EXPLANATORY MEMORANDUM TO

THE DIRECT PAYMENTS TO FARMERS (REDUCTIONS) (ENGLAND) REGULATIONS 2022

2022 No. [XXXX]

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.

2. Purpose of the instrument

2.1 This instrument sets the percentage reductions which will be applied to the Direct Payments made to farmers in England for the 2022 claim year.

2.2 Regulation 2 substitutes Article 11A of Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (EUR 2013/1307) (the "Direct Payments Regulation") to set the reductions to Direct Payments for the 2022 claim year.

2.3 Regulation 3 saves the effect of Article 11A of the Direct Payments Regulation, as inserted by the Direct Payments to Farmers (Reductions and Simplifications) (England) (Amendment) Regulations 2021 (S.I. 2021/407), to deal with any outstanding matters relating to claims for Direct Payments for the 2021 claim year.

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 territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

"In my view the provisions of the Direct Payments to Farmers (Reductions) (England) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 On EU exit day, the Direct Payments to Farmers (Legislative Continuity) Act 2020 incorporated EU legislation governing the 2020 Common Agricultural Policy Direct Payment schemes into UK law. The Direct Payments to Farmers (England) (Amendment) Regulations 2020 (S.I. 2020/1513) allow these schemes to continue, in England, beyond 2020.

6.2 UKSI 2021/407 made changes to the law relating to the Direct Payment schemes (as listed in paragraph 6.3 of this Explanatory Memorandum) to apply percentage reductions to Direct Payments in England for the 2021 claim year. This instrument makes changes to apply percentage reductions to Direct Payments in England for the 2022 claim year.

6.3 The Regulation that is part of UK law and is changed by this instrument is:

- Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (EUR 2013/1307). This establishes the high-level framework required to make Direct Payments to farmers.

7. Policy background

What is being done and why?

7.1 Direct Payments have been the main income-support schemes for farmers under the Common Agricultural Policy. The EU legislation governing the 2020 Common Agricultural Policy Direct Payment schemes was incorporated into UK law when the UK left the EU.

7.2 Direct Payments are untargeted, can inflate land rent prices and can stand in the way of new entrants to the farming industry. The Government remains committed to phasing out Direct Payments in England over an agricultural transition period (2021 to 2027), as provided for in its Agriculture Act 2020. Phasing out Direct Payments frees up money to support agriculture in different ways, including paying farmers to improve the environment.

7.3 In 2018 the Government announced how it intended to phase out Direct Payments in its "Health and Harmony: the future for food, farming and the environment in a Green Brexit - policy statement": https://www.gov.uk/government/publications/the-future-for-food-farming-and-the-environment-policy-statement-2018/health-and-harmony-the-future-for-food-farming-and-the-environment-in-a-green-brexit-policy-statement. This explained that percentage reductions would be made to farmers' Direct Payments from 2021. The reductions for the 2021 claim year were applied by S.I. 2021/407, which amended the Direct Payments Regulation to apply these reductions.

7.4 The reductions we intend to apply for 2022 were confirmed in November 2020 in "The Path to Sustainable Farming: An Agricultural Transition Plan 2021 to 2024": https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/954283/agricultural-transition-plan.pdf. This instrument makes further changes to the Direct Payments Regulation to set the reductions to be applied to payments for the 2022 claim year. As was the case for the 2021 claim year, the payment reductions will be applied in payment bands, with higher percentage reductions applied to amounts in higher payment bands. This is a method known as progressive reductions.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018. However, it relates to the withdrawal of the UK from the EU, as we only have the flexibility to make the changes in this instrument as a result of leaving the EU.

9. Consolidation

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

10. Consultation outcome

10.1 Defra carried out a consultation on "The future for food, farming and the environment" from February to May 2018, which led to over 40,000 responses. This asked for views, amongst other things, on the method of reductions to be applied to Direct Payments. The progressive reductions in this instrument take into account the responses to that consultation. They balance the views of those who felt recipients of the highest payments should initially face higher reductions, with the strong calls for the reductions to be shared amongst all farmers from the start of the agricultural transition.

11. Guidance

11.1 Defra published a "Farming is changing" booklet on 30 November 2020: https://www.gov.uk/government/publications/future-farming-changes-to-farming-in-england. This set out the intended reductions to be made to Direct Payments from 2021 to 2024. More information on the percentage reductions for 2022 will be included in the annual scheme guidance which the Rural Payments Agency issues to applicants in the spring.

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 it is not a regulatory provision. This instrument changes the law for the Direct Payment schemes in connection with the giving of grants or other financial assistance by or on behalf of a public authority.

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.

14. Monitoring & review

14.1 The Government has announced its intention to phase out Direct Payments over the period 2021 to 2027. However, Defra and its agencies will monitor and review the impact of this instrument as part of its standard policy-making procedures.

15. Contact

15.1 Frederick Harris at Defra, Telephone: 02082258275 or email: frederick.harris@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Deborah Wells, Deputy Director for Common Agricultural Policy and Transition at Defra, can confirm that this Explanatory Memorandum meets the required standard.

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