Draft Regulations laid before Parliament under section 50(6) of the Agriculture Act 2020, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. 000

AGRICULTURE

The Direct Payments to Farmers (England) (Amendment) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 9(1)(b), 10(1) and 10(2) of the Agriculture Act 2020(**a**).

In accordance with section 50(6) of the Agriculture Act 2020, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Direct Payments to Farmers (England) (Amendment) Regulations 2020.

(2) Except for regulation 2(4), these Regulations come into force on 1st January 2021.

(3) Regulation 2(4) comes into force on the day after the day on which these Regulations are made.

(4) These Regulations extend to England and Wales and apply in England only.

Amendment of Regulation (EU) No 1307/2013

2.—(1) Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(**b**) is amended as follows.

(2) In Article 1—

(a) omit point (b)(iii);

(b) omit point (b)(vii).

(3) In Article 4—

(a) in paragraph 1—

(**a**) 2020 c.21.

(**b**) EUR 2013/1307, amended by S.I. 2020/91, 576 and 760 and by section 5 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2). This Regulation was incorporated into domestic law by section 1 of that Act. It was also prospectively amended with effect from IP completion day by S.I. 2019/207 (as amended by S.I. 2019/812). Those instruments were revoked by the Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020 immediately before IP completion day.

(i) in point (c)—

(aa) at the end of point (i) insert "or";

(bb) in point (ii), omit the words from "on the basis" to the end;

(cc) omit point (iii);

(ii) after point (s) insert—

"(t) 'total ceiling' means the amount determined in accordance with Article 5A.";

(b) in paragraph 2, in the first subparagraph, omit point (b).

(4) After Article 5, insert—

"Article 5A

The total ceiling for England

1. In determining the total ceiling for England, the Secretary of State must determine an amount equivalent to England's share of the 2020 national ceiling set out in Annex II.

2. The Secretary of State must determine the total ceiling before the start of the relevant year.

3. When the total ceiling has been determined, the Secretary of State must publish that amount as soon as practicable after that determination has been made.

4. The total ceiling, for any relevant year, is to be distributed among all allocated payment entitlements, the national reserve or the regional reserves, and the ceiling fixed in accordance with Article 51, as they apply in England.

5. Where the Secretary of State makes a decision under Article 22(2) to increase the basic payment scheme ceiling, the total ceiling, for any relevant year, may be exceeded by the increase decided pursuant to that Article.

6. In this Article, "relevant year" has the meaning given by section 10(4) of the Agriculture Act 2020.".

(5) Omit Articles 6, 7 and 7A.

(6) Omit Article 9.

(7) In Article 10—

(a) in paragraph 1, for "Subject to paragraph 2, the" substitute "The";

(b) omit paragraph 2.

(8) Omit Article 11(3).

(9) Omit Article 14.

(10) In Article 21(b), omit "comply with Article 9 and".

(11) In Article 22—

(a) omit paragraph 1;

(b) for paragraph 2 substitute—

"2. The basic payment scheme ceiling in England for the given year is the amount which remains for the basic payment scheme after deducting from the total ceiling the ceiling set for England under Article 51 for that year. The relevant authority may increase the amount of the basic payment scheme ceiling in England. That increase may not exceed 3% of the total ceiling.";

(c) in paragraph 4—

(i) for "the constituent nation" substitute "England";

(ii) omit "its share of";

(iii) after "ceiling" insert "in England";

(iv) omit the second sentence;

(d) in paragraph 5—

(i) for "paragraph 1" substitute "paragraph 2";

(ii) for "Article 7A, Article 14, Article 42(1)" substitute "or";

(iii) omit "or Article 53,".

(12) In Article 23—

(a) in the heading, for "national ceilings" substitute "basic payment scheme ceiling";

(b) in paragraph 2, for the words from "its share of" to "Article 22(1)" substitute "the basic payment scheme ceiling in England referred to in Article 22(2)";

(c) in paragraphs 3 and 4, after "regional ceilings" insert "in England".

(13) In Article 25—

(a) in paragraph 1—

(i) in the first subparagraph—

(aa) for "Subject to paragraphs 2 and 3, for" substitute "For";

(bb) for "relevant authority's share of the national ceiling" substitute "total ceiling";

(ii) in the second subparagraph—

(aa) for "relevant authority's share of the basic payment scheme ceiling" substitute "basic payment scheme ceiling in England";

(bb) after "Article 30" insert ", as it had effect immediately before exit day,";

(b) omit paragraphs 2, 3 and 8.

(14) In Article 30—

(a) for "relevant authority's share of the basic payment scheme ceiling", in each place it occurs, substitute "basic payment scheme ceiling in England";

(b) after "regional ceiling", in each place it occurs, insert "in England";

(c) omit paragraph 5;

(d) in paragraph 7(f), omit "and Article 65(1), (2) and (3)";

(e) in paragraph 8, omit the third subparagraph.

(15) In Article 32—

(a) in paragraph 1—

(i) omit "of financial discipline,";

(ii) omit "Article 7 and";

(b) omit paragraph 5.

(16) In Article 34(1), omit the words from "entitled" to "Article 9".

(17) In Article 35(1), omit point (h).

(18) Omit Articles 41 and 42.

(19) In Article 50(4)—

(a) omit "of financial discipline,";

(b) omit the words from "and of linear" to "this Regulation".

(20) In Article 51—

(a) in paragraph 1—

(i) in the first subparagraph, for "its share of the annual national" substitute "the total";

(ii) for the second subparagraph substitute—

"Where the relevant authority decides by 1 August in a calendar year to revise the percentage, that revised percentage will have effect for the following calendar year.";

(b) in paragraph 2, for "relevant authority's share of the national" substitute "total";

(c) in paragraph 3, for "its share of the annual national" substitute "the total".

(21) Omit Articles 52 and 53.

(22) In Article 71—

(a) in paragraph 1, for "paragraphs 2" substitute "paragraphs 3";

(b) omit paragraph 2.

(23) In Annex 1, omit the second and fifth entries in the table.

(24) Omit Annex 3.

Amendment of Commission Delegated Regulation (EU) 639/2014

3.—(1) Commission Delegated Regulation (EU) No. 639/2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (**a**) is amended as follows.

(2) In Article 1, omit point (f).

(3) In Article 2, for paragraph 3 substitute—

"3. The relevant authority shall implement this Regulation respecting the requirements set out in paragraphs 1, 5 and 6 of Annex 2 to the Agreement on Agriculture.".

(4) Omit Articles 4 and 5.

(5) Omit Article 8.

(6) Omit Articles 10 to 13.

(7) Omit Articles 51 to 54.

Amendment of Commission Implementing Regulation (EU) 641/2014

4. In Commission Implementing Regulation (EU) No. 641/2014 laying down rules for the application of Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(**b**), in Article 1, omit point (d).

Amendments to the Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014

5. In the Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014(**c**), in regulation 8(3), omit "in claim year 2020".

Amendment of Regulation (EU) No 1306/2013

6.—(1) Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy(**a**) is amended, in so far as it relates to direct payments, as follows.

(**a**) EUR 2014/639, amended by S.I. 2020/91 and 576. EUR 2014/639 was prospectively amended with effect from IP completion day by S.I. 2019/208 and 763 (as amended by S.I. 2019/812), but those prospective amendments were revoked by The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020 immediately before IP completion day.

(**b**) EUR 2014/641, amended by S.I. 2020/91. EUR 2014/641 was also prospectively amended with effect from IP completion day by S.I. 2019/208, although that instrument was revoked by The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020 immediately before IP completion day.

(**c**) S.I. 2014/3259, amended by S.I. 2020/91. There are other amending instruments but none is relevant.

(2) In Article 67, in paragraph 4(b)—

(a) omit the words from "the redistributive" to "No 1307/2013;", in the first place it occurs;

(b) before "the payment for young" insert "and";

(c) omit the words from "; the voluntary coupled" to the end.

(3) In Article 105—

(a) omit paragraph 1;

(b) in paragraph 2, in the second sentence, for "Subject to Article 108, they" substitute "They".

(4) Omit Article 106(4).

(5) Omit Article 108.

(6) In Article 112, in the first paragraph, for the words from "the Funds" to "exit day)" substitute "agricultural support".

Amendment of Commission Implementing Regulation (EU) No. 809/2014

7.—(1) Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 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(**b**), is amended, in so far as it relates to direct payments, as follows.

(2) In Article 3(1), omit the second subparagraph.

(3) In Article 6—

(a) omit paragraph 2(f)(v);

(b) omit paragraph 3(b).

(4) In Article 11(1)(c), omit the words from "; where use" to the end.

(5) In Article 12(1), for "Articles 20, 21 and" substitute "Article".

(6) In Article 14(1), omit point (h).

(7) In Article 15(2), omit the second subparagraph.

(8) In Article 17(9), for "Titles III and IV" substitute "Title III".

(9) Omit Articles 20 and 21.

(10) In Article 23(2), omit the words from "the payments received" to "exit day), or", in the second place it occurs.

(11) In Article 29(1)—

(a) omit point (e);

(b) in the third subparagraph, for "(a), (c) and (e)" substitute "(a) and (c)".

(12) Omit Article 33.

(13) In Article 37(2), omit the second subparagraph.

(14) In Article 39(2), omit the first sentence.

(15) Omit Articles 42 and 43.

(**a**) EUR 2013/1306, amended in relation to direct payment schemes by S.I. 2020/90 and 576. EUR 2013/1306 is also amended prospectively with effect from IP completion day by S.I. 2019/748 (as amended by S.I. 2019/831), 763 (as amended by S.I. 2019/812), 831 and 1402. However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

(**b**) EUR 2014/809, amended in relation to direct payment schemes by S.I. 2020/90 and 576. EUR 2014/809 is also amended in relation to direct payment schemes in England by S.I. 2020/510 and 575. EUR 2014/809 is also amended prospectively with effect from IP completion day by S.I. 2019/765. However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

(16) In Article 68(1), in the first subparagraph, for "as it has effect in EU law" substitute "as amended for the purpose of agricultural support".

(17) In Article 69(5), for "30 to 34" substitute "30, 31 and 34".

(18) Omit Article 70b.

Amendment of Commission Delegated Regulation (EU) No. 640/2014

8.—(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(**a**), is amended, in so far as it relates to direct payments, as follows.

(2) In Article 2(1)—

(a) in point (1), omit the words from "and referred" to the end;

(b) omit points (7) to (13), and points (15) to (19).

(3) In Article 6(3), for "2021" substitute "following the calendar year in question".

(4) In Article 15a—

(a) omit "or the number of animals";

(b) omit "declared or the number of animals".

(5) In Article 17(1) omit points (b) and (d).

(6) In Article 18—

(a) in paragraph 1, omit ", the re-distributive payment";

(b) omit paragraph 3;

(c) in paragraph 6, in the second subparagraph, for "Titles III and IV" substitute "Title III".

(7) In Article 19a—

(a) in the heading omit ", the re-distributive payment";

(b) in paragraph 1, after "Chapters 1", omit ",2".

(8) Omit Articles 30 to 34.

Amendment of Commission Delegated Regulation (EU) No 907/2014

9. In 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(**b**), omit Article 11, in so far as it relates to direct payments.

Amendment of Commission Implementing Regulation (EU) No 908/2014

10.—(1) Commission Implementing Regulation (EU) No 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

(**a**) EUR 2014/640, amended in relation to direct payment schemes by S.I. 2020/90 and in relation to direct payment schemes in England by S.I. 2020/551. EUR 2014/640 is also amended prospectively with effect from IP completion day by S.I. 2019/765. However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

(**b**) EUR 2014/907, amended in relation to direct payment schemes by S.I. 2020/90. EUR 2014/907 is also amended prospectively with effect from IP completion day by S.I. 2019/765. However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

checks, securities and transparency(**a**) is amended, in so far as it relates to direct payments, as follows.

(2) In Article 28, omit the words from "under direct" to "Development".

(3) In Article 58, for "third" substitute "second".

Name
Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations are made in exercise of the powers conferred by sections 9(1)(b), 10(1) and 10(2) of the Agriculture Act 2020 (c. 21) in order to make provision in retained EU law governing the direct payment schemes for securing the continuation of the basic payment scheme in England beyond 2020.

Regulations 2 to 5 amend Regulation (EU) No 1307/2013 (the "Direct Payments Regulation"), Regulations (EU) Nos 639/2014 and 641/2014 and the Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014 to allow the basic payment scheme to function effectively beyond 2020. Regulation 2(4) introduces a new Article 5A to the Direct Payments Regulation which provides the manner in which to determine the direct payments ceiling in England beyond 2020.

Regulations 6 to 10 modify Regulations (EU) Nos 1306/2013, 809/2014, 640/2014, 907/2014 and 908/2014 to the extent necessary for the basic payment scheme to function effectively beyond 2020. Those EU Regulations contain some of the rules governing the direct payment schemes as well as other schemes under the common agricultural policy. These Regulations amend that body of law insofar as it relates to the direct payment schemes.

Regulations 2 to 10 also amend the retained EU law relating to the direct payment schemes to remove provisions which are spent or not in use.

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

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(**a**) EUR 2014/908, amended in relation to direct payment schemes by S.I. 2020/90. EUR 2014/907 is also amended prospectively with effect from IP completion day by S.I. 2019/765. However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

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