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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

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

PART 2

Financing, Management and Monitoring Amendments

**Amendment of Regulation (EU) No 1306/2013**

7. For Article 26 substitute—

*“Article 26*

*Financial Discipline in England*

1. The Secretary of State may make regulations fixing an adjustment rate to be applied to direct payments in England where expenditure in England on CMO support and Direct Payment support is forecast to exceed the threshold.

2. For the purposes of this Article, the threshold is:

- (a) for the financial year ending 31 March 2020, €2,093,000,000;
- (b) for the financial year ending 31 March 2021, €2,095,000,000.

3. For the purposes of this Article, a payment is a direct payment in England if the competent authority required to determine the application for the payment in accordance with regulation 3 of the Common Agricultural Policy (Control and Enforcement, Cross-compliance, Scrutiny of Transactions and Appeals) Regulations 2014<sup>(1)</sup> is the competent authority for England.

4. In the case of a holding situated in more than one constituent nation, the adjustment rate must not be applied to any of the payment which relates to entitlements in Wales, Scotland or Northern Ireland.

5. Subject to paragraph 6, regulations under paragraph 1 may be laid no later than 30 September of the scheme year in respect of which the adjustment rate applies.

6. Where the Secretary of State has made regulations under paragraph 1, the Secretary of State may exercise the power to amend the adjustment rate if there is a change in the forecast expenditure, provided that such regulations are laid no later than 1 December of the scheme year in respect of which the adjustment rate applies.

7. The adjustment rate must be no higher than the rate required to offset the amount by which the forecast expenditure exceeds the threshold.

8. Paragraph 9 applies where:

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(1) [S.I. 2014/3263](#). Regulation 3 was amended by [S.I. 2015/1325](#).

- (a) direct payments are subject to an adjustment rate under this Article, and
- (b) actual expenditure in the financial year in which the adjustment is applied is lower than the threshold.

**9.** Where this paragraph applies, an amount equal to the difference between actual expenditure and the threshold must be distributed to eligible farmers in accordance with paragraph 11.

**10.** For the purposes of paragraph 9, a person is an eligible farmer:

- (a) if the person:
  - (i) receives a direct payment in England in respect of scheme year N+1, being the scheme year following the scheme year in which the adjustment rate was applied, and
  - (ii) would be subject to an adjustment rate in respect of that direct payment if one were applied, or
- (b) if:
  - (i) the person received a direct payment in England which was reduced as a result of the adjustment rate; and
  - (ii) there are no direct payments in England made in the following scheme year.

**11.** The amount to be distributed to each eligible farmer must be in direct proportion to the value of:

- (a) in the case of a person who is an eligible farmer by virtue of paragraph 10(a), the direct payment made to that person in respect of scheme year N+1 insofar as it exceeds €2000;
- (b) in the case of a person who is an eligible farmer by virtue of paragraph 10(b), the direct payment which was adjusted insofar as it exceeds €2000.

**12.** In calculating the value of the direct payment for the purposes of paragraph 11, no account is to be taken of:

- (a) any part of the payment which relates to entitlements in Wales, Scotland or Northern Ireland;
- (b) any financial adjustment applied by virtue of this Article;
- (c) any penalties applied to the payment by virtue of Title VI;
- (d) any reductions applied under Article 7 and Article 11 of [Regulation \(EU\) 1307/2013](#).

**13.** For the purposes of this Article, expenditure in England comprises:

- (a) in relation to Direct Payment support:
  - (i) for the purposes of forecasting expenditure, the amount expected to be paid in respect of direct payments in England in the financial year in question, disregarding any adjustment to be applied for the scheme year under this Article;
  - (ii) for the purposes of calculating actual expenditure, the amount paid (or approved for payment) in respect of direct payments in England in the financial year in question;
- (b) in relation to CMO support, a proportion of any CMO support paid (or approved for payment) in the financial year in question, such proportion to reflect the amount of that support which is attributable to England, as calculated in accordance with guidance issued by the Secretary of State.”

