



# Direct Payments to Farmers (Legislative Continuity) Act 2020

## 2020 CHAPTER 2

### *Incorporation of Direct Payments Regulation etc*

#### **2 Interpretation and status**

- (1) Section 6 of the European Union (Withdrawal) Act 2018 (interpretation) applies for the purposes of this Act as it applies for the purposes of that Act and, in particular, it applies when a court or tribunal is deciding a question as to the validity, meaning or effect of [<sup>F1</sup>assimilated] law governing the CAP direct payment schemes as it applies when a court or tribunal is deciding a question as to the validity, meaning or effect of [<sup>F2</sup>assimilated law within the meaning given by that section].
- (2) In its application as mentioned in subsection (1), section 6 of that Act has effect with the modifications in subsections (5) and (6).
- (3) The following provisions of the European Union (Withdrawal) Act 2018 apply in relation to the modification by domestic law of [<sup>F3</sup>assimilated direct] CAP legislation as they apply in relation to the modification by domestic law of [<sup>F4</sup>assimilated direct legislation within the meaning given by section 20(1) of that Act] —
  - (a) section 7(2) and (3) (modification of retained direct EU legislation), and
  - (b) paragraphs 3 to 8 and [<sup>F5</sup>11A] to 12 of Schedule 8 (existing and future powers to make subordinate legislation).
- (4) In their application as mentioned in subsection (3), the provisions mentioned in paragraphs (a) and (b) have effect with the modifications in subsection (5).
- (5) To the extent that they are applied for the purposes of subsections (1) and (3), the provisions of the European Union (Withdrawal) Act 2018 in question have effect as if any reference in them to an expression listed in the first column of the following Table were a reference to the corresponding expression in the second column.

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*Changes to legislation: There are currently no known outstanding effects for the Direct Payments to Farmers (Legislative Continuity) Act 2020, Section 2. (See end of Document for details)*

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<i>Expression in applied provision of the European Union (Withdrawal) Act 2018</i>	<i>Modification</i>
IP completion day	exit day
[ <sup>F6</sup> assimilated] law	[ <sup>F6</sup> assimilated] law governing the CAP direct payment schemes
[ <sup>F7</sup> assimilated direct] legislation	[ <sup>F7</sup> assimilated direct] CAP legislation
[ <sup>F8</sup> assimilated direct principal] legislation	the Direct Payments Regulation and the Horizontal Regulation so far as they form part of domestic law by virtue of section 1(1)
[ <sup>F9</sup> assimilated direct minor] legislation	[ <sup>F9</sup> assimilated direct] CAP legislation other than the Direct Payments Regulation and the Horizontal Regulation

- (6) In the definitions in section 6(7) of the European Union (Withdrawal) Act 2018 of “[<sup>F10</sup>assimilated] domestic case law” [<sup>F11</sup>and] “[<sup>F10</sup>assimilated] EU case law” <sup>F12</sup>... (as applied for the purposes of subsection (1) above)—
- references to anything to which section [<sup>F13</sup>2 or 3] of that Act applies are to be read as references to anything to which the EU legislation listed in section 1(3) of this Act applies, and
  - references to the principles and decisions excluded by section 5 of, or Schedule 1 to, that Act are to be read as references to the principles and decisions that would be excluded if that Act were to operate to save and incorporate EU law with exceptions on exit day (instead of IP completion day).
- (7) When a court or tribunal is deciding any question as to the validity, meaning or effect of subordinate legislation which is both—
- [<sup>F14</sup>assimilated] law governing the CAP direct payment schemes, and
  - [<sup>F14</sup>assimilated] law within the meaning given by section 6 of the European Union (Withdrawal) Act 2018,
- section 6 of that Act applies with the modifications made by this section so far as the question relates to the validity, meaning or effect of the subordinate legislation as [<sup>F14</sup>assimilated] law governing the CAP direct payment schemes.
- (8) For the purposes of the Human Rights Act 1998—
- the Direct Payments Regulation and the Horizontal Regulation so far as they form part of domestic law by virtue of section 1(1) are to be treated as primary legislation, and
  - other [<sup>F15</sup>assimilated direct] CAP legislation is to be treated as primary legislation so far as it amends any primary legislation but otherwise is to be treated as subordinate legislation.
- (9) In subsection (8), “amend”, “primary legislation” and “subordinate legislation” have the same meaning as in the Human Rights Act 1998.
- (10) In this Act—

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“<sup>F16</sup>assimilated] law governing the CAP direct payment schemes” means—

- (a) the EU legislation listed in section 1(3) that forms part of domestic law by virtue of section 1(1), and
- (b) any subordinate legislation relating to that legislation,

as that body of law is added to or otherwise modified by domestic law from time to time;

“<sup>F17</sup>assimilated direct] CAP legislation” means the EU legislation listed in section 1(3) that forms part of domestic law by virtue of section 1(1) (as modified by domestic law from time to time, and including any instruments made under it on or after exit day).

- (11) The following provisions come into force (to the extent that they are not already in force) for the purposes of their application under this section at the same time as this section comes into force—
- (a) the provisions of the European Union (Withdrawal) Act 2018 applied by this section,
  - (b) any provision of that Act so far as is necessary for the operation of the applied provisions, and
  - (c) any provision of the European Union (Withdrawal Agreement) Act 2020 which amends the applied provisions.

#### Textual Amendments

- F1** Word in s. 2(1) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(a)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F2** Words in s. 2(1) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(a)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F3** Words in s. 2(3) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(b)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F4** Words in s. 2(3) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(b)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F5** Word in s. 2(3)(b) substituted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(1)(d), **Sch. 3 para. 14**
- F6** Word in s. 2(5) Table substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(c)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F7** Words in s. 2(5) Table substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(c)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F8** Words in s. 2(5) Table substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(c)(iii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F9** Words in s. 2(5) Table substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(c)(iv)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F10** Word in s. 2(6) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(d)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F11** Word in s. 2(6) substituted for comma (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 91(2)(a)**
- F12** Words in s. 2(6) omitted (1.1.2024) by virtue of The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 91(2)(b)**
- F13** Words in s. 2(6)(a) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(d)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

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- F14** Word in s. 2(7) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(e)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F15** Words in s. 2(8)(b) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(f)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F16** Word in s. 2(10) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(g)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F17** Words in s. 2(10) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 10(2)(g)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

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