
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Agriculture (Legislative
Functions) (EU Exit) Regulations 2019**

PART 3

Amendments to Direct Payments Regulations

Amendment of Regulation (EU) No 1307/2013

30. Regulation (EU) 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 is amended in accordance with regulation 31 to 48.

31. In Article 2, for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”.

32. In Article 4—

(a) in paragraph 1, after point (r)(1) insert—

“(s) ‘appropriate authority’ means:

(i) the relevant authority for the constituent nation in which the regulations apply, or

(ii) the Secretary of State:

(aa) in relation to regulations applying in Scotland, if consent is given by the Scottish Ministers;

(bb) in relation to regulations applying in Northern Ireland, if consent is given by the Department of Agriculture, Environment and Rural Affairs.”;

(b) omit paragraph 3.

33. For Article 6(3) substitute—

“**3.** In order to take account of developments relating to the total maximum amounts of direct payments that may be granted, the Secretary of State may make regulations adapting the national ceilings set out in Annex II to this Regulation.

4. The Secretary of State may not make regulations under paragraph 3 without the consent of each of the relevant authorities for Wales, Scotland and Northern Ireland.

5. Where the relevant authority for Wales, Scotland or Northern Ireland requests that the Secretary of State makes regulations under paragraph 3, the Secretary of State must have regard to that request.”.

(1) Article 4(1) of Regulation (EU) No. 1307/2013 is amended to insert new points (including definitions of “relevant authority and “constituent nation”) by The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/XXXX).

34. For Article 7(3) substitute—

“3. In order to take account of developments relating to the total maximum amounts of direct payments that may be granted, the Secretary of State may make regulations adapting the net ceilings set out in Annex III to this Regulation.

4. The Secretary of State may not make regulations under paragraph 3 without the consent of each of the relevant authorities for Wales, Scotland and Northern Ireland.

5. Where the relevant authority for Wales, Scotland or Northern Ireland requests that the Secretary of State makes regulations under paragraph 3, the Secretary of State must have regard to that request.”.

35. In Article 8—

(a) in paragraph 1—

(i) for “The adjustment rate” substitute “Where an adjustment rate is”;

(ii) after “1306/2013,” insert “it”;

(b) omit paragraph 2;

(c) in paragraph 3—

(i) for the words from “Commission” to “Article 70” substitute “Secretary of State may make regulations”;

(ii) omit “by Member States”;

(d) omit paragraph 4.

36. In Article 9(5)—

(a) for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”;

(b) in point (c), omit the words from “direct”, in the second place it occurs, to “concerning”, in the second place it occurs.

37. In Article 15, for the second sentence substitute “The appropriate authority may make regulations amending Annex I, following such a review.”.

38. In Article 31(2)—

(a) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;

(b) omit the last sentence.

39. In Article 34(5)—

(a) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;

(b) for “national authorities” substitute “the relevant authority”;

(c) omit the last sentence.

40. In Article 35—

(a) in paragraph 1—

(i) for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”;

(ii) omit points (e) and (f);

(b) in paragraph 2, for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”;

- (c) in paragraph 3, for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”.
- 41.** In Article 43(12), for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”.
- 42.** In Article 44(5), for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”.
- 43.** In Article 45—
- (a) in paragraph 5—
 - (i) for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”;
 - (ii) omit the words from “rules”, in the last place it occurs, to “2 and 3”;
 - (b) in paragraph 6, for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”;
 - (c) in paragraph 7—
 - (i) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
 - (ii) omit the last sentence.
- 44.** In Article 46(9)—
- (a) for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”;
 - (b) in point (c), for “Commission” substitute “appropriate authority”;
 - (c) omit points (e) and (f).
- 45.** In Article 50(11), for the words from “Commission” to “Article 70” substitute “appropriate authority may make regulations”.
- 46.** In Article 52—
- (a) in paragraph 9—
 - (i) for “Union funds” substitute “agricultural support”;
 - (ii) for the words from “Commission” to “Article 70” substitute “Secretary of State may make regulations”;
 - (iii) for “Union measures” substitute “measures provided for in Regulation (EU) No 1305/2013 and Regulation (EU) No 1308/2013 and any other measures specified for the purposes of this paragraph by virtue of paragraph 9”;
 - (b) in paragraph 10—
 - (i) for the words from “Commission” to “Article 70” substitute “Secretary of State may make regulations”;
 - (ii) for “delegated acts”, in the second place it appears, substitute “regulations”;
 - (iii) for “Member States to decide that such support may” substitute “for support to”;
 - (c) after paragraph 10 insert—

“11. The Secretary of State may not make regulations under paragraph 9 or 10 without the consent of each of the relevant authorities for Wales, Scotland and Northern Ireland.

Where the relevant authority for Wales, Scotland or Northern Ireland requests that the Secretary of State makes regulations under paragraph 9 or 10, the Secretary of State must have regard to that request.”.

47. In Article 69—

(a) for paragraph 1 substitute

“1. In order to resolve specific problems, the appropriate authority may make regulations which are both necessary and justifiable in an emergency. Those regulations may derogate from provisions of this Regulation, to the extent and for such a period as is strictly necessary.”;

(b) omit paragraph 2;

(c) in paragraph 3—

(i) omit “or 2”;

(ii) omit the second sentence;

(d) omit paragraph 4.

48. For Articles 70 and 71 substitute—

“Article 70

Regulations: General

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.

2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.

3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

4. Regulations under this Regulation may:

(a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);

(b) make different provision for different purposes.

Article 71

Regulations: the Secretary of State

1. Except as specified in paragraph 2 to 6, a statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

2. A statutory instrument containing regulations made by the Secretary of State under Articles 6(3), 7(3), 8(3) 15, 43(12), or 52(9) or (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

3. A statutory instrument containing regulations made by the Secretary of State under Article 69(1) must be laid before Parliament after being made.

4. Regulations made by the Secretary of State under Article 69(1) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is

made unless, during that period, the instrument is approved by resolution of each House of Parliament.

5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which:

- (a) Parliament is dissolved or prorogued, or
- (b) either House of Parliament is adjourned for more than 4 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

7. Before making any regulations under this Regulation, other than regulations under Article 69(1), the Secretary of State must consult:

- (a) such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by the regulations, and
- (b) such other bodies or persons as the Secretary of State may consider appropriate.

Article 71A

Regulations: the Welsh Ministers

1. Except as specified in paragraphs 2 to 6, a statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of National Assembly for Wales.

2. A statutory instrument containing regulations made by the Welsh Ministers under Articles 15 and 43(12) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

3. A statutory instrument containing regulations made by the Welsh Ministers under Article 69(1) must be laid before the National Assembly for Wales after being made.

4. Regulations made by the Welsh Ministers under Article 69(1) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument containing them is made unless, during that period, the instrument is approved by a resolution of the National Assembly for Wales.

5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which the National Assembly for Wales:

- (a) is dissolved, or
- (b) in recess for more than 4 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

7. Before making any regulations under this Regulation, other than regulations under Article 69(1), the Welsh Ministers must consult:

- (a) such bodies or persons as appear to the Welsh Ministers to be representative of the interests likely to be substantially affected by the regulations, and
- (b) such other bodies or persons as the Welsh Ministers may consider appropriate.

Article 71B

Regulations: the Scottish Ministers

1. Except as specified in paragraphs 2 to 6, regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
2. Regulations made by the Scottish Ministers under Articles 15 and 43(12) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
3. Regulations made by the Scottish Ministers under Article 69(1) must be laid before the Scottish Parliament after being made.
4. Regulations made by the Scottish Ministers under Article 69(1) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.
5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which the Scottish Parliament is:
 - (a) dissolved, or
 - (b) in recess for more than 4 days.
6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.
7. Before making any regulations under this Regulation, other than regulations under Article 69(1), the Scottish Ministers must consult:
 - (a) such bodies or persons as appear to the Scottish Ministers to be representative of the interests likely to be substantially affected by the regulations, and
 - (b) such other bodies or persons as the Scottish Ministers may consider appropriate.

Article 71C

Regulations: Northern Ireland

1. Except as specified in paragraphs 2 to 6, regulations made by the Department of Agriculture, Environment and Rural Affairs (“the Department”) under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
2. Regulations may not be made by the Department under Articles 15 and 43(12) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.
3. Regulations made by the Department under Article 69(1) must be laid before the Northern Ireland Assembly after being made.
4. Regulations made by the Department under Article 69(1) cease to have effect at the end of the period of 28 days beginning with the day on which they are made.
5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which the Northern Ireland Assembly is:
 - (a) dissolved,

- (b) in recess for more than 4 days, or
- (c) adjourned for more than 6 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

7. Before making any regulations under this Regulation, other than regulations under Article 69(1), the Department must consult:

- (a) such bodies or persons as appear to the Department to be representative of the interests likely to be substantially affected by the regulations, and
- (b) such other bodies or persons as the Department may consider appropriate.”.