

EXPLANATORY MEMORANDUM TO

The Areas of Natural Constraint Regulations (Northern Ireland) 2018

2018 No 18

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:

- allow the Department to pay Areas of Natural Constraint (ANC) allowances to eligible claimants;
- define the conditions of eligibility for an Areas of Natural Constraint (ANC) allowance and the rates at which it is to be paid;
- provide for the exclusion of forage area in respect of claimants who had dairy cows on their holding in the minimum grazing period (1 April to 31 October 2017);
- set the maximum time (90 days) which beneficiaries have to notify the Department of a transfer of a holding;
- grant the Department power to withhold or recover payments and take certain other actions in the event of a breach under these Regulations and in certain other circumstances;
- set out how interest to be charged on amounts owed to the Department will be calculated;
- allow for payments owed to the Department by beneficiaries to be treated by the Department as debt;
- provide for debts owed to the Department to be deducted from future payments to that beneficiary;
- provide the powers of entry to land and premises for the purpose of enforcing these regulations to persons authorised by the Department;
- set out the powers of inspection of such authorised persons; and
- make it an offence to obstruct, fail to provide information without reasonable cause or furnish false or misleading information to a person acting to implement these Regulations and establish the penalties which may be imposed.
- revoke with savings the Areas of Natural Constraint Regulations (Northern Ireland) 2017.

3. Background

- 3.1. The Less Favoured Areas Compensatory Allowances (LFACA) Scheme was a long standing compensation measure to support those who farmed in naturally less favoured areas in Northern Ireland by way of an annual area based subsidy payment.
- 3.2. In June 2014, the Minister of the Department of Agriculture and Rural Development (which became the Department of Agriculture, Environment and Rural Affairs (DAERA) in May 2016) made a series of announcements on CAP reform including announcing an Areas of Natural Constraint (ANC) Scheme in Pillar II (as a measure within the Rural Development Programme (RDP) 2014-2020) for the first two years of the current CAP period, with a review thereafter. The ANC Scheme provides dedicated support to beef, sheep, deer and goat farmers with land in the Severely Disadvantaged Area (SDA) to compensate for part of the additional costs and income forgone related to the constraints on agricultural production in the area. This Scheme replaced the LFACA Scheme.
- 3.3. A consultation on options for future support to ANC took place in 2016. Following this, the DAERA Minister decided to approve a final one year ANC Scheme. Claims were to be made for the ANC 2018 Scheme in 2017, with payments being made in 2018.
- 3.4. Article 31 of Regulation (EU) No 1305/2013 provides the legal framework to make payments between 2014 and 2020 to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005 during the 2007-2013 programming period i.e. beneficiaries in the SDA of the LFACA Scheme. This provision gives the Department the authority to make payments on eligible hectares of forage land in the Severely Disadvantaged Area under the 2018 ANC Scheme. The Scheme is a measure in the Department's Rural Development Programme, which was agreed by the European Commission on 19 December 2017 (Commission Implementing Decision CCI: 2014UK06RDRP002).
- 3.5. Under the terms of Regulation (EU) No. 1305/2013 ANC payments under the Scheme must be degressive above a threshold level of claimed area per holding. The Areas of Natural Constraint Regulations (Northern Ireland) 2018 specify that for the first 200 hectares of eligible forage land claimed the payment rate will be £26.57 per hectare and for eligible forage land claimed over 200 hectares the rate will be £19.93 per hectare.

4. Consultation

- 4.1. There has been no consultation specific to these Regulations. However, a wide range of industry representatives were consulted during the development of the RDP Measure Sheet and the Scheme conditions including indicative payment rates. Industry representatives included Belfast Hills Partnership, Council for Nature Conservation and the Countryside, Dairy UK, Farmers for Action, Livestock & Meat Commission, Local Biodiversity Officers Forum, National

Beef Association, National Sheep Association, National Trust, Northern Ireland Agricultural Consultants Association, Northern Ireland Agricultural Producers Association, the Northern Ireland Local Government Association, Northern Ireland Meat Exporters Association, Northern Ireland Environment Link, Organics NI, RSPB, Rural Community Network, Rural Development Council, SDA Group, the Ulster Farmers' Union and Ulster Wildlife.

5. Equality Impact

5.1. In accordance with DAERA's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed and they have been screened out of a full equality impact assessment.

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. The budget for the 2018 Scheme payments is approximately £8 million.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations provide a domestic legal framework for the implementation of Article 31 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development and specifically the payment of an ANC allowance on eligible hectares of forage land in the Severely Disadvantaged Area. 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

Zita Hale at the Department of Agriculture, Environment and Rural Affairs, (Tel: 028 90378511 or email: zita.hale@daera-ni.gov.uk) can answer any queries regarding the Scheme.