

This draft Statutory Instrument supersedes a draft of the same title which was laid before Parliament on 11th May 2022 and published on 11th May 2022 (ISBN 978-0-348-23510-4). It is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2022 No.0000

AGRICULTURE

The Common Agricultural Policy (Cross-Compliance Exemptions and Transitional Regulation) (Amendment) (EU Exit) Regulations 2022

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

The Secretary of State, in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1), makes the following Regulations.

A draft of this instrument was laid before, and approved by a resolution of, each House of Parliament in accordance with paragraph 1(1) of Schedule 7 to that Act.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Common Agricultural Policy (Cross-Compliance Exemptions and Transitional Regulation) (Amendment) (EU Exit) Regulations 2022.

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

(3) These Regulations extend to the United Kingdom and, except as provided in paragraphs (4) and (5), apply in relation to England and Northern Ireland only.

(4) Regulation 2 applies in relation to England only.

(5) This regulation and regulation 4 apply in relation to the whole of the United Kingdom.

(1) 2018 c. 16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1). and paragraph 21 of Schedule 7 was amended by paragraphs 53(2)(a) and (b) of Schedule 5 to that Act.

Amendment of paragraph 1 of Schedule 3 to the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014

2. In paragraph 1 of Schedule 3 to the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014(2), after subparagraph (a) insert—

“(aa) an agreement entered into by virtue of regulations made under section 98 of the Environment Act 1995(3); or

(ab) an agreement entered into as a condition for the receipt of financial assistance under section 1 of the Agriculture Act 2020(4);”.

Amendment of Regulation (EU) No 1305/2013

3.—(1) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005(5) is amended as follows.

(2) In paragraph 1 of Article 8, in point (h)(ii), omit “, for the type of operation referred to in Article 38(3) and Article 39(1) when a Member State applies a percentage less than 30%,”.

(3) In Article 28, in paragraph 5, omit the words from “For new commitments to be undertaken from 2021” to the end.

(4) In Article 29, in paragraph 3, omit the words from “For new commitments to be undertaken from 2021” to the end.

(5) In Article 31, in paragraph 5, for the second subparagraph substitute—

“By way of derogation from the first subparagraph, where degressive payments start only in the year 2019, those payments shall start at no more than 80% of the average payment fixed in the 2014-2020 programming period. The payment level shall be established in such a way that the end-level in 2020 is half the starting level.”.

(6) In Article 33, in paragraph 2, omit the words from “For new commitments to be undertaken as from 2021” to the end.

(7) In Article 38, in paragraph 3, omit the final sentence of the second subparagraph.

(8) In Article 39, in paragraph 1, omit the final sentence.

(9) In Article 42, in paragraph 1, after “Article 34 of Regulation (EU) No 1303/2013” omit “and in Article 4 of Regulation (EU) 2020/2220”.

(10) In Article 51, in paragraph 2, omit the fourth subparagraph.

(11) In Article 58, in paragraph 7, after “paragraphs 5 and 6 of this Article” omit “and the transfers resulting from the application of Article 1 of Regulation (EU) 2020/2220”.

(12) In Article 59—

(a) for paragraph 5 substitute—

“5. At least 5% of the total core contribution to the rural development programme shall be reserved for LEADER.”;

(b) in paragraph 6a, omit “for the years 2014-2020 as provided for in Part One of Annex I”.

(2) S.I. 2014/3263.

(3) 1995 c. 25. Subsection (1) of section 98 was amended by S.I. 1999/1820, Schedule 2, paragraph 120(7).

(4) 2020 c. 21.

(5) EUR 2013/1305. Relevant amendments were made by S.I. 2019/748 and 764 and S.I. 2021/400 and S.S.I. 2020/456 and 477 and S.S.I. 2021/33.

(13) In Article 75, in paragraph 1, for “2026” substitute “2024”.

Amendment of Regulation (EU) No 1308/2013

4.—(1) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007(6) is amended as follows.

(2) In Article 55, in paragraph 1, for the second subparagraph substitute—

“By way of derogation from the first subparagraph, apiculture programmes drawn up for the period running from 1 August 2019 until 31 July 2022 shall be extended until 31 December 2022. The appropriate authority shall modify its apiculture programmes to take account of that extension.”.

(3) Omit Article 167a.

Amendment of Regulation (EU) No 2020/2220

5.—(1) Regulation (EU) No 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF)(7) is amended as follows.

(2) Omit Articles 1 to 9.

(3) Omit Article 10, except paragraphs (2) and (3).

(4) Omit Article 11 and Annexes I, II, III and IV.

Date

Name
Minister of State
Department for Environment, Food and Rural
Affairs

(6) EUR 2013/1308. Article 55 was amended by S.I. 2019/821. Article 167a was inserted by EUR 2020/2220.

(7) EUR 2020/2220.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8 of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) (in particular under section 8(2) (a), (b), (d) and (g)) in order to address failures in retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. These Regulations extend to the United Kingdom but apply only in England and in Northern Ireland except as otherwise provided in paragraphs (4) and (5) of regulation 1.

Regulation 2 amends paragraph 1 of Schedule 3 to the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014 (S.I. 2014/3263) which sets out the circumstances in which a breach of the cross-compliance rules set out in Schedule 2 to those Regulations is not considered a non-compliance. The scope of the existing cross-compliance exemptions is widened by these amendments to include new domestic schemes established under section 98 of the Environment Act 1995 (c. 25) or section 1 of the Agriculture Act 2020 (c. 21).

Regulation 3 amends certain provisions of Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, as amended by Regulation (EU) No 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) (“the EU Transitional Regulation”).

Regulation 4 amends Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, as amended by the EU Transitional Regulation. The amendments made by regulations 3 and 4 rectify deficiencies in provisions of those retained EU Regulations to ensure that they are operable in a domestic law context.

Regulation 5 omits certain provisions of the EU Transitional Regulation which are deemed to be inoperable in the United Kingdom as it is no longer a member state of the European Union.

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.