

EXPLANATORY MEMORANDUM TO
THE FRUIT AND VEGETABLES AID SCHEME CLOSURE (ENGLAND)
REGULATIONS 2023

2023 No. 743

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 These Regulations close the retained EU Fruit and Vegetables Aid Scheme (“Aid Scheme”) in England, by preventing the approval of any new operational programmes proposed by new and existing Producer Organisations (“POs”), and associations of POs, with a head office located in England (“English POs”) that would commence on or after 1 January 2024, and by preventing the extension of any existing operational programmes which would result in them ending on or after 1 January 2026.

2.2 The Regulations make provision to allow English POs with existing operational programmes ending on 31 December 2023 or 31 December 2024 to be extended. This will allow all English POs to receive funding through to the end of 2025 if they wish, to ensure a fair and timely end to funding for existing POs. This is achieved through modification to the operational programme maximum duration (now set to seven years).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Aid Scheme was an EU Common Agricultural Policy Pillar 1 scheme that provided aid to groups of fruit and vegetable growers, to encourage them to work collaboratively, and increase the quality and quantity of the produce they grow. The EU legislation became retained EU legislation under the European Union (Withdrawal) Act (2018).

- 6.2 The Aid Scheme is established by and under Regulation (EU) No 1308/2013 of the European Parliament and of the Council (“the CMO”), which is supplemented by Commission Delegated Regulation (EU) 2017/891 and Commission Implementing Regulation (EU) 2017/892.
- 6.3 Under Section 15 of the Agriculture Act 2020 (c. 21), the Secretary of State has the power to make regulations to modify the retained Aid Scheme legislation for the purpose of securing that it ceases to have effect in relation to England. Section 50(3)(d) also provides that any power to make regulations under the Agriculture Act 2020 includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision. This instrument uses these powers to close the Aid Scheme to new entrants in England by preventing the approval of any new operational programmes which would result in them ending on or after 1 January 2026 whilst allowing English POs with operational programmes ending in 2023 and 2024 to extend their programme length to 31 December 2025.
- 6.4 This instrument also makes consequential amendments to Article 31(6) of Commission Delegated Regulation (EU) 2017/891 to reflect the context post-2025 where English PO’s current operational programmes have ended. The amendments clarify that the provisions around recovery of aid will continue to apply to investments sold in the fiscal depreciation period, including where that period extends beyond the end of an English PO’s operational programme.
- 6.5 This instrument applies to any operational programmes whose POs, or association of POs, which has, at the time of the implementation, or proposed implementation, of that programme, its head office located in England (as established by the application of Article 14A or Article 21A of Commission Delegated Regulation (EU) 2017/891). This instrument does not impact English growers registered with POs in other parts of the UK, as they are governed by the Aid Scheme rules in the relevant part of the UK where the PO head office is based.

7. Policy background

What is being done and why?

- 7.1 Under the Agricultural Transition Plan, Defra is replacing EU-scheme-based regulation and enforcement with a new, more effective and trusted approach that suits our domestic context. As part of this, the UK Government has decided to close the Aid Scheme in England and consider better ways to support the horticulture sector as we move away from the Common Agricultural Policy.
- 7.2 These Regulations will close the Aid Scheme to English POs, and includes transitory measures which mean that all English POs currently participating in the Scheme will be able to receive funding until 31 December 2025 – allowing for a more equitable end to the Aid Scheme in its current form. It also makes consequential amendments that give greater clarity to recovery provisions in the context where there are no operational programmes still in existence, following the closure of the Aid Scheme in England.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union. This

instruments amends retained EU law to bring to an end, in England, an existing EU scheme retained on EU withdrawal.

9. Consolidation

9.1 There are no plans to consolidate these Regulations.

10. Consultation outcome

10.1 No formal consultation has been undertaken for this SI in relation to the changes we are making. We have conducted targeted engagement with POs to keep them updated with changes we will be making to the legislation in the SI and how this will impact them. Awareness that the Aid Scheme would close for English POs has been in place since the Agriculture Act 2020 was made.

11. Guidance

11.1 The Rural Payments Agency has published guidance on the Aid Scheme, which can be found here: <https://www.gov.uk/guidance/fruit-and-vegetables-aid-scheme-guide> . This guidance will be updated to reflect the closure of the Aid Scheme to English POs, and the extension process for POs ending in 2023 and 2024, once this instrument takes effect.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because this is a grant scheme and removal of the scheme does not change any regulatory measures. This means the scheme is not subject to Better Regulation guidance.

13. Regulating small business

13.1 The legislation does not apply any regulatory burdensome activities on small businesses.

14. Monitoring & review

14.1 Defra and its agencies will monitor and review the impact of this instrument as part of its standard policy-making procedures and will ensure that the provisions are adhered to and implemented.

15. Contact

15.1 Heather Smith at the Department for Environment, Food and Rural Affairs (Telephone: 07788679429 or email: heather.smith1@defra.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Gill Laishley, Deputy Director for Farming & Primary Processing at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Mark Spencer MP, Minister of State (Minister for Food, Farming and Fisheries) at the Department for Environment, Food and Rural Affairs, can confirm that this Explanatory Memorandum meets the required standard.