
STATUTORY INSTRUMENTS

2021 No. 405

The Agriculture (Financial Assistance) Regulations 2021

Part 8

Determination on breach and remedies

Determination on breach

23.—(1) Where the Secretary of State is satisfied that a breach of conditions has occurred or that regulation 20 applies, the Secretary of State must make a determination to that effect.

(2) Where the Secretary of State has made a determination under paragraph (1), the Secretary of State must make a further determination as to the seriousness of the breach and the appropriate steps required to be taken in respect of the breach and in doing so must have due regard to—

- (a) the circumstances that led to the breach and whether it was caused by the intentional actions of the agreement holder or due to that person's recklessness or negligence;
- (b) any steps taken by the agreement holder to report a change of circumstance under regulation 11 or notify the Secretary of State of the breach within a reasonable period;
- (c) any failure on the part of the agreement holder to co-operate with an inspection which was proposed to take place under regulation 15, 16 or 17 or an investigation under regulation 21;
- (d) any past conduct of the agreement holder during the period of the agreement and whether a similar breach has previously occurred;
- (e) the nature of the breach and whether it constituted an offence or has caused widespread or irreparable damage;
- (f) the extent to which it is desirable, practicable or economic to permit the agreement holder to rectify the breach; and
- (g) the consequences of the breach and whether it renders the purpose of the financial assistance unachievable within the timescales or finances of the financial assistance scheme or to the standards agreed when the financial assistance was awarded.