the first subparagraph, substitute—
      - “**1.** The competent control authority shall, with regard to the requirements and standards for which it is responsible, carry out on-the-spot checks on at least 1% of the total number of the beneficiaries receiving direct payments

- and the other beneficiaries referred to in Article 92 of Regulation (EU) No 1306/2013, as it has effect in EU law.”;
- (ii) in the fourth subparagraph, for “Member States” substitute “the relevant authority.”;
- (b) in paragraph 2—
    - (i) in the first subparagraph, for “Member State” substitute “relevant authority”;
    - (ii) in the second subparagraph, for “Member State” substitute “relevant authority”;
  - (c) in paragraph 5, for “Member State” substitute “relevant authority”.
- (44) In Article 69—
- (a) in paragraph 1, in the third subparagraph, for “A Member State” substitute “The relevant authority”;
  - (b) for paragraph 6, substitute—
 

“6. By way of derogation from Article 68(1), the sample of beneficiaries to be checked on the spot may be selected at the minimum rate of 1% of the beneficiaries receiving direct payments.”.
- (45) In Article 71—
- (a) in paragraph 1, in the fourth subparagraph, for “Member States” substitute “the relevant authority”;
  - (b) in paragraph 2, in the third subparagraph, for “Member States” substitute “relevant authority”;
  - (c) in paragraph 4, for “Member State” substitute “relevant authority”;
  - (d) in paragraph 5, for “Member States” substitute “the relevant authority”.
- (46) In Article 72, in paragraph 4, in the third subparagraph, for “a Member State” substitute “the relevant authority”.
- (47) In Article 73—
- (a) in paragraph 1, in the first subparagraph, for “Member States”, in the first place it occurs, substitute “the relevant authority” and in the second place it occurs, substitute “The relevant authority”;
- (48) Omit Article 76.

#### **Amendment of Commission Delegated Regulation (EU) 640/2014**

**15.**—(1) Commission Delegated Regulation (EU) No. 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, in so far as it relates to the direct payment schemes, is amended as follows.

- (2) In Article 2—
- (a) in paragraph 1, in the second subparagraph—
    - (i) for point (1) substitute—
 

“(1) ‘beneficiary’ means a farmer as defined in Article 4(1)(a) of Regulation (EU) No 1307/2013 and referred to in Article 9 of that Regulation.”
    - (ii) in point (2), in sub-point (b)—
      - (aa) for “Union legislation” substitute “the law applying in the constituent nation”;



- (bb) omit “by the Member States”;
  - (iii) in point (20), omit from the words “, excluding specific measures” to the end;
  - (iv) in point (26) for “Member States” substitute “relevant authority”;
- (b) in paragraph 2, in the second subparagraph, for “Member States” substitute “relevant authority”;
- (3) In Article 3, for “national law”, substitute “the law applying in the constituent nation”.
- (4) In Article 5—
  - (a) in paragraph 1, in the second subparagraph, for “Member States”, substitute “The relevant authority”;
  - (b) in paragraph 2—
    - (i) for “Member States”, in the first place it occurs, substitute “The relevant authority”;
    - (ii) for “Member States”, in the second place it occurs, substitute “the relevant authority”;
    - (iii) in point (c)—
      - (aa) for “Member State” substitute “relevant authority”;
      - (bb) for “Member States” substitute “the relevant authority”;
    - (iv) for point (d) substitute—
      - “(d) determine whether areas naturally kept in a state suitable for grazing or cultivation as referred to in Article 4(1)(c)(iii) of Regulation (EU) No 1307/2013, areas designated by the relevant authority for the regional and/or collective implementation of ecological focus areas in accordance with Article 46(5) and (6) in that regulation and areas covered with permanent grasslands which are environmentally sensitive as referred to in Article 45(1) of that regulation apply.”;
  - (c) in paragraph 3, for “Member States” substitute “The relevant authority”;
  - (d) in paragraph 5, for “Member State” substitute “relevant authority”.
- (5) In Article 6—
  - (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) for “Member States” substitute “The relevant authority”;
      - (bb) omit “and the single area payment scheme”;
    - (ii) in the fourth subparagraph, for “Member State” substitute “relevant authority”;
  - (b) in paragraph 2—
    - (i) for “Member States” substitute “The relevant authority”;
    - (ii) for “and provided by the Commission” substitute “by the constituent nations”;
  - (c) for paragraph 3 substitute—
    - “3. An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be drawn up by the relevant authority by 31 January 2021.”
- (6) In Article 7—
  - (a) in paragraph 1—
    - (i) for “Member State”, substitute “United Kingdom”;

- (ii) in point (f)—
  - (aa) after “Regulation (EU) No 1307/2013” insert “as it had effect immediately before exit day”;
  - (bb) For “is applied” substitute “was applied”.
- (b) for paragraph 2, substitute —
  - 2. “Where there is more than one paying agency across the constituent nations, the electronic register may be operated at paying agency level. The relevant authority will ensure that its register is compatible with the registers of the other paying agencies.”.
- (7) In Article 9—
  - (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) for “Member States” substitute “the relevant authority”;
      - (bb) for “Member State” substitute “relevant authority”;
    - (ii) in the second subparagraph, for “Member States”, substitute “the United Kingdom”;
    - (iii) in the third subparagraph, for “Member State”, substitute “relevant authority”;
  - (b) in paragraph 3—
    - (i) in the second subparagraph—
      - (aa) for “Member States”, substitute “the relevant authority”;
      - (bb) omit “and notified”;
    - (ii) in the third subparagraph, for “Member State”, substitute “relevant authority”.
- (8) In Article 10, in paragraph 1, for “Member States”, substitute “the relevant authority”.
- (9) In Article 11, omit “or the single area payment scheme”.
- (10) In Article 12, in the first paragraph, for the words from the beginning to “No 1182/71, where” substitute “Where”.
- (11) In Article 13—
  - (a) in paragraph 1—
    - (i) in the first subparagraph, for “the Commission on the basis of Article 78(b) of Regulation (EU) No 1306/2013”, substitute “Article 13 of Regulation (EU) No 809/2014”;
    - (ii) in the second subparagraph, for “Member States” substitute “relevant authority”;
  - (b) in paragraph 3, for “the Commission on the basis of Article 78(b) of Regulation (EU) No 1306/2013” substitute “Article 13 of Regulation (EU) No 809/2014”.
- (12) In Article 14, in the first paragraph, for “for this purpose by the Commission on the basis of Article 78(b) of Regulation (EU) No 1306/2013”, substitute “by Article 22 of Regulation (EU) No 809/2014”.
- (13) In Article 16, omit paragraph 3.
- (14) In Article 17—
  - (a) in paragraph 1, in point (a), omit “or for the purpose of being granted the single area payment”;
  - (b) omit paragraph 2.
- (15) In Article 18—

- (a) in paragraph 1—
    - (i) omit “the small farmers scheme.”;
    - (ii) omit “, the payment for areas with natural constraints”;
    - (iii) for “Member State” substitute “relevant authority”;
    - (iv) omit the second subparagraph;
  - (b) in paragraph 2—
    - (i) for “Member State”, in both places it occurs, substitute “relevant authority”;
    - (ii) omit “, (7)”;
    - (iii) omit “or the single area payment scheme”;
  - (c) in paragraph 3—
    - (i) omit “or the single area payment scheme”;
    - (ii) for “Member State” substitute “relevant authority”;
  - (d) omit paragraph 4;
  - (e) in paragraph 6, in the second subparagraph, for “Titles III, IV and V” substitute “Titles III and IV”.
- (16) In Article 19a, for the heading, substitute—
- “Administrative penalties in cases of over-declaration of areas for the basic payment scheme, the re-distributive payment and the young farmers scheme”;*
- (a) in paragraph 1—
    - (i) omit “, 4”;
    - (ii) omit “and in Title V”.
- (17) Omit Article 20.
- (18) In Article 23—
- (a) in the heading, omit “or the single area payment scheme”;
  - (b) in paragraph 1, for “Member State”, substitute “relevant authority”;
  - (c) in paragraph 2—
    - (i) in the first subparagraph, omit “or the single area payment”;
    - (ii) in the second subparagraph, omit “or the single area payment scheme”.
- (19) In Article 28, for paragraph 3 substitute—
- “3.** In accordance with Article 77(6) of Regulation (EU) No 1306/2013, the administrative penalty calculated in accordance with paragraphs 1 and 2 shall be divided by 4 and limited to 25% of the amount of the greening payment to which the farmer concerned would have been entitled in accordance with Article 23.”.
- (20) In Article 30—
- (a) in paragraph 2—
    - (i) for “Member State”, substitute “relevant authority”;
    - (ii) omit “by the Commission”;
  - (b) in paragraph 3a, for “Member State” substitute “relevant authority”.
- (21) In Article 31—

- (a) in paragraph 2, in the fourth subparagraph, in both places it occurs, for “Member States”, substitute “the relevant authority”;
  - (b) in paragraph 3, in the second subparagraph, for “Member State”, substitute “relevant authority”.
- (22) In Article 33—
- (a) in paragraph 1—
    - (i) for “Member States”, substitute “The relevant authority”;
    - (ii) omit “national”;
  - (b) in paragraph 2—
    - (i) omit “the Commission on the basis of”;
    - (ii) for “Member State”, substitute “relevant authority”;
    - (iii) for “national legislation” substitute “the law applying in the constituent nation”.
- (23) In Article 39, in paragraphs 2 and 3, for “Member State” substitute “relevant authority”.
- (24) In Article 41, omit “by the Commission”.
- (25) Omit Article 44 and the sentence which follows it.

#### **Amendments to the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014**

**16.—(1)** The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014(7) are amended as follows.

- (2) In regulation 2—
- (a) in paragraph (1), for the definition of “direct payments” substitute—
    - ““direct payments” means payments granted under the Direct Payments Regulation;”
  - (b) After paragraph (1A), insert—
    - “(1B) In these Regulations, references to the Horizontal Delegated Regulation, the Horizontal Implementing Regulation and the Horizontal Regulation are, to the extent that they relate to the direct payments for claim year 2020, references to those Regulations incorporated into domestic law and amended under the Direct Payments to Farmers (Legislative Continuity) Act 2020(8).”
- (3) In regulation 10(7)(a), after “Commission” insert “, except for matters relating to direct payments for claim year 2020,”
- (4) In regulation 30—
- (a) in the definition of “Pillar 1 decision”—
    - (i) after “the EAGF” insert “and direct payments”;
    - (ii) omit “European”.
- (5) In Regulation 36(2), after “review,” insert “except for matters relating to the direct payments scheme for claim year 2020,”.

(7) S.I. 2014/3263, and prospectively amended by S.I. 2019/733; there are other amending instruments but none is relevant.

(8) 2020 c.2

30th January 2020

*George Eustice*  
Minister of State  
Department for Environment, Food and Rural  
Affairs

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 3(1), (7) and (9) of the Direct Payments to Farmers (Legislative Continuity) Act (“the Act”) in order to enable retained EU law governing the CAP direct payment schemes for claim year 2020 to operate effectively and to address other deficiencies arising from the UK’s withdrawal from the European Union.

Regulations 2 to 11 make amendments to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy (“the Horizontal Regulation”), in so far as that Regulation relates to the CAP direct payment schemes for claim year 2020.

Regulation 12 makes amendments to Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing the Horizontal Regulation with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro, in so far as that Regulation relates to the CAP direct payment schemes for claim year 2020.

Regulation 13 makes amendments to Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of the Horizontal Regulation with regard to paying agencies and rules on checks, securities and transparency, in so far as that Regulation relates to the CAP direct payment schemes for claim year 2020.

Regulation 14 makes amendments to Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of the administration and control system, rural development measures and cross compliance, in so far as that Regulation relates to the CAP direct payment schemes for claim year 2020.

Regulation 15 makes amendments to Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing the Horizontal Regulation with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, in so far as that Regulation relates to the CAP direct payment schemes for claim year 2020.

Regulation 16 makes amendments to The Common Agricultural Policy (Control and Enforcement, Cross Compliance, Scrutiny of Transactions and Appeals) Regulations [S.I. 2014/3263](#), which implements EU obligations in relation to the common agricultural policy under the powers in section 2(2) of the European Community Act. These amendments only apply to England.

Section 3(7) of the Act clarifies that provisions made by regulations under the powers in the Act may apply in relation to matters arising in relation to the CAP direct payment schemes for the whole of the 2020 claim year.

Regulation 1(2) disapplies paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act. This ensures that the regulations come into force on exit day.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.