

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

2019 No. 000

**EXITING THE EUROPEAN UNION
AGRICULTURE**

The Agriculture (Legislative Functions)
(EU Exit) (No.2) Regulations 2019

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations 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).

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

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Agriculture (Legislative Functions) (EU Exit) (No.2) Regulations 2019.

(2) Subject to paragraph (3), this regulation and regulation 65 come into force immediately before exit day.

(3) Where regulations 2 to 64 and 66 to 88 come into force in accordance with paragraph (4)(b), this regulation and regulation 65 come into force on the day after the day on which these Regulations are made.

(4) Regulations 2 to 64 and 66 to 88 come into force on the later of—

- (a) exit day, or
- (b) the day after the day on which they are made.

PART 2

Common Market Organisation Amendments

Amendment of Regulation (EU) No 1308/2013

2. Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products is amended in accordance with regulations 3 to 37.

3. In Article 3—

- (a) in paragraph 4, for the words from “Commission” to “Article 227” substitute “appropriate authority(2) may make regulations”;
- (b) in paragraph 5, in point (c)(ii)(aa)(3), after “16” insert “, 21, 22, 24, 25, 126”

4. For Articles 13 and 14 substitute—

“Article 13

Public intervention

1. The appropriate authority must buy in common wheat, butter and skimmed milk powder during the periods referred to in Article 12 in respect of those products.

2. Subject to paragraphs 3 and 4, the appropriate authority may buy in any other products listed in Article 12 under public intervention during the periods referred to in respect of those products.

2. In the case of durum wheat, barley, maize and paddy rice (including specific varieties or types of paddy rice), the appropriate authority may only buy in products if the market situation so requires.

3. In the case of beef and veal, the appropriate authority may only buy in products if, over the representative period determined pursuant to point (c) of the first paragraph of Article 20, the average market price in the United Kingdom or in a particular region of the United Kingdom, recorded on the basis of the scale for classification of carcasses of bovine animals referred to in point A of Annex IV, is below 85% of the reference threshold laid down in point (d) of Article 7(1).

4. The appropriate authority may close the tendering procedure for the beef and veal sector where, over the representative period determined pursuant to point (c) of the first paragraph of Article 20, the conditions provided for in paragraph 3 of this Article are no longer fulfilled.

Article 14

Buying-in at a fixed price or tendering

The appropriate authority may make regulations laying down measures on:

- (a) fixing buying-in prices for the products referred to in Article 11; and
- (b) quantitative limitations where buying-in is carried out at a fixed price.”.

(2) A definition of “appropriate authority” is inserted into Article 3 of Regulation (EU) 1308/2013 by the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(3) Point (c) is inserted by the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (S.I. 2019/XXXX).

5. For Article 15(2) substitute—

“2. The appropriate authority may make regulations fixing the level of the public intervention price, including the amounts of increases and reductions.”.

6. In Article 18—

(a) in paragraph 1—

(i) for the words from “Commission” to “Article 227” substitute “appropriate authority may, where necessary, make regulations”;

(ii) omit “Union”;

(iii) after “prices” insert “in the United Kingdom”;

(b) in paragraph 2—

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

(ii) omit the second subparagraph;

(c) for paragraph 3 substitute—

“3. The appropriate authority may make regulations fixing the amount of aid for private storage provided for in Article 17.”.

7. In Article 19—

(a) in paragraph 1, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(b) in paragraph 2, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(c) in paragraph 3—

(i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(ii) omit point (b);

(d) in paragraph 4, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(e) in paragraph 5—

(i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(ii) in point (b), omit “Member States and”;

(f) in paragraph 6—

(i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(ii) in point (a), omit “Union”;

(iii) in point (b), for “Union prices”, substitute “prices in the United Kingdom”;

(iv) in point (c), for “which may be granted by Member States” substitute “applying”;

(v) for point (d) substitute—

“(d) providing for the grading scale for classification of pig carcasses not to apply, providing for derogations from the scale, or providing for assessment criteria to be used in addition to weight and estimated lean-meat content.”.

8. In Article 20—

- (a) for the words from “Commission” to “uniform” substitute “appropriate authority may make regulations in relation to the”;
- (b) in point (h), for “territory of the Member State” substitute “constituent nation(4)”;
- (c) in point (i), omit the words from “, including”, in the first place it occurs, to the end”;
- (d) in point (j), for “Member States” substitute “the relevant authority(5)”;
- (e) in point (k), omit “of the Member State”;
- (f) in point (o)(iii), omit the words from “ensuring” to the end;
- (g) in point (p), omit “Union”;
- (h) in point (r), omit “to be applied by Member States”;
- (i) in point (s), for the words from “by” to “price” substitute “of the weighted average price in the United Kingdom”;
- (j) in point (t)—
 - (i) for the words from the beginning to “territory,” substitute “provision”;
 - (ii) in point (i), for “their territory” substitute “the constituent nation”;
- (k) omit point (u);
- (l) omit the second subparagraph.

9. In Article 21—

- (a) for the words from “The Commission” to “classification” substitute “By way of derogation from point C.III of Annex IV, the appropriate authority may make regulations providing for the following criteria for classification of lambs of less than 13kg carcass weight”;
- (b) omit the second subparagraph.

10. In Article 24—

- (a) in paragraph 1—
 - (i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
 - (ii) in point (b), omit “by Member States”;
- (b) for paragraph 2 substitute—

“2. In order to ensure proper management of public funds and to facilitate the implementation of the school scheme, the appropriate authority may make regulations laying down:

 - (a) costs and measures eligible for funding;
 - (b) provisions for monitoring and evaluating the effectiveness of the school scheme.”;
- (c) in paragraph 3—
 - (i) for the words from “Commission”, in the first place it occurs, to “Article 227”, in the first place it occurs, substitute “appropriate authority may make regulations”;

(4) A definition of “constituent nation” is inserted into Article 3 of Regulation (EU) 1308/2013 by the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(5) A definition of “relevant authority” is inserted into Article 3 of Regulation (EU) 1308/2013 by the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

- (ii) for the words from “Commission”, in the second place it occurs, to “Article 227”, in the second place it occurs, substitute “appropriate authority may make regulations”;
 - (iii) omit “by Member States”;
 - (d) in paragraph 4, the words before point (a)—
 - (i) for the words from “and” to “scheme”, in the last place it occurs, substitute “the appropriate authority may make regulations requiring the school scheme to be publicised”;
 - (e) in paragraph 5, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
 - (f) omit paragraph 6.
- 11.** In Article 25—
- (a) for the words from “Commission” to “adopt” substitute “appropriate authority may make regulations laying down”;
 - (b) in point (a), for “Member States’ strategies” substitute “the strategy referred to in Article 23(8)”;
 - (c) for point (d) substitute—
 - “(d) the format and content of monitoring and evaluation reports”;
 - (d) omit point (e);
 - (e) omit the second subparagraph.
- 12.** For Article 35 substitute—

“Article 35

Additional financial assistance

- 1.** The appropriate authority may make regulations allowing for the payment to producer organisations of additional financial assistance in regions where the degree of organisation of producers in the fruit and vegetable sector is particularly low.
 - 2.** Regulations under paragraph 1 must provide for the additional financial assistance payable to be:
 - (a) additional to the operational fund;
 - (b) no more than 80% of the financial contribution referred to in point (a) of Article 32(1).”.
- 13.** In Article 37—
- (a) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
 - (b) in point (a)(ii), for “the additional requirements to be determined by Member States” substitute “any additional requirements”;
 - (c) in point (c), omit “Union” in both places it occurs;
 - (d) in point (d)—
 - (i) in point (i), for “Member States” substitute “the relevant authority”;
 - (ii) in point (ii), for “(a), (b), (c) and (i)” substitute “(b) and (c)”;
 - (iii) omit points (iii) to (vii), (x) and (xiii);
 - (e) in point (e)—

- (i) in the words before point (i), for “national” substitute “additional”;
- (ii) omit point (iii).

14. In Article 38—

- (a) for “Commission may adopt implementing acts” substitute “appropriate authority may make regulations”;
- (b) in point (b)—
 - (i) omit “national” in both places it occurs;
 - (ii) for “Member States”, in both places it occurs, substitute “the relevant authority”;
- (c) in point (d), omit “national”;
- (d) omit points (f) to (h);
- (e) in point (i), for “training and coaching” substitute “and training”;
- (f) in point (j), omit the words from “withdrawal” to “and”;
- (g) omit point (k);
- (h) omit the second subparagraph.

15. In Article 56—

- (a) for paragraph 1 substitute—

“1. In order to ensure the efficient and effective use of aid for apiculture, the appropriate authority may make regulations on the avoidance of double funding between apiculture programmes and rural development programmes.”;
- (b) in paragraph 2—
 - (i) for “the Union” substitute “any”;
 - (ii) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
 - (iii) omit “Member States”;
 - (iv) omit “national”;
 - (v) for “the delegated act” substitute “those provisions”.

16. For Article 57 substitute—

“Article 57

Regulations relating to apiculture

The appropriate authority may make regulations relating to the content of apiculture programmes and the content of the studies under Article 55(3).”.

17. In Article 75—

- (a) in paragraph 2, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
- (b) in paragraph 6—
 - (i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
 - (ii) for “delegated acts”, in the second place it occurs, substitute “regulations”;
 - (iii) omit the words from “and shall” to the end.

18. In Article 76, in paragraph 4, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”.

19. In Article 78—

(a) in paragraph 3—

(i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(ii) for “delegated acts”, in the second place it occurs, substitute “regulations”;

(b) in paragraph 4—

(i) omit “and Member States”;

(ii) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(c) in paragraph 5, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”.

20. In Article 79—

(a) in paragraph 1, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;

(b) in paragraph 2—

(i) for “adopting the acts referred to in” substitute “making regulations under”;

(ii) for “Commission” substitute “appropriate authority”.

21. In Article 80—

(a) in paragraph 4—

(i) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;

(ii) omit “national”;

(b) in paragraph 5—

(i) for “Commission shall, where necessary, adopt implementing acts” substitute “Secretary of State may make regulations”;

(ii) after “unless” insert “all the relevant authorities agree that”;

(iii) omit the words from “in view” to the end.

22. For Article 83(4) substitute—

“4. In order to ensure the correct and transparent application of this Article:

(a) the appropriate authority may make regulations laying down the conditions for the application of paragraph 1 of this Article;

(b) the Secretary of State may make regulations laying down the conditions for the application of paragraphs 2 and 3 of this Article, as well as the conditions for the holding, circulation and use of the products obtained from the experimental practices referred to in paragraph 3 of this Article.”.

23. In Article 86, for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”.

24. In Article 87(2), for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”.

25. In Article 88(3), for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”.

26. In Article 91—

- (a) for “Commission may adopt implementing acts” substitute “appropriate authority may make regulations”;
- (b) in point (a), omit the words from “on the basis” to the end;
- (c) omit the second subparagraph.

27. In Article 126—

- (a) in the first paragraph—
 - (i) for “Commission may adopt implementing acts” substitute “appropriate authority may make regulations”;
 - (ii) omit the second sentence;
- (b) in the third paragraph, for “Commission” substitute “appropriate authority”.

28. In Article 147—

- (a) in paragraph 3, for the words from “Member States” to “Article 227” substitute “competent authorities, the Secretary of State may make regulations”;
- (b) in paragraph 4—
 - (i) in the first subparagraph—
 - (aa) in the words before point (a), for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (bb) in point (b), omit “measures requiring Member States to determine”;
 - (ii) omit the second subparagraph.

29. In Article 186—

- (a) in paragraph 1—
 - (i) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) for “third” substitute “other”;
- (b) in paragraph 2—
 - (i) for “a third”, in both places it occurs, substitute “another”;
 - (ii) for the words from “concluded” to “States” substitute “to which the United Kingdom is a party, the Secretary of State may make regulations laying down the circumstances in which the competent authority is required”.

30. In Article 187—

- (a) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
- (b) in point (b)—
 - (i) omit “import or”;
 - (ii) omit point (iii);
- (c) omit points (e) and (f);
- (d) omit the last sentence.

31. In Article 219—

- (a) in paragraph 1—
 - (i) for the words from “Commission” to “Article 227” substitute “appropriate authority may make regulations”;
 - (ii) omit “concluded in accordance with the TFEU”;
 - (iii) omit the second and third subparagraphs;
 - (b) in paragraph 2, for the second subparagraph substitute—

“However, the appropriate authority may make regulations applying the measures referred to in paragraph 1 to one or more of the products listed in Section 2 of Part XXIV of Annex I.”;
 - (c) for paragraph 3 substitute—

“**3.** The appropriate authority may make regulations laying down necessary procedural rules and technical criteria for the application of measures referred to in paragraph 1 of this Article.”.
- 32.** In Article 220—
- (a) in paragraph 1—
 - (i) for “Commission may adopt implementing acts” substitute “appropriate authority may make regulations”;
 - (ii) for “intra-Union and third-country” substitute “trade within the United Kingdom and international”;
 - (iii) omit the second subparagraph.
 - (b) in paragraph 2, in the third subparagraph, for the words from “Commission” to “Article 228” substitute “appropriate authority may make regulations”;
 - (c) omit paragraph 3;
 - (d) in paragraph 4, for the words from “the Member” to “quickly” substitute “health and veterinary measures have been taken”;
 - (e) omit paragraphs 5 and 6.
- 33.** In Article 221—
- (a) in paragraph 1—
 - (i) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
 - (ii) omit the last sentence;
 - (b) in paragraph 2—
 - (i) for “To” substitute “The appropriate authority may make regulations to”;
 - (ii) omit the words from “, the Commission” to the end;
 - (c) in paragraph 3—
 - (i) for “Commission shall adopt measures” substitute “appropriate authority may make regulations”;
 - (ii) omit “or 2”;
 - (d) for paragraph 4 substitute—

“**4.** Regulations made under paragraph 1 or 2 may remain in force for a period not exceeding 12 months.

If it appears to the appropriate authority that the specific problems which led to the making of the regulations under paragraph 1 or 2 will persist beyond the period for which they are in force, the appropriate authority may make further regulations to address the problems. Such regulations may only remain in force for a period not exceeding 12 months.

The power to make further regulations under the second subparagraph may not be exercised more than twice.”.

(e) omit paragraph 5.

34. In Article 222—

(a) in paragraph 1—

- (i) for the words from “Commission” to “TFEU” substitute “Secretary of State may make regulations to the effect that section 2 of the Competition Act 1998⁽⁶⁾”;
- (ii) for “the internal market” substitute “trade within the United Kingdom”;
- (iii) in point (f), for “Union”, in both places it occurs, substitute “United Kingdom”;
- (iv) for the second and third subparagraph substitute—

“Regulations made under this paragraph must specify the substantive and geographic scope of the derogation and the period for which the derogation applies.”;

(b) in paragraph 3—

- (i) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
- (ii) omit the last sentence.

35. In the heading of Part 6, for “Delegations of power, implementing provisions” substitute “Regulations”.

36. For the heading of Part 6, Chapter 1 substitute “Regulations”.

37. For Articles 227 to 229 substitute—

“Article 227

Regulations

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⁽⁷⁾.

3. Any power of the Department of Agriculture, Environment and Rural Affairs or Department of Health to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁸⁾.

4. Regulations under this Regulation may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
- (b) make different provision for different purposes.

⁽⁶⁾ 1998 c. 41.

⁽⁷⁾ 2010 asp. 10.

⁽⁸⁾ S.I. 1979/1573 (N.I. 12).

Article 228

Regulations: the Secretary of State

1. Except as specified in paragraphs 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 Article 221(1) or (4) 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 219, 220(1) or (2) or 221(2) must be laid before each House of Parliament after being made.

4. Regulations made by the Secretary of State under any of the Articles specified in paragraph 3 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 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 Parliament is:

- (a) dissolved or prorogued, or
- (b) during which 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. The Secretary of State may not make regulations under any of the provisions specified in paragraph 8 without the consent of the relevant authorities for Wales, Scotland and Northern Ireland.

8. Where any of the relevant authorities for Wales, Scotland or Northern Ireland requests the Secretary of State to make regulations under any of the provisions specified in paragraph 6, the Secretary of State must have regard to that request.

9. The specified provisions are:

- (a) Article 80(4) and (5);
- (b) Article 83(4)(b);
- (c) Article 147(3) and (4).

Article 228A

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 Article 221(1) or (4) 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 219, 220(1) or (2) or 221(2) must be laid before the National Assembly for Wales after being made.

4. Regulations made by the Welsh Ministers under any of the Articles specified in paragraph 3 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 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.

Article 229

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 Article 221(1) or (4) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

3. A statutory instrument containing regulations made by the Scottish Ministers under Article 219, 220(1) or (2) or 221(2) must be laid before the Scottish Parliament after being made.

4. Regulations made by the Scottish Ministers under any of the Articles specified in paragraph 3 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.

Article 229A

Regulations: Northern Ireland

1. Except as specified in paragraphs 2 to 6, regulations made by the Department of Agriculture, Environment and Rural Affairs or the Department of Health under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(9) as if they were a statutory instrument within the meaning of that Act.

(9) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

2. Regulations may not be made by either Department under Article 221(1) or (4) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.

3. Regulations made by either Department under Article 219, 220(1) or (2) or 221(2) must be laid before the Northern Ireland Assembly after being made.

4. Regulations made by either Department under any of the Articles specified in paragraph 3 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 a resolution of the Northern Ireland Assembly.

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.”.

Amendment of Regulation (EU) No 1370/2013

38. Council Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products is amended in accordance with regulations 39 to 44.

39. In Article 1, in the second subparagraph(10), after point (b) insert—

- “(c) ‘appropriate authority’ means:
 - (i) the relevant authority for the constituent nation in which the regulations apply, or
 - (ii) if consent is given by the relevant authority for the constituent nation in which the regulations apply, the Secretary of State.”.

40. In Article 1a(2)—

- (a) for “Commission” substitute “appropriate authority”;
- (b) for the second sentence substitute “When necessary, in the light of developments in production and markets, the appropriate authority may make regulations amending the reference thresholds.”.

41. In Article 2(3)—

- (a) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
- (b) omit the second sentence.

42. In Article 3—

- (a) in paragraph 2, for “by means of implementing acts” substitute “in regulations made by the appropriate authority”;
- (b) for paragraph 3 substitute—

“3. In special and duly justified circumstances:

(10) The Common Organisation of Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (S.I. 2019/XXX) insert a second subparagraph into Article 1.

- (a) the relevant authority may restrict tendering procedures to a particular region or regions; and
 - (b) the appropriate authority may make regulations, subject to Article 2(1), determining the buying-in prices subject to public intervention in the constituent nation or in a region of the constituent nation on the basis of recorded average market prices.”;
 - (c) for paragraph 4 substitute—

“4. The appropriate authority may make regulations adjusting the buying-in prices referred to in paragraphs 2 and 3 for common wheat, durum wheat, barley, maize and paddy rice based on the main quality criteria for those products.”;
 - (d) omit paragraph 5;
 - (e) in paragraph 6, for the words from “Commission” to “necessary” substitute “appropriate authority may make regulations where it is necessary to do so”.
- 43.** In Article 4—
- (a) for “Commission shall adopt implementing acts” substitute “appropriate authority must make regulations”;
 - (b) omit the second subparagraph.
- 44.** For Article 15 substitute—

*“Article 15
Regulations*

- 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.** 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.
- 5.** A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- 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).
- 7.** Regulations made by the Department of Agriculture, Environment and Rural Affairs 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.
- 8.** Regulations under this Regulation may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
- (b) make different provision for different purposes.”.

Amendment of Regulation (EU) No 1144/2014

45. Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries is amended in accordance with regulations 46 to 56.

46. In Article 1, in the second subparagraph(11), after point (b) insert—

“(c) ‘appropriate authority’ means:

- (i) the relevant authority for the constituent nation in which the regulations apply, or
- (ii) if consent is given by the relevant authority for the constituent nation in which the regulations apply, the Secretary of State.”.

47. For Article 4(3) substitute—

“**3.** The appropriate authority may make regulations laying down detailed rules concerning the visibility of commercial brands during demonstrations or tastings and on information and promotional material, as referred to in paragraph 1, as well as the uniform conditions under which a single brand may be displayed.”.

48. For Article 5(2) substitute—

“**2.** In order to take account of market developments, the appropriate authority may make regulations supplementing the list in Annex I to this Regulation by adding food products to that list.”.

49. In Article 7(2), for the words from “Commission” to “Article 22” substitute “appropriate authority may make regulations”.

50. In Article 8—

(a) in paragraph 1—

- (i) for “Commission shall adopt implementing acts, laying down” substitute “relevant authority may publish”;
- (ii) omit “Union’s”;
- (iii) omit the last sentence;

(b) for paragraph 2 substitute—

“**2.** Following publication of the work programme, the appropriate authority may issue a call for proposals for simple programmes to implement the work programme.”.

51. For Article 11 substitute—

“Article 11

Selection of simple programmes

1. The appropriate authority must evaluate proposals for simple programmes submitted to it in response to the call for proposals under Article 8(2).

(11) The Common Organisation of Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 (S.I. 2019/XXX) insert a second subparagraph into Article 1.

2. The appropriate authority must select one or more of the programmes submitted to it and may make selection of a programme conditional on amendments being made to the programme proposed.

3. Following selection, the appropriate authority must publish a list of those selected and the corresponding budget for each.

4. The appropriate authority may make regulations setting specific conditions for eligibility with regard to simple programmes.”.

52. In Article 13—

- (a) in paragraph 1, for the words from “Commission” to “Article 22,” substitute “appropriate authority may make regulations”;
- (b) in paragraph 2—
 - (i) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
 - (ii) omit the last sentence.

53. In Article 14(1)—

- (a) omit the first sentence;
- (b) for “Member States” substitute “relevant authority”;
- (c) for “Union” substitute “retained EU”;
- (d) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”;
- (e) omit the last sentence;

54. In Article 15(8)—

- (a) for the words from “Commission” to “Article 22,” substitute “appropriate authority may make regulations”;
- (b) for “Union funding” substitute “funding under this Regulation”.

55. For Articles 22 and 23 substitute—

“Article 22

Regulations

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⁽¹²⁾.

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⁽¹³⁾.

4. 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.

⁽¹²⁾ 2010 asp. 10.

⁽¹³⁾ S.I. 1979/1573 (N.I. 12).

5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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).

7. Regulations made by the Department of Agriculture, Environment and Rural Affairs 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.

8. Regulations under this Regulation may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
- (b) make different provision for different purposes.

10. The relevant authority must review and publish a report on the use of the powers to make regulations under Articles 5(2), 7(2), 13(1) and 15(8) at least every 5 years. Following such a review, the appropriate authority may make regulations revoking all or any of those powers.”.

56. In Article 25—

(a) in the first subparagraph—

- (i) for “Commission shall adopt implementing acts” substitute “appropriate authority may make regulations”
- (ii) omit “common” in the third place it occurs;
- (iii) omit the last sentence;

(b) in the second subparagraph, for “All interested parties shall provide the Commission” substitute “Proposing organisations must provide the relevant authority”

Amendment of Commission Implementing Regulation (EU) 2016/1240

57. Commission Implementing Regulation (EU) 2016/1240 laying down rules for the application of Regulation (EU) No 1308/2013 with regard to public intervention and aid for private storage is amended in accordance with regulations 58 to 60.

58. In Article 12—

(a) in paragraph 1—

- (i) for the words from the beginning to “shall”, in the second place it occurs, substitute “Where the appropriate authority decides to buy-in products under Article 13 of Regulation (EU) No. 1308/2013, it must publish a tendering procedure. The tendering procedure must”;
- (ii) after point (b) insert—

“(c) in the case of a restricted tendering procedure under Article 3(3) of Regulation (EU) No. 1370/2013, the region covered.”;

(b) for paragraph 2 substitute—

“2. The appropriate authority may open a tendering procedure for buying-in of beef by category or region on the basis of the two most recent weekly market prices recorded. The

appropriate authority may close the tendering procedure on the basis of the most recent weekly market prices recorded.”;

- (c) omit paragraph 3;
- (d) in paragraph 5—
 - (i) in point (a)—
 - (aa) for “a Member State” substitute “the United Kingdom”;
 - (bb) for “Member State”, in the second place it occurs, substitute “United Kingdom”;
 - (ii) in point (b), for “[Commission Regulation \(EC\) No 1249/2008](#)” substitute “[Commission Delegated Regulation \(EU\) 2017/1182](#) and [Commission Implementing Regulation \(EU\) 2017/1184](#).”;
 - (iii) in point (c)—
 - (aa) for “a Member State” substitute “the United Kingdom”;
 - (bb) for “that Member State” substitute “the United Kingdom”.

59. In Article 28—

- (a) for paragraph 2 substitute—
 - “2. The tendering procedure must be open for at least six days.”;
- (b) in paragraph 3, for “Union or a Member State” substitute “constituent nation”;
- (c) in paragraph 4, for “Implementing Regulation”, in both places it occurs, substitute “tendering procedure”.

60. In Article 39—

- (a) in paragraph 1, for “The Implementing Regulation opening the tendering procedure or” substitute “The tendering procedure and the Regulations”;
- (b) omit paragraph 2;
- (c) in paragraph 3, omit “the entry into force of the Implementing Regulation”.

PART 3

Financing, Management and Monitoring Amendments

Amendment of Regulation (EU) No 1306/2013

61. Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy is amended in accordance with regulations 62 to 64.

62. In Article 2(1), after point (o)(14) insert—

- “(p) ‘appropriate authority’ means:
 - (i) subject to point (ii), the relevant authority for the constituent nation in which the regulations apply;
 - (ii) the Secretary of State:

(14) Article 2 of Regulation (EU) No. 1306/2013 is amended to include new paragraphs and definitions of “relevant authority and constituent nation” by the Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXXX).

- (aa) in relation to regulations made under Article 66(3) or (4), where the subject matter is outside devolved competence;
- (bb) in relation to Wales, for regulations made under Article 8, 20, 79(2), 84(6), 88 or 106(5) or (6) of this Regulation, if consent is given by the Welsh Ministers;
- (cc) in relation to Scotland, if consent is given by the Scottish Ministers;
- (dd) in relation to Northern Ireland, if consent is given by the Department of Agriculture, Environment and Rural Affairs;

For the purposes of point (ii)(aa), it is outside devolved competence to make any provision by subordinate legislation which would be outside the legislative competence of:

- in relation to Wales, the National Assembly for Wales, if it were included in an Act of the Assembly (see section 108A of the Government of Wales Act 2006);
- in relation to Scotland, the Scottish Parliament if it were included in an Act of the Parliament (see section 29 of the Scotland Act 1998);
- in relation to Northern Ireland, the Northern Ireland Assembly if it were included in an Act of the Assembly (see section 6 of the Northern Ireland Act 1998).”.

63. In Article 66—

- (a) in paragraph 3, for the words from “Commission” to “Article 115” substitute “appropriate authority may make regulations”;
- (b) in paragraph 4—
 - (i) for “The Commission may adopt implementing acts” substitute “The appropriate authority may make regulations”;
 - (ii) omit point (c);
 - (iii) omit the second subparagraph.

64. In Article 89

- (a) in paragraph 5—
 - (i) omit “Union funds and”;
 - (ii) for “Union wine” substitute “wine originating in the United Kingdom”;
 - (iii) from the words from “Commission” to “Article 115” substitute “Secretary of State may make regulations”;
 - (iv) in point (a), for “Member States” substitute “the relevant authority”;
 - (v) for point (c), substitute—
 - “(c) rules on the use of findings”;
- (b) in paragraph 6—
 - (i) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (ii) in point (a), omit “Member States’ own databanks and to”;
 - (iii) omit the second subparagraph;
- (c) after paragraph 6, insert—
 - “7. The Secretary of State may not make regulations under paragraph 5 or 6 without the consent of each of the relevant authorities for Wales, Scotland and Northern Ireland.

8. Where the relevant authority for Wales, Scotland or Northern Ireland requests that the Secretary of State makes regulations under paragraph 5 or 6, the Secretary of State must have regard to that request.”.

Amendment of the Agriculture (Legislative Functions) (EU Exit) Regulations 2019

65. Regulation 3 of the Agriculture (Legislative Functions) (EU Exit) Regulations 2019⁽¹⁵⁾ is revoked.

PART 4

Organics Amendments

Amendment of Council Regulation (EC) No 834/2007

66. Council Regulation (EC) No 834/2007 on organic production and labelling of organic products is amended in accordance with regulations 67 to 88.

67. In Article 2, after point (cc)⁽¹⁶⁾ insert—

“(dd) ‘appropriate authority’ has the meaning given in Article 38a.”.

68. In Article 9—

(a) at the end of paragraph 2 insert as a new subparagraph—

“For the purposes of this paragraph, requirements in Directive 2001/18/EC⁽¹⁷⁾ imposed on Member States are to be read as imposing requirements on the appropriate authority”;

(b) in paragraph 4—

(i) for “Commission shall decide on” substitute “appropriate authority may by regulations impose”;

(ii) omit the words from “in accordance” to the end.

69. In Article 12(3), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

70. In Article 13(3), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

71. In Article 14(2), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

72. In Article 15(2), for the words from “shall be” to the end substitute “may be adopted by the appropriate authority by regulations”.

73. In Article 16—

(a) in paragraph 1, in the first subparagraph, for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”;

(b) in paragraph 3—

(i) in point (a), for the words from “Commission may” to “Article 37(2)” substitute “appropriate authority may, by regulations”;

⁽¹⁵⁾ S.I. 2019/XXX

⁽¹⁶⁾ Point (cc) was added by the Organic Production and Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

⁽¹⁷⁾ OJ No L 106, 17.4.2001, p. 1, as last amended by Commission Directive (EU) 2018/350 (OJ No L 67, 9.3.2018, p. 30).

- (ii) omit point (b);
- (iii) in point (c), for the last sentence substitute “The appropriate authority may, by regulations, withdraw such products or substances.”.

74. In Article 17(2), for the words from “in accordance” to the end substitute “by the appropriate authority, by regulations”.

75. In Article 18(5), for the words from “in accordance” to the end substitute “by the appropriate authority by regulations”.

76. In Article 19(3), in the second subparagraph—

- (a) omit “by Member States”;
- (b) for the words from “in accordance” to the end substitute “by the appropriate authority by regulations”.

77. In Article 20(3), for the words from “in accordance” to the end substitute “by the appropriate authority by regulations”.

78. In Article 21(2)—

- (a) in the first subparagraph, for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”;
- (b) in the fourth subparagraph, for the words “Commission may” to the end of the paragraph substitute “appropriate authority may, by regulations, withdraw such products or substances.”.

79. In Article 22—

- (a) in paragraph 1, for the words from “Commission may” to “Article 37(2) and” substitute “appropriate authority may, by regulations and in accordance with”;
- (b) in paragraph 3, for the words from “Commission may” to “Article 37(2)” substitute “appropriate authority may, by regulations.”.

80. In Article 23 omit paragraphs 5 and 6.

81. In Article 24(3), for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”.

82. In Article 25(3)—

- (a) for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”;
- (b) for “the Community logo” substitute “any organic production logo”.

83. In Article 26, for the words from “Commission shall” to “Article 37(2)” substitute “appropriate authority may, by regulations”.

84. In Article 27(2), for the words from “shall comprise” to the end substitute “must apply such precautionary and control measures as the appropriate authority may specify in regulations”.

85. In Article 28(6), for the words from “Commission, in” to “implementing” substitute “appropriate authority may, by regulations, prescribe”.

86. In Article 30(2), in the third subparagraph, for the words from “Commission may” to “Article 37(2),” substitute “appropriate authority may, by regulations”.

87. In Article 38, for the first sentence substitute—

“In relation to points (a) to (c) below, the appropriate authority may, by regulations, lay down detailed rules for the application of this Regulation.”.

88. After Article 38 insert—

“Article 38a

Regulations

1. This Article applies in relation to any power conferred by this Regulation on the appropriate authority to make provision by regulations.
2. The appropriate authority is—
 - (a) for regulations applying in relation to England, the Secretary of State;
 - (b) for regulations applying in relation to Wales, the Welsh Ministers;
 - (c) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (d) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.
3. But the appropriate authority is the Secretary of State if consent is given by—
 - (a) for regulations applying in relation to Wales, the Welsh Ministers;
 - (b) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (c) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

Article 38b

Regulations procedure

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⁽¹⁸⁾.
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⁽¹⁹⁾.
4. 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.
5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
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).
7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽²⁰⁾ as if they were a statutory instrument within the meaning of that Act.

⁽¹⁸⁾ 2010 asp 10.

⁽¹⁹⁾ S.I. 1979/1573 (N.I.12).

⁽²⁰⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

8. Such regulations may—
 - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
 - (b) make different provision for different purposes.
9. Before making any regulations under this Regulation, an appropriate authority must consult—
 - (a) such bodies or persons as appear to the appropriate authority to be representative of the interests likely to be substantially affected by the regulations;
 - (b) such other bodies or persons as the appropriate authority may consider appropriate.”.

Date

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

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, *The Agriculture (Legislative Functions) (EU Exit) (No. 2) Regulations 2019* ISBN 978-0-11-118376-2

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (d) and (g)) arising from the withdrawal of the UK from the European Union.

They make amendments to legislation in the field of the common organisation of markets in agricultural products and in organics, providing for functions of EU entities of making an instrument of a legislative character to be exercisable instead by a public authority in the United Kingdom.

An impact assessment has not been produced for this instrument as no, or no significant impact on the private or voluntary sector is foreseen.