EXPLANATORY MEMORANDUM TO

The Direct Payments to Farmers (Cross-Compliance) (Amendment) Regulations (Northern Ireland) 2022

2022 No 240

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under sections 48 and 50(3)(a) of, and paragraph 5 of Schedule 6 to, the Agriculture Act 2020 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations amend Article 39(4) of 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.

3. Background

3.1. Article 39(4) of Regulation (EU) 640/2014 provides for the treatment of negligent penalties as intentional where there is a recurrence of the same non-compliance after capping at 15%. This can lead to disproportionate penalties which do not recognise any improvement in the performance of the business in relation to the requirement concerned.

3.2. Regulation 2 disapplies the third sub-paragraph to nationally funded direct payment schemes.

3.3. Regulation 3 makes transitional provision throughout the period of the 2022 scheme year for the application of the new Article 39 negligent non-compliance provisions and in this period reoccurrence within the meaning of reoccurrence in Article 38(1) of Regulation (EU) No. 640/2014.

4. Consultation

4.1. A focused consultation with key stakeholders was held for eight weeks from 20 June 2022 until 15 August 2022 and three responses were received. The views of the consultees have been taken into account in drafting the legislation.

5. Equality Impact

5.1. Consideration was given to Section 75 of the Northern Ireland Act 1998 but an Equality Impact Assessment has not been prepared for these Regulations as they have no impact in terms of equality of opportunity.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been prepared for these Regulations as they have no impact in terms of costs on business, charities, social economy enterprises or voluntary bodies.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations remove the automatic application of intentional penalties and do not have any human rights implications, nor are they incompatible with EU law. The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None.

10. Parity or Replicatory Measure

10.1 None.

11. Additional information

11.1. None.

12. Contact

12.1 Denise Phillips at the Department of Agriculture, Environment and Rural Affairs, (Tel: 028 774 42258 or email: denise.phillips@daera-ni.gov.uk) can answer any queries.