Draft Regulations laid before Parliament under section 43(4) of the Agriculture Act 2020, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No.

AGRICULTURE

The World Trade Organisation Agreement on Agriculture (Domestic Support) Regulations 2020

Made - - - -	***
Coming into force - -	***

The Secretary of State, in exercise of the powers conferred by sections 43 to 45 of the Agriculture Act 2020(**a**), makes the following Regulations.

A draft of these Regulations has been approved by a resolution of each House of Parliament in accordance with section 43(4) of the Agriculture Act 2020.

Citation and commencement

1.—(1) These Regulations may be cited as the World Trade Organisation Agreement on Agriculture (Domestic Support) Regulations 2020.

(2) They come into force on the day after the day on which they are made.

Interpretation

2. For the purposes of these Regulations—

"amber box domestic support" means domestic support which does not meet the criteria in—

(a) Article 6(5) of the Agreement on Agriculture(**b**); or

(b) Annex 2;

"Aggregate Measurement of Support" has the meaning given in Article 1(a) of the Agreement on Agriculture;

"Annex 2" means Annex 2 to the Agreement on Agriculture;

"blue box domestic support" means domestic support which meets the criteria in Article 6(5) of the Agreement on Agriculture;

"classification", in relation to domestic support, means its classification as amber box domestic support, blue box domestic support or green box domestic support, and "to classify" domestic support means giving it such a classification;

"green box domestic support" means domestic support which meets the criteria in Annex 2;

(**a**) 2020 c. 21.
(**b**) "The Agreement on Agriculture" is defined in section 43(5) of the Agriculture Act 2020.

the "monetary value" of a scheme in a reporting year means the value in money of the total amount of support provided, or proposed to be provided, under that scheme during that year;

"Notification Requirements" means the Notification Requirements and Formats adopted by the World Trade Organisation Committee on Agriculture at its meeting on 8th June 1995(**a**);

"proposing authority" is the appropriate authority(**b**) which is proposing new domestic support, or bringing forward amendments to existing domestic support;

"reporting year" means the period of 12 months in relation to which the United Kingdom is required under the Agreement on Agriculture to submit to the World Trade Organisation a report on the total domestic support given in the United Kingdom;

"UK co-ordinating body" means any body designated by the Secretary of State under regulation 3.

UK co-ordinating body

3. The Secretary of State may, following consultation with the devolved authorities, designate a body in the United Kingdom to be responsible for co-ordinating the collection of information needed to enable the United Kingdom to comply with its obligations under the Agreement on Agriculture.

Limits on support

4.—(1) The total amount of amber box domestic support that may be provided in the United Kingdom each reporting year is the sum of—

(a) the amount set out in Section 1 of Part IV of Schedule XIX to the General Agreement on Tariffs and Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994(**c**), and

(b) the amount of any domestic support which is not required to be included in the calculation of the United Kingdom's current total Aggregate Measurement of Support under Article 6(4) of the Agreement on Agriculture.

(2) The total amount of amber box domestic support, not including the reserve, that may be provided in any one country in the United Kingdom may not exceed—

(a) in England, 49.27% of the relevant amount;

(b) in Northern Ireland, 7.49% of the relevant amount;

(c) in Scotland, 12.67% of the relevant amount;

(d) in Wales, 6.83% of the relevant amount.

(3) The reserve may be used—

(a) to account for spending on amber box domestic support in a crown dependency, or any other territory whose spending on domestic support is taken into account in determining the Aggregate Measurement of Support provided in the United Kingdom;

(b) to provide amber box domestic support which applies to more than one country in the United Kingdom; or

(c) for any other purpose the Secretary of State, after consultation with the devolved authorities, considers appropriate.

(4) For the purposes of this regulation—

(a) "the relevant amount" is the amount referred to in paragraph (1)(a);

(**a**) Document G/AG/2, available on https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?CatalogueIdList=37567,35927&CurrentCatalogueIdIndex=1&FullTextSearch=, and in hard copy from the Department for Environment, Food and Rural Affairs, Seacole Builing, 2 Marsham Street, London SW1P 4DF.

(**b**) "Appropriate authority" is defined in section 43(5) of the Agriculture Act 2020.

(**c**) Available on https://www.gov.uk/government/publications/uk-goods-and-services-schedules-at-the-wto, and in hard copy from the Department for Environment, Food and Rural Affairs, Seacole Builing, 2 Marsham Street, London SW1P 4DF.

(b) "the reserve" is an amount equal to the sum of the amounts referred to in paragraph (1)(a) and (b), less the sum of the amounts provided under paragraph (2).

New or amended schemes

5.—(1) When a proposing authority proposes—

(a) to provide a new form of domestic support, or

(b) to make amendments to an existing form of domestic support which would change the information referred to in paragraph (6) previously notified in relation to that domestic support,

the proposing authority must give written notice of that support, in accordance with this regulation, as soon as practicable, and, unless paragraph (2) or (3) apply, at least six months before the day on which the proposing authority intends to adopt the new or amended domestic support.

(2) This paragraph applies if—

(a) the proposing authority is giving notice of amendments to an existing scheme, and

(b) in the opinion of the proposing authority, the amendments being proposed do not affect the classification of the support provided under that scheme.

(3) This paragraph applies if—

(a) the proposed domestic support is being introduced in response to—

(i) exceptional market conditions in one or more countries in the United Kingdom, or

(ii) a crisis in the sector to which the support relates in one or more countries in the United Kingdom, and

(b) the condition set out in paragraph (4) in relation to exceptional market conditions, or in paragraph (5) in relation to a sectoral crisis, is satisfied.

(4) The condition in this paragraph is satisfied if—

(a) where England is affected, the Secretary of State has made a declaration under section 20 of the Agriculture Act 2020;

(b) where Scotland is affected, the Scottish Ministers consider that the conditions set out in any of Articles 219 to 221 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products, as that Regulation has effect in Scotland under section 3 of the European Union (Withdrawal) Act 2018(**a**), for the measures provided for in those Articles, are satisfied;

(c) where Wales is affected, the Welsh Ministers have made a declaration under paragraph 7(1) of Schedule 5 to the Agriculture Act 2020;

(d) where Northern Ireland is affected, DAERA considers that the conditions set out in paragraph 8(1) of Schedule 6 to the Agriculture Act 2020 are satisfied.

(5) The condition in this paragraph is satisfied if the Secretary of State, in consultation with the devolved authorities, agrees that the requirement in paragraph (1) for six months' notice of the proposed domestic support is to be waived.

(6) The notice required under paragraph (1) must set out the following information in relation to the proposed domestic support—

(a) the full title of the domestic support;

(b) the legislation, if any, under which the domestic support is or will be adopted;

(c) a full description of the domestic support being provided;

(d) whether the domestic support applies to a specified agricultural product, and, if so, which specified agricultural product it applies to;

(e) an estimate of the monetary value of the domestic support per reporting year;

(**a**) 2018 c. 8. Section 3 has been amended by s. 25 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(f) the date on which it is proposed that the domestic support will enter into force;

(g) the proposed classification of the domestic support;

(h) if relevant, the additional information required by paragraph (7) or (8).

(7) If the classification proposed for the domestic support is green box domestic support, the notice must, unless paragraph (9) applies, also set out—

(a) the type of domestic support, by reference to the measure types listed in supporting table DS:1 in the Notification Requirements;

(b) evidence demonstrating how the domestic support satisfies—

(i) the general criteria in paragraph 1 of Annex 2; and

(ii) each of the policy specific criteria and conditions applicable to that type of domestic support under Annex 2.

(8) If the classification proposed for the domestic support is blue box domestic support, the notice must, unless paragraph (9) applies, also set out—

(a) which provision of Article 6(5)(a) of the Agreement on Agriculture applies to the domestic support; and

(b) evidence demonstrating how the domestic support satisfies the conditions set out in Article 6(5)(a) of the Agreement on Agriculture.

(9) This paragraph applies if—

(a) the proposed domestic support replaces a previous scheme which has been adopted in the United Kingdom, or any part of the United Kingdom, which had the same classification as is proposed for the proposed scheme; and

(b) the notice is accompanied by a list of the differences between the previous scheme and the proposed scheme.

(10) Subject to paragraph (11), the proposing authority must give the notice referred to in paragraph (1) to the UK co-ordinating body, which must send a copy of that notice to the other appropriate authorities.

(11) Where no UK co-ordinating body has been designated, the proposing authority must give notice direct to the other appropriate authorities.

Determination of classification

6.—(1) Subject to paragraph (2), a scheme providing domestic support is to be treated as having the classification proposed by the proposing authority until such time as the classification for that domestic support has been finally determined by the Secretary of State under this regulation.

(2) If—

(a) the Secretary of State notifies the proposing authority of an objection to its proposed classification within one month beginning with the day on which notice of the support is given under regulation 5(1), and

(b) the objection is that the measure should be treated as providing amber box domestic support,

the measure is to be treated as providing amber box domestic support, until its classification is finally determined under this regulation.

(3) The Secretary of State, or, where a UK co-ordinating body has been designated under regulation 3, that body, may request a devolved authority to provide further information if the information submitted with the notice given under regulation 5(1) is not sufficient to enable the Secretary of State, in consultation with the devolved authorities, to determine the classification of the domestic support to which the notice relates.

(4) After notice of new or amended domestic support has been given under regulation 5(1), an appropriate authority may submit representations to the other appropriate authorities on the

classification for the domestic support within one month beginning on the day after the day on which the notice was given.

(5) In determining the classification of the new or amended domestic support, the Secretary of State must take into account—

(a) all the information provided with the notice in accordance with regulation 5;

(b) any additional information provided pursuant to a request under paragraph (3); and

(c) any representations made under paragraph (4).

(6) If, having considered the information referred to in paragraph (5)(a) and (b), and representations referred to in paragraph (5)(c), and consulted with the other appropriate authorities, the Secretary of State proposes to give the domestic support a classification which is different to the classification proposed by the proposing authority which submitted the notice in relation to that domestic support, the Secretary of State must inform the devolved authorities, giving the reasons for the revised classification.

(7) If paragraph (6) applies, the Secretary of State must allow the devolved authorities a further period of not less than one month, starting from the day after the day on which the Secretary of State's initial decision was notified under paragraph (6), within which to make further representations to the Secretary of State on the classification of that domestic support.

(8) The Secretary of State must issue the final determination on the classification of the new or amended domestic support before the end of two months starting with the day after the day on which the Secretary of State's initial decision was notified under paragraph (6).

Adoption of domestic support

7. An appropriate authority must not adopt a measure providing amber box domestic support if the total monetary value for all the amber box domestic support adopted by that authority in a reporting year, including the projected monetary value for the new domestic support, would in that year exceed the limit set for that authority under regulation 4(2).

Annual notification

8.—(1) Each appropriate authority must each year provide the following information, in relation to each measure of domestic support which is provided by that authority, to the UK co-ordinating body, or, if agreed by the appropriate authorities, another body designated by the appropriate authorities for this purpose—

(a) the name and a description of the measure;

(b) the monetary value of the measure in the reporting year in question; and

(c) any other information which the UK co-ordinating body or another body designated under this paragraph requires to enable the United Kingdom to satisfy its obligations to notify its domestic support to the World Trade Organisation.

(2) The appropriate authority must also confirm, in relation to each measure which has been classified as green box domestic support or blue box domestic support, that the measure in question still satisfies the criteria and conditions referred to in regulation 5(7)(b) or 5(8)(b), as appropriate.

(3) The UK co-ordinating body, or any other body designated under paragraph (1), must provide a copy of the information received from an appropriate authority under paragraph (1) to each of the other appropriate authorities.

Further Information

9. The Secretary of State may request a devolved authority to provide further information if—

(a) the information submitted under regulation 8 is not sufficient to enable the Secretary of State to complete any notifications required from the United Kingdom under the Agreement on Agriculture; or

(b) the information is required to enable the United Kingdom to respond to a challenge or question raised by, or a dispute with, another state which is party to the Agreement on Agriculture.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Agriculture Act 2020, to ensure that the United Kingdom does not breach its obligations under the World Trade Organisation Agreement on Agriculture ("AoA") in relation to domestic support. They specify the amounts of amber box domestic support (which may have trade distorting effects and is therefore limited under the AoA) which may be given in each country in the United Kingdom (regulation 4) and prohibit any country in the United Kingdom from giving more (regulation 7). They also set out the procedure for each country to give notice of new schemes or amendments to existing schemes (regulation 5), how the classification of such schemes under the AoA is to be determined (regulation 6), and make provision for annual notifications to be give identifying the domestic support given in the United Kingdom (regulation 8), and permit the Secretary of State to request further information where this is needed to enable the United Kingdom to satisfy its obligations under the AoA (regulation 9).

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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