

## **EXPLANATORY MEMORANDUM TO**

### **The Common Agricultural Policy Basic Payment and Support Schemes (Revocation) Regulations (Northern Ireland) 2018**

**2018 No 122**

#### **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 section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 These Regulations revoke Regulation 11 of the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015 (Active Farmers).

#### **3. Background**

- 3.1. Businesses which operate airports, railway services, waterworks, real estate services, permanent sport and recreational grounds, known as the negative list, are prohibited from receiving Basic Payment Scheme payments unless they meet certain conditions.
- 3.2. Article 3(3)(d) of Regulation (EU) 2017/2393 amends Article 9 of Regulation (EU) 1307/2013 to enable the Department to discontinue the application of Article 9(2) of (EU) Regulation 1307/2013 (negative list).
- 3.3. The Department decided in January 2018 not to apply Article 9(2) (negative list) from the 2018 scheme year on the basis that:
  - (i) there is significant administrative effort in identifying businesses that might fall under the negative list, together with the associated checks / requests for additional evidence for a small number of businesses (4-5 each year) and
  - (ii) it has had no material impact in Northern Ireland as no farm business has been denied payment under these provisions.
- 3.4. The decision to remove the 'negative list' requirement from the 2018 scheme year was communicated to applicants in the 2018 Guide to the Basic Payment Scheme. It was announced by Press Release on 26 January 2018.
- 3.5. Regulation 11 of the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015 arose from the previous application of Article 9(2) of (EU) Regulation 1307/2013. As Article 9(2) of (EU) Regulation 1307/2013 is no longer being applied, Regulation 11 is now meaningless and is revoked.

#### **4. Consultation**

- 4.1. There has been no consultation specific to these Regulations.

## **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 policy decision to revoke this minor provision resulting from the previous application of Article 9(2), which no longer has any meaning, was not contentious and the legislative change to the statutory rule is technical. The Regulations do not have any human rights implications, nor are they incompatible with EU law. They are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1. Not applicable

## **10. Parity or Replicatory Measure**

- 10.1. Not applicable

## **11. Additional information**

- 11.1. Not applicable

## **12. Contact**

- 12.1 Audrey Henderson at the Department of Agriculture, Environment and Rural Affairs, (Tel: 028 774 42222 or email: [audrey.henderson@daera-ni.gov.uk](mailto:audrey.henderson@daera-ni.gov.uk)) can answer any queries regarding the Scheme.