

## **EXPLANATORY MEMORANDUM TO**

### **The Direct Payments to Farmers (Simplifications) Regulations (Northern Ireland) 2021**

#### **S.R. 2021 No. 42**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Development (“the Department”) to accompany this statutory rule (SR) which is laid before the Northern Ireland Assembly.
- 1.2 The SR is made under schedule 6 paragraphs 2, 4 and 5 and section 50(3)(d) of the Agriculture Act 2020, and is subject to the draft affirmatory resolution procedure.

#### **2. Purpose**

- 2.1 The SR gives legal effect to the following improvements/changes/simplifications to the rules governing the direct agricultural support schemes for the 2021 Scheme Year.
  - Remove the Greening requirements for the 2021 scheme year and incorporate the Greening Payment into BPS entitlement unit values. This includes a technical adjustment to capping levels for the 2021 scheme year. This will ensure that claimants will notice no change in the level of funding they receive.
  - Retain the ban on ploughing or conversion of Environmentally Sensitive Permanent Grassland but increase the penalty for breaching the requirement.
  - Limit the number of entitlements that can be allocated or topped up from the Regional Reserve to 90 for each application, bringing it into line with the Young Farmers Payment.
  - Limit to 3, the number of times an applicant and the number of times a farm business can submit an application for the Young Farmers Payment and the Regional Reserve.
  - Remove offset penalties by limiting over declaration penalties to 100% of the amount due based on the area determined (prior to penalty)
  - Set the Basic payment Scheme land eligibility inspection rate at 1%.
  - Change the definition of a farmer and holding so that it is confined to Northern Ireland. This means that in future farmers will make applications to DAERA in relation to land in Northern Ireland and to the relevant authority in relation to land located elsewhere. This change is necessary given that agricultural

support policy will diverge in the UK in future. Farmers who have land in Northern Ireland and the Republic of Ireland will continue to make separate applications to the relevant authorities in respect of where land is located.

- Introduce technical changes in relation to coupled support to ensure that in future it remains possible to introduce coupled support schemes in Northern Ireland. The changes include the replacement of the Defra Secretary of State with DAERA as regards regulation making power as future schemes will be the sole responsibility of DAERA.
- Remove the limit of 3% on the increase of the Basic Payment Scheme to provide more flexibility on maximising expenditure within the budget allocation.

2.2 The amendments contained within these Regulations amend retained EU legislation.

2.3 The Regulations also amend the following Northern Ireland CAP regulations insofar as they relate to Direct Payments:

- the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015 (SR 2015 No.191).

### **3. Background**

3.1 The United Kingdom leaving the EU and the Common Agricultural Policy is the most significant change in policy affecting the agri-food sector in over 40 years. It means that our policies no longer have to be constrained by the existing CAP Pillar 1 and Pillar 2 construct and gives us the opportunity to develop new approaches and support systems which better address the needs of Northern Ireland agriculture, the environment and rural communities.

3.2 Whilst work is progressing to develop this long term agricultural support strategy for NI, it is inevitable that new schemes will take time to develop and implement. In the interim, DAERA has reviewed its approach to the current schemes with the aim of implementing improvements/changes/simplifications wherever possible that are in keeping with the longer term direction of travel.

3.3 As part of this review the above improvements/changes/simplifications were identified for the 2021 scheme year.

3.4 These improvements/changes/simplifications build on the simplifications already introduced for the 2020 Scheme Year.

### **4. Consultation**

- 4.1 The improvements/changes/simplifications for the 2021 scheme year take account of the views provided by stakeholders during the Northern Ireland Future Agricultural Policy Framework stakeholder engagement exercise in 2018.

## **5 Equality Impact**

- 5.1 These changes make minimal or no impact on the amount of payments going to the overwhelming majority of individual farmers. There are therefore no equality implications associated with the improvements/changes/simplifications for the 2021 Scheme Year for society generally, or Section 75 stakeholders specifically.

## **6. Regulatory Impact**

- 6.1 These changes make simplifications/improvements to the Rules governing the Direct Agricultural Support Schemes which will make the schemes simpler for both applicants and those administering the schemes. There are therefore no adverse regulatory impacts on the private, voluntary or public sector as a result of these changes.

## **7. Financial Implications**

- 7.1 £293m has been allocated to Northern Ireland for Direct Payments for 2021 scheme year. These amendments have no impact on the financial allocation.

## **8. Section 24 of the Northern Ireland Act 1998**

- 8.1 These changes make simplifications/improvements to the Rules governing the Direct Agricultural Support Schemes which will make the schemes simpler for both applicants and those administering the schemes. They therefore will have no impact on human rights. The legislation that is amended by this SR were each assessed for their human rights impacts prior to their being made. In each case it was concluded that the legislation would have no impact on human rights. Given that the amendments contained in these Regulations introduce no new policy, this conclusion remains unchanged.
- 8.2 These Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1 The United Kingdom leaving the EU and the Common Agricultural Policy means that our policies no longer have to be constrained by the existing CAP Pillar 1 and Pillar 2 construct and gives us the opportunity to develop new approaches and support systems which better address the needs of Northern Ireland agriculture, the environment and rural communities.

## **10. Parity or Replicatory Measure**

10.1 Defra and the other Devolved Administrations are in the process of introducing similar legislation to give legal effect to improvements/changes/simplifications they intend to introduce for the 2021 scheme year.

10.2 Both England and Wales intend to remove the Greening requirements, however, the Welsh intend to include it under Cross-Compliance. Scotland intends to remove the Crop Diversification element of Greening but introduce additional Environmental Focus Area options tailored to suit the Scottish environment. Both England and Scotland intend to review their Cross-Compliance penalty regimes to ensure that penalties are proportionate. England is considering removing the 2 year entitlement usage rule and allowing applicants 8 weeks to lodge force majeure claims. Also from the 2021 Scheme Year England intends to start the process of phasing out Direct Payments.

## **11. Additional Information**

11.1 Not applicable.