EXPLANATORY MEMORANDUM TO

THE COMMON AGRICULTURAL POLICY AND MARKET MEASURES (MISCELLANEOUS AMENDMENTS) (EU EXIT) REGULATIONS 2019

2019 No. 812

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 Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends five EU Exit statutory instruments previously laid by Defra to ensure that:

a. Recent amendments by the European Commission ("the Commission") to European Union ("EU") Common Agricultural Policy ("CAP") legislation are fully reflected in United Kingdom ("UK") law at the point of EU Exit; and

b. Minor drafting errors in CAP-related EU Exit statutory instruments are corrected before these instruments come into effect.

2.2 The statutory instruments amended by this instrument in order to take account of recently introduced EU legislation relating to CAP Direct Payments and marketing standards in the fruit and vegetables sectors, are:

- The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019, which themselves amend retained EU legislation relating to Direct Payments to farmers provided under agricultural support schemes within the CAP; and
- The Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019, which themselves amend retained EU legislation relating to marketing standards in the fruit and vegetables sectors provided under the Common Organisation of Agricultural Markets ("CMO") framework of the CAP.

2.3 The statutory instruments amended by this instrument in order to correct minor drafting errors are:

- The Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019;
- The Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019;
- The Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019; and
- The Market Measures (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2019.

Explanations

What did any relevant EU law do before exit day?

2.4 The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 were made on 31st January 2019 and laid before Parliament on 11th February 2019. These regulations will, at EU Exit, amend retained Regulation (EU) No. 1307/2013, which establishes the rules for Direct Payments to farmers under support schemes within the framework of the CAP.

2.5 Article 14 of Regulation (EU) No. 1307/2013 makes provision for EU Member States to transfer of up to 15% of funds between CAP "Pillar 1" Direct Payments funding and "Pillar 2" Rural Development funding, via an "inter-pillar" transfer. It also sets out that the last possible date on which a Member State could make an administrative decision to make an inter-pillar transfer was 1st August 2018.

2.6 A new EU Regulation relating to Direct Payments, EU Regulation 2019/288, came into effect on 1st March 2019. This amends Regulation (EU) No. 1307/2013 so that Member States are now able to effect further inter-pillar transfers until 31st December 2019. Within the UK, decisions on inter-pillar transfers are devolved.

2.7 The Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 were laid before Parliament as draft affirmative regulations on 13th February 2019. These regulations will, at EU Exit, amend retained Regulation (EU) No. 543/2011, which lays down detailed CAP rules on marketing standards for the fruit and vegetables and processed fruit and vegetables sectors.

2.8 A new EU Regulation relating to marketing standards for fruit and vegetables, Commission Delegated Regulation (EU) No. 2019/428, was published on 19th March 2019 and came into effect across all Member States on 26th March 2019. This amends Regulation (EU) No. 543/2011 to make it clear that marketing standards for mixes of fruit and vegetables apply to mixed packages "of different species of fruits, of vegetables or of fruits and vegetables" (the EU Regulation previously referred to marketing standards applying to "mixes of different species of fruit and vegetables"). The new Regulation also made a number of small changes to the general and specific marketing standards, in order to align the EU marketing standards with the latest United Nations Economic Commission for Europe ("UNECE") marketing standards.

2.9 The Common Agricultural Policy (Financial, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019 were made on 28th March 2019. These Regulations amend Regulation (EU) No. 1306/2013, which themselves establish the overarching framework for the financial management and monitoring of the CAP. It also makes an amendment to Common Delegated Regulation (EU) 639/2014, which concerns the rules for Direct Payments to farmers under the CAP.

2.10 The Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 and the Market Measures (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2019 were laid before Parliament on 13th February 2019. These Regulations form part of a series of Defra statutory instruments that will correct inoperabilities in retained EU legislation and domestic subordinate legislation related to the functioning and administration of the CMO.

Why is it being changed?

2.11 Under the European Union (Withdrawal) Act 2018, EU CAP legislation as it stands at the point of EU Exit will be brought into domestic law on Exit day. This will include the 1st March 2019 changes to the EU Direct Payments regime introduced by EU Regulation 2019/288 and the 26th March 2019 changes to CMO marketing standards introduced by Commission Delegated Regulation (EU) No. 2019/428.

2.12 The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 were made before EU Regulation 2019/288 came into effect. Now that Regulation (EU) No. 1307/2013 has been amended by EU Regulation 2019/288, the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 require updating in order to continue to give effect to the new discretion for Member States to decide whether or not to make inter-pillar transfers up to 31st December 2019. After EU Exit, if the instrument is not amended, the UK Government and the devolved administrations would lose their now-existing ability to make future inter-pillar transfers before 31st December 2019. This would result in the loss of valuable flexibility for the UK Government and devolved administrations to administer their CAP funding, as may be required.

2.13 The Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 were laid before Parliament as draft affirmative regulations before Commission Delegated Regulation (EU) No. 2019/428 came into effect. Consequently, it is crucial that the Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 are updated at the time they are made to ensure that these Regulations will also address operability issues in retained EU CMO legislation that are a result of recently introduced Commission Delegated Regulation (EU) No. 2019/428.

2.14 This instrument therefore uses powers in the European Union (Withdrawal) Act 2018 to correct the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 and the Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 to ensure each instrument will take full account of EU Direct Payments and CMO marketing standards legislation as it stands at the point of EU Exit. The corrections will ensure that:

- Retained EU Direct Payments legislation continues to function effectively across the UK which, in turn, will support the continued delivery of Direct Payments to eligible UK beneficiaries; and
- Retained EU legislation relating to rules on marketing standards for the fruit and vegetables sectors continues to function effectively across the UK to protect the interests of consumers and businesses in this sector.

2.15 This instrument will also make corrections to existing CAP-related EU Exit statutory instruments related to the financial, management and monitoring ("horizontal") framework of the CAP and the CMO, to ensure that minor errors in these instruments are addressed before they come into effect at the point of EU Exit. This will ensure retained CAP legislation continues to function effectively with no ambiguity. Examples of the types of corrections being made are described at section 7, paragraph 6.

What will it now do?

2.16 This instrument will ensure that all current EU legislation relating to CAP Direct Payments and CAP marketing standards in the fruit and vegetables sectors will

continue to be available and "roll-over" into UK law at the point of EU Exit. This instrument will also address minor drafting errors which have been identified in three statutory instruments related to the CAP that Defra has previously laid before Parliament.

2.17 This instrument reflects the UK devolution settlements and the status quo, whereby the relevant authorities in England, Northern Ireland, Scotland and Wales operate the Direct Payments framework (i.e. make payments and enforce the rules surrounding Direct Payments) and enforce marketing standards in the fruit and vegetables sector, within their respective territories.

2.18 The appropriate legislative "fixes" introduced by this instrument will have no noticeable impact on the ground for farmers and will provide clarity on the marketing standards that apply to those involved in the production and distribution of small (net weight of 5kg or less) packages of mixed fruit and/or vegetables.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has agreed for this instrument to be made subject to the urgent 'made affirmative' procedure. The Ministerial statement in Part 2 of the Annex to this Explanatory Memorandum sets out the reasons for this decision.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

3.3 The powers under which this instrument is made cover the entire UK (see section 24 of the European Union (Withdrawal) Act 2018) and the territorial application of this instrument is not limited either by the Act or by the instrument.

4. Extent and Territorial Application.

4.1 The territorial extent of this instrument is the UK.

4.2 The territorial application of this instrument is the UK.

5. European Convention on Human Rights

5.1 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has made the following statement regarding Human Rights:

"In my view, the provisions of the Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 The key legislative context for this instrument is set out at section 2, paragraphs 4 to 10.

6.2 As a result of amendments to EU Direct Payments legislation that came into effect on 1st March 2019, the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 (which amend retained EU Regulations

relating to Direct Payments to farmers) require corrections to ensure that they take account of the recent changes made to the EU legislation before EU Exit. The corrections made by this instrument will supplement the amendments made by the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 to create, after EU Exit, a functioning Direct Payments regime for the UK that will respect the UK devolution settlements.

6.3 The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 were made by the negative resolution statutory instrument procedure.

6.4 Similarly, as a result of amendments to EU CMO marketing standards legislation that came into effect on 26th March 2019, the Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 need to be corrected at the time that they are made to ensure that these Regulations take account of these latest changes to EU CMO legislation.

6.5 This instrument will also make drafting corrections to the EU Exit statutory instruments referred to in section 2, paragraph 3, to ensure that minor errors that have been identified in these instruments are corrected before these come into effect at EU Exit.

6.6 Section 8(1) of the European Union (Withdrawal) Act 2018 provides that a Minister of the Crown may, by regulations, make such provision as the Minister considers appropriate to prevent, remedy or mitigate any failure of retained EU law to operate effectively or any other deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU. This instrument is made in exercise of section 8(1) of the European Union (Withdrawal) Act 2018.

7. Policy background

What is being done and why?

7.1 This instrument will make a small number of necessary corrections to the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019, to ensure that retained CAP Direct Payments legislation, which provides funding support to farmers, takes account of recent amendments to EU Direct Payments legislation so that it can continue to work effectively after EU Exit.

7.2 The legislative amendments introduced by this instrument as regard Direct Payments are necessary to maintain a status quo policy position and are of a technical nature only. The corrections made to the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 will allow the UK Government and the devolved administrations to retain their current administrative flexibility to make inter-pillar transfers between their Pillar 1 and Pillar 2 support schemes up to 31st December 2019. This instrument enables the status quo to be maintained so that beneficiaries of Direct Payments will see no change from current practices available to the UK relevant authorities. See further explanation at section 2, paragraphs 11 to 14.

7.3 Further information on the rules for Direct Payments is set out in the Basic Payment Schemes Guidance published annually by each devolved administration in respect of its constituent nation. These are available at:

- England: https://www.gov.uk/environment/farming-food-grants-payments-rural-grants-payments-basic-payment-scheme-bps.
- Northern Ireland: https://www.daera-ni.gov.uk/publications/guide-basic-payment-scheme-2019.
- Scotland: https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/basic-payment-scheme/basic-payment-scheme-full-guidance/.
- Wales: https://beta.gov.wales/rural-grants-payments.

7.4 This instrument will also make a small number of essential corrections to the Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019, to ensure that, at the point of EU Exit, retained CAP CMO legislation regarding marketing standards in the fruit and vegetables sectors accurately reflects recently introduced EU law in this area.

7.5 The marketing standards element of the CMO is designed to ensure a stable market for agricultural goods through the enforcement of even standards for certain agricultural goods, such as fruit and vegetables. These standards help prevent the market from being flooded by cheaper substandard goods. The legislative amendments introduced by this instrument as regards CMO marketing standards for mixes of fruit and/or vegetables are technical in nature only, and are the minimum required to maintain a status quo policy position. These corrections can be summarised as:

i. Replacing the term "non-EU" with "non-UK", "in each place it occurs" in (amended) Article 7(3)(b) of Commission Implementing Regulation (EU) No. 543/2011;

ii. Replacing the term "EU" with "UK", "in each place it occurs" in Article 7(3)(c) of (amended) Commission Implementing Regulation (EU) No. 543/2011;

iii. Replacing the term "non-EU" with "non-UK", "in each place it occurs" in Article 7(3)(c) of (amended) of Commission Implementing Regulation (EU) No. 543/2011; and

iv. Ensuring that operative provisions in footnotes relating to citrus fruit packaging within Part B of Annex 1 to (amended) Commission Implementing Regulation (EU) No. 543/2011 are correctly referenced for amendment.

7.6 This instrument will also make a small number of essential changes to existing CAP statutory instruments so that minor drafting errors are corrected before these instruments come into effect at the point of EU Exit. Examples of the types of corrections being made include:

- Omitting a provision where its effect was duplicated elsewhere in the statutory instrument (Regulation 3(3));
- Correcting typing errors, such as use of the word "of" instead of "or" (Regulation 4(2));
- Inserting an amendment to take account of different phrasing in the EU Regulation (Regulation 4(3)(b));
- Ensuring that the text quoted in the statutory instrument matches the text in the retained EU Regulation (Regulation 5(3)); and
- Correcting the capitalisation of a defined term (Regulation 6(3)).

7.7 The impact of the amendments introduced by this instrument is deemed to be negligible. The corrections will simply allow the UK Government and the devolved administrations to retain a Direct Payments policy option already available to them and also ensure that the latest EU marking and labelling requirements for small packages of mixed fruit and/or vegetables are made operable at EU Exit. This instrument makes no change to dates and obligations currently present upon Direct Payments beneficiaries, so will have no direct impact on stakeholders. This instrument will help provide clarity to stakeholders on the latest marketing standards that came into effect on 26th March 2019 regarding small packages of mixed fruit and/or vegetables.

7.8 As previously noted, agriculture policy and marketing standards are devolved matters in Scotland and Wales and transferred matters in Northern Ireland. This instrument will apply across the UK in order to provide a common approach to the retained EU Direct Payments and retained EU CMO fruit and vegetable marketing standards frameworks defined in section 2, sub-paragraphs 2 to 10 of this document. However each relevant authority will continue to be able to make its own policy choices within the limits of these frameworks.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the powers in section 8(1) of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the EU. In accordance with the requirements of that Act, the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

9.1 Defra does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 This instrument has not been subject to formal consultation because it replicates, as far as possible, the currently existing regulatory positions. It will enable the relevant authorities in England, Northern Ireland, Scotland and Wales to maintain funding levels for Direct Payments in line with previous years so that there need be no difference in experience received on the ground by Direct Payments recipients. It will also ensure that the latest CAP marketing standards in the fruit and vegetables sectors will function effectively after the UK leaves the EU.

10.2 This instrument has been developed in collaboration with officials in the Scottish and Welsh devolved administrations and the Department of Agriculture, Environment and Rural Affairs ("DAERA") in Northern Ireland.

11. Guidance

11.1 Defra is not producing any specific guidance on this instrument, as it only amends deficiencies in retained EU Regulations arising from the UK's withdrawal from the EU.

11.2 The Government has published Technical Notices on the GOV.UK website to help people prepare for how the CAP will be handled after EU Exit. These provide

relevant background information to Defra's CAP-related Direct Payment, Rural Development and CMO EU Exit statutory instruments. They are:

- Farm payments if there's no Brexit deal (see: https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexit-deal);
- Receiving rural development funding if there's no Brexit deal (see: https://www.gov.uk/government/publications/receiving-rural-development-funding-if-theres-no-brexit-deal); and
- Food labelling changes if there's no Brexit deal (see: https://www.gov.uk/guidance/food-labelling-changes-after-brexit).

12. Impact

12.1 There is expected to be no, or no significant impact on business, charities or voluntary bodies by this instrument. Eligible beneficiaries will continue to receive Direct Payments funding as they had done before EU Exit.

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

12.3 An Impact Assessment has not been prepared for this instrument as there is expected to be no significant impact on business as the corrections made by this instrument relate to the maintenance of existing legislation. We are confident that the changes introduced by this instrument fall below the £5m per annum threshold for net direct costs to business. The purpose of this instrument is to maintain existing regulatory provisions when we leave the EU and make operable existing CAP policy.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision to take no action to assist small businesses is that no disproportionate impacts are expected to affect small and micro businesses. This instrument will not implement any substantive policy change and so there is expected to be minimal impact on business by this instrument.

14. Monitoring & review

14.1 As this instrument is made under powers in the European Union (Withdrawal) Act 2018, no review clause is required. Defra and its agencies will, however, monitor and review the impact of the instrument as part of its standard policy-making procedures, and will ensure that the provisions are adhered to.

15. Contact

15.1 Andrew Crawford at Defra: 0208 026 6557 or email: Andrew.Crawford@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Fiona James and Elen Shepard (job-share), Deputy Directors for CAP EU Exit Preparedness at Defra, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, at Defra can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI.	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees.
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA 2018 SIs.	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence.	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under s. 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under s. 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

1. Appropriateness statement

1.1 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019 does no more than is appropriate".

1.2 This is the case because: the amendments made by this instrument are the minimum required to ensure that retained EU Direct Payments and EU CMO legislation remains operable after EU Exit. The amendments are technical in nature and do no more than is strictly necessary to ensure that current regulatory standards are maintained and that retained EU legislation can continue to function (see section 2, paragraphs 11 to 15 of this Explanatory Memorandum). The instrument will not introduce any new policy.

2. Good reasons

2.1 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

2.2 These are: the amendments are necessary to ensure that domestic frameworks for the CAP, Direct Payments and CMO marketing standards for the fruit and vegetables sectors are in place across the UK after EU Exit that take full account of current EU Direct Payments and CMO legislation. This instrument will introduce legislative "fixes" to ensure the UK Government and the devolved administrations retain their current administrative flexibility about whether to decide to make inter-pillar transfers between CAP Pillar 1 and Pillar 2 support schemes by 31st December 2019. No policy change is being made to the way that Direct Payments are administered across the UK.

2.3 This instrument will also ensure the latest rules regarding marketing standards in the fruit and vegetables sectors are reflected in retained EU legislation at EU Exit. This will help ensure that UK consumers can be confident that food product information relating to small packages of mixed fruit and/or vegetables is transparent and accurate. The amendments made by this instrument are necessary to protect the interests of UK consumers and businesses in the fruit and vegetables sectors.

3. Equalities

3.1 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has made the following statement:

"This instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

3.2 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to this instrument, I, Robert Goodwill MP, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

4. Explanations

4.1 The explanations statement has been made in section 2 of the main body of this Explanatory Memorandum.

5. Urgency

5.1 The Minister of State for Agriculture, Fisheries and Food, Robert Goodwill MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view by reason of urgency, it is necessary to make the Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019, without a draft of the instrument containing the regulations being laid before, and approved by a resolution of, each House of Parliament."

5.2 This is because: if this instrument is not in force before exit day, the UK Government and devolved administrations will lose their current ability to make "inter-pillar" transfers between CAP Pillar 1 and Pillar 2 support schemes up until 31st December 2019. This flexibility is essential as the relevant authorities in England, Wales and Scotland have all made use of previous inter-pillar transfer provisions up to, and including, the 2019 CAP Direct Payments scheme year.

5.3 Northern Ireland has not carried out an inter-pillar transfer to date, but DAERA would also like to retain the flexibility to carry out an inter-pillar transfer during 2019, should future Northern Ireland Ministers decide they want to take up this option.

5.4 The EU (Withdrawal) Act 2018 does not provide the legal vires to make the required corrections to the Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 after Exit date. The only possible alternative would be to make such corrections via primary legislation (i.e. a Bill), which would need to be in force relatively soon after EU Exit in order to enable the necessary inter-pillar transfers for the 2020 Direct Payments scheme year.

5.5 This instrument is also required to urgently amend the Market Measures (Marketing Standards) (Amendment) (EU Exit) Regulations 2019 at the time that they are made to ensure that these Regulations amend the text of the EU CMO legislation on which they operate that will be retained into UK law on exit day.

5.6 Additionally, this instrument is necessary to ensure that minor drafting errors in previously laid Defra CAP-related EU Exit statutory instruments are corrected before they come into effect at the point of EU Exit (see section 7, paragraph 6 of this Explanatory Memorandum).