

EXPLANATORY MEMORANDUM TO
THE AGRICULTURE (MISCELLANEOUS AMENDMENTS) (EU EXIT)
REGULATIONS 2019

2019 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This explanatory memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

- 2.1 This instrument amends provisions of European Union (“EU”) legislation relating to the EU Common Agricultural Policy (“CAP”) and the Common Organisation of Agricultural Markets (“CMO”), including in particular a number of legislative functions which are currently carried out by the European Commission (“the Commission”). Under the amendments, these functions will instead be carried out by public authorities in the United Kingdom (“UK”). This will enable these legislative functions to continue to be used at a national level after the UK leaves the EU.

Explanations

What did any relevant EU law do before exit day?

- 2.2 The EU regulations concerned cover the following CMO schemes/activities: import of hops; marketing standards for wine; sugar sector agreements; milk and milk products; import and export of processed agricultural products; export refunds; producer co-operation; and import of eggs and contractual negotiations in the dairy sector.
- 2.3 The EU regulations confer various functions on the Commission so that it can develop the technical details required to operate a specific regime. Examples of these functions include: maintaining a customs tariff naming regime; EU financial assistance; specifying forms to be used; setting financial limits or prices; defining scheme eligibility criteria; establishing key dates; defining programme or scheme periods; providing assistance to producer organisations and enabling producer cooperation. The specific EU regulations amended by this instrument are outlined in section 1.2 of Annex 2 of this explanatory memorandum.

Why is it being changed?

- 2.4 After EU Exit, without amendment, the legislative and assistance/aid functions contained in retained EU regulations relating to the specified CMO schemes will not work. This will prevent the UK Government from being able to make any necessary changes to each policy regime to keep them up to date. This instrument uses powers in the European Union (Withdrawal) Act 2018 to correct these deficiencies and to enable functions to be exercised by UK public authorities.

- 2.5 The amendments will ensure that the regimes outlined at section 2.2 of this explanatory memorandum will continue to function smoothly after the UK's withdrawal from the EU. The retained EU Regulations will be amended to the extent necessary to enable them to work in the UK once the UK has left the EU.

What will it now do?

- 2.6 The regimes will continue to function after the UK's withdrawal from the EU in a similar way to how they did previously. This instrument changes the identity of the bodies carrying out the specified functions and converts the EU procedures to UK procedures, as appropriate. A full explanation of the amendments being made within this instrument can be found in Annex 2 to this explanatory memorandum.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument contains an amendment to an existing EU Exit instrument to correct an error contained in those regulations. This instrument is being published under the free issue procedure. Defra decided not to revoke or remake the existing instrument due to the minor nature of the error corrected by this instrument.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 This instrument has effect in the whole of the United Kingdom and, as such, the English Votes for English Laws procedure is not applicable to this instrument.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the UK.
- 4.2 The territorial application of this instrument is the UK.

5. European Convention on Human Rights

- 5.1 The Minister of State for Agriculture, Fisheries and Food, the Rt Hon Robert Goodwill MP, has made the following statement regarding Human Rights:

“In my view the provisions of The Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The European Union (Withdrawal) Act 2018 converts EU law as it stands at the moment of EU Exit into domestic law. It also confers temporary powers to make secondary legislation, to enable corrections to be made to the laws that would otherwise no longer operate appropriately once the UK has left the EU. This includes both domestic law and directly applicable EU law. This instrument is being made to correct relevant legislation to ensure it operates effectively after EU Exit.
- 6.2 As part of the process of the UK's withdrawal from the EU, Defra will also introduce other instruments related to this instrument before EU Exit whose main purpose will be to correct retained EU regulations relating to the CAP. This instrument concerns:

- Retained EU regulations relating to the CMO, which provides support for market interventions to promote or stabilise agricultural product markets under the European Agricultural Guarantee Fund of the CAP;
 - The transfer of legislative functions relating to the CAP to appropriate UK bodies.
- 6.3 This instrument amends retained EU law to the extent necessary to enable it to work in the UK when the UK has left the EU.

7. Policy background

What is being done and why?

- 7.1 EU law frequently gives the Commission the power to make further law (often called “delegated” or “implementing” acts). This is generally to allow the making of technical measures or further detail, such as: prescribing forms to be used; adapting the law to scientific or technical change; or reflecting changes in international agreements.
- 7.2 As part of the corrections necessary to make the EU law covered by this instrument (see section 1.2 of Annex 2 of this explanatory memorandum) operate effectively after the UK’s withdrawal from the EU, it is necessary to amend these provisions to ensure that, where appropriate, the functions are carried out by an appropriate authority in the UK. Details relating to which function will be carried out by which appropriate authority in each instance can be found in sections 2 to 18 of Annex 2 of this explanatory memorandum. This will avoid the need for primary legislation to make such changes.
- 7.3 Across Defra’s policy areas, a considerable amount of EU law exists that confers such functions on the Commission. This instrument is one of a number of instruments that Defra will introduce to correct retained EU law relating to the CAP, to enable the functions in that law to be exercised instead by UK public authorities. The policy areas amended by this instrument are CAP, CMO and Rural Development.
- 7.4 The changes to the relevant regulations will also ensure the continued operability of the existing regulations in relation to non-legislative functions, largely through replacement of references to the EU or to Member States. The approach when amending retained EU law has been to keep that retained legislation as close to the current system where possible.
- 7.5 A detailed explanation of the amendments being made within this instrument for each of the above policy areas can be found in sections 2 to 18 of Annex 2 of this explanatory memorandum.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU. In accordance with the requirements of that Act, the Minister has made the relevant statements as detailed in Part 2 of Annex 1 to this Explanatory Memorandum.

9. Consolidation

- 9.1 Defra does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

- 10.1 This instrument was not subject to consultation because its purpose is to solely enable functions contained within this instrument to remain operable by the withdrawal of the UK from the EU.
- 10.2 Defra has engaged the devolved administrations on its approach to CMO legislation under the European Union (Withdrawal) Act 2018, including on this instrument, to familiarise them with the legislation ahead of laying.

11. Guidance

- 11.1 Defra is not producing any specific guidance on this instrument, as it only makes technical amendments to deficiencies in retained EU law arising from the UK's withdrawal from the EU.

12. Impact

- 12.1 There is expected to be no, or no significant impact on business, charities or voluntary bodies. Decision making powers will be transferred from the Commission to appropriate UK public authorities. The impact of these new arrangements will be dependent on how these powers are exercised in the future, after EU Exit, which is outside of the scope of this instrument.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument as no, or no significant impact on the public, private or voluntary sector is foreseen. The purpose of the instrument is to maintain existing regulatory standards. As a result, so there is expected to be minimal impact on business. The changes made by this instrument are intended to maintain the current position in terms of the regulatory obligations placed on business. There should therefore be no changes in business practices and no changes in the direct costs faced by businesses. As a result, we are confident that this change in regulation falls below the £5m p.a. threshold for net direct costs to business.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No disproportionate impacts are expected to impact small and micro businesses.

14. Monitoring & review

- 14.1 As this instrument is made under the powers in the European Union (Withdrawal) Act 2018, no review clause is required. Defra and its agencies will, however, monitor and review the impact of the instrument as part of its standard policy-making procedures, and will ensure that the provisions are adhered to.

15. Contact

- 15.1 Pamela Frost at the Department for Environment, Food and Rural Affairs: 020 802 65991 or email: pamela.frost@defra.gov.uk can be contacted with any queries regarding this instrument.

- 15.2 Fiona James and Elen Shepard, Deputy Directors for CAP EU Exit Preparedness, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Robert Goodwill MP, the Minister of State for Agriculture, Fisheries and Food at the Department for Environment, Food and Rural Affairs, can confirm that this Explanatory Memorandum meets the required standard.

Annex 1

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI.	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees.
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA 2018 SIs.	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence.	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under s. 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under s. 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

- 1.1 The Minister of State for Agriculture, Fisheries and Food, Rt Hon Robert Goodwill MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019 does no more than is appropriate”.

- 1.2 This is the case because: the amendments made by this instrument are the minimum required to ensure that existing domestic legislation remains operable after the United Kingdom (“UK”) leaves the European Union (“EU”). The amendments are predominantly technical in nature and do no more than is strictly necessary to ensure that UK law continues to function effectively. See section 7 in the main body of this Explanatory Memorandum.

2. Good reasons

- 2.1 The Minister of State for Agriculture, Fisheries and Food, Rt Hon Robert Goodwill MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded it is a reasonable course of action”.

- 2.2 These are: the amendments to existing domestic legislation are necessary to ensure that the Common Market Organisation (“CMO”) arrangements can continue to operate seamlessly and without ambiguity after EU Exit. See section 7 in the main body of this Explanatory Memorandum.

3. Equalities

- 3.1 The Minister of State for Agriculture, Fisheries and Food, Rt Hon Robert Goodwill MP, has made the following statements:

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

- 3.2 The Minister of State for Agriculture, Fisheries and Food, Rt Hon Robert Goodwill MP, has made the following statement regarding use of legislative powers in the main body of the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Robert Goodwill MP, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this Explanatory Memorandum.

5. Legislative sub-delegation

- 5.1 The Minister of State for Agriculture, Fisheries and Food, Rt Hon Robert Goodwill MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view it is appropriate to create a relevant sub-delegated power in The Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019. This is appropriate because: the nature of the amended decision-making powers are administrative rather than legislative (e.g. powers to make decisions about whether to approve or reject applications for wine PDO/GI protection, amendment, cancellation, etc.)”

Annex 2

Further detail on the amendments made by this Statutory Instrument set out in the main body of this explanatory memorandum

1. EU regulations amended by this instrument

- 1.1 The Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019 cover one main policy area: Common Market Organisation (“CMO”). This instrument amends a number of EU regulations in this policy area to ensure that after EU Exit, functions currently carried out by the European Commission (“the Commission”) will instead be carried out by the relevant public authority in the United Kingdom (“UK”).
- 1.2 The specific EU regulations amended by this instrument are:
 - i. Commission Regulation (EC) No 1299/2007 of 6 November 2007 on the recognition of producer groups for hops;
 - ii. Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs;
 - iii. Commission Implementing Regulation (EU) No 511/2012 of 15 June 2012 on notifications concerning producer and interbranch organisations and contractual negotiations and relations provided for in Council Regulation (EC) No 1234/2007 in the milk and milk products sector;
 - iv. 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;
 - v. Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products;
 - vi. Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 – Note: some provisions relating to import tariff policy are not being retained due to the Taxation (Cross-border Trade) Act 2018;
 - vii. Commission Delegated Regulation (EU) 2016/232 of 15 December 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation; and
 - viii. Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy.
- 1.3 This instrument further makes a minor amendment to one existing domestic EU Exit instrument, the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019.

2. CAP Common Organisation of Agricultural Markets (“CMO” regulations detailed in section 1.2 i.- vii. above)

- 2.1 The CMO originates from the EU CAP and it has developed over time to enable the EU to manage market volatility, encourage cooperation between and competitiveness of agricultural producers and to facilitate trade. The amendments in this instrument will ensure that retained EU CMO law can continue to operate effectively after the UK’s withdrawal from the EU.
- 2.2 The amendments made by regulations 5, 6, 7 and 10 enable the Secretary of State to make regulations using a negative instrument. In the case of regulations 5 and 6, the parliamentary procedures are set out in the Agriculture (Legislative Functions) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/831). In the case of regulation 10, the parliamentary procedure is set out in the Agriculture (Legislative Functions) (EU Exit) Regulations 2019 (S.I. 2019/748). The negative procedure was considered appropriate for these powers as the powers are to make rules of a technical and/or procedural nature.
- 2.3 These powers include a power to make consequential, incidental, supplementary, transitional or saving provisions in any enactment. While this power could be used to amend primary legislation, the nature of any such amendments is likely to be minor, for example updating cross-references in existing provisions.
- 2.4 This instrument contains CMO legislative functions to make delegating or implementing acts arising from the EU regulations set out in section 1.2 i.- ix above. The changes in this instrument relating to these functions are detailed below:

3. Establishing the CMO (Regulation (EU) No 1308/2013 of the European Parliament and of the Council)

- 3.1 Regulation (EU) No 1308/2013 provides a legislative framework which delivers all of the basic elements of the CMO and applies to all agricultural products listed in Annex I to the Treaty on the Functioning of the European Union (TFEU) in order to ensure the existence of a “common organisation of the market” for all such products. In particular, the amendments made by this statutory instrument cover:

4. Hops

Articles 190(3) and (4)

- 4.1 These Articles currently empower the Commission to adopt delegated covering the trade requirements of certain third countries, in relation to:
- products intended for special uses;
 - obligations related to an attestation of equivalence, and the labelling of packaging are not to apply;
 - rules on the recognition of attestations of equivalence; and
 - checking the imports of hops.
- 4.2 After EU Exit, this instrument will provide powers for the Secretary of State to make regulations.

5. Sugar Beet

Article 125

- 5.1 This article makes provision for growers of sugar beet to be represented with the sugar processor by a nominated body, who will negotiate contractual terms on their behalf under an inter-professional agreement. This provides protection for the beet growers as there is a monopsony in the UK. In England the nominated body is to be approved by the Secretary of State.

6. Milk and Milk Products

Articles 148 and 151

- 6.1 These Articles contain provisions relating to:
- contracts for milk deliveries;
 - requirements for reporting relating to raw milk deliveries;
 - definitions of a “first purchaser”; and
 - measures to facilitate the adjustment of supply to market requirements.
- 6.2 After EU Exit, this instrument will provide powers for the Secretary of State to make regulations as well as remove the requirement to report data to the EU.

7. Contractual Relations

Article 168(8)

- 7.1 This Article allows for the introduction of regulations to monitor how provisions under 168 (4) and (5) have been applied. Paragraphs 4 and 5 provides for regulations about mandatory written contracts, and the contents of those contracts, for raw milk deliveries. Paragraph 8 also contains the power to introduce regulations which relate to notifications (i.e. information provision) in relation to the introduction of mandatory written contracts.
- 7.2 After EU Exit, this instrument will provide powers for the Secretary of State to make these regulations.

8. Producer Organisations - Procedural Rules

Articles 173(1), 173(2), 174(1), 174(2)

- 8.1 Article 173(1) allows the Commission to make regulations and regarding Producer Organisations, Associations of Producer Organisations and inter-branch organisations in one or more of the sectors referred to in Article 1(2) concerning the following specific aims which may, must or must not be pursued by such organisations:
- rules on structure;
 - membership;
 - size;
 - accountability;
 - activities of such organisations;
 - conditions for recognition;
 - withdrawal and suspension of recognition;

- the action required to be undertaken by these organisations when they fail to meet the recognition requirements;
 - conditions for outsourcing of activities; and
 - basis for calculation of minimum value of marketed production.
- 8.2 Article 173(2) allows the Commission to make specific rules for organisations in the milk and milk products sector on:
- the conditions for recognition of transnational Producer Organisations;
 - transnational cooperation;
 - additional rules regarding the calculation of the volume of raw milk covered by the negotiations referred to in Article 149; and
 - rules concerning the extension of rules.
- 8.3 Article 174 allows the Commission to make regulations laying down rules on:
- the implementation of the conditions for recognition of Producer Organisations and interbranch organisations;
 - procedures in the event of a merger of Producer Organisations;
 - the minimum size and minimum membership period of Producer Organisations;
 - extension of rules;
 - outsourcing of activities; and
 - measures to facilitate adjustment of supply to market requirements.
- 8.4 Paragraph 2 derogates from paragraph 1 in the milk and milk products sector, and allows the Commission to make regulations setting out the rules on:
- implementation of the conditions for recognition of Producer Organisations;
 - Associations of Producer Organisations, and interbranch organisations; and
 - Notifications of contractual obligations.
- 8.5 After EU Exit, this instrument will provide powers for the Secretary of State to make these rules and regulations.

9. Tariff Quotas

Article 4

- 9.1 Article 4 relates to adjustments in the Common Customs Tariff naming regime used for agricultural products. Where necessary, in order to take into account amendments to the combined naming regime, the Commission is empowered to make regulations, adjusting the description of products and references in these regulations to the headings or subheadings of the combined naming regime. This power will be conferred after EU Exit on the Secretary of State.

10. Rice Conversion

- 10.1 Article 5 relates to rice and enables the Commission to make regulations in relation to fixing conversion rates. This power will be conferred on the Secretary of State after EU Exit.

- 10.2 Article 89 enables the Commission to make regulations in relation to marketing standards for imported and exported goods. After EU Exit, these powers will be conferred on the Secretary of State.

11. Export Refunds

Articles 202(1)(2)(4)(5)(6) & (7), 203 & 204

- 11.1 These articles provide powers to determine rules around:
- The lodging of a security to guarantee the fulfilment of the operators' obligations;
 - Specific conditions when an export licence may not be required, designating destinations and operations when an exemption for the obligation to present an export licence may be justified and permitting export licences to be granted ex-post in justified situations;
 - The advance payment of export refunds and additional proofs required;
 - The granting of the export refund;
 - Time limits by which products must be exported from the UK, the processing that the products concerned may undergo during that period, proof of having reached a destination for differentiated refunds, thresholds under which operators may be exempted from such proofs and conditions for approval of proofs;
 - Respecting animal welfare conditions;
 - Conditions for certain spirit drinks obtained from cereals;
 - Redistribution of exportable quantities that have not been allocated or used and methods for recalculation of payment of refund when product on licence is not in conformity with actual product or destination; and
 - Measures to prevent abuse of the system and fixing coefficients which apply to export refunds.
- 11.2 After EU Exit, this instrument will provide for the powers to make such regulations to rest with the Secretary of State.

12. Regulation (EU) No 510/2014 of the European Parliament and of the Council

13. Processing of Agricultural Products

- 13.1 Regulation (EU) No 510/2014 of the European Parliament and of the Council lays down the trade arrangements applicable to certain goods resulting from the processing of agricultural products.

Articles 8, 9, 26, 27, 31, 32, 33, 34(2), 35(2), 36, 39, 40, 41 and 42 to 44

- 13.2 These articles provide powers to the Commission to set rules around the following:

13.3 Import of ovalbumin and lactalbumin (8 and 9)

- the import of ovalbumin and lactalbumin subject to presentation of an import licence;
- the format, content, period of validity and issue of import licences and the requirements for applying for a licence and evidence required to prove requirements have been met;

13.4 Export Refunds (26 and 27)

- export refunds for basic agricultural products exported in the form of processed products;
- implementation and calculation of export refunds with regard to the quantity and characteristics of the basic agricultural component(s) in the processed product and the evidence required to prove the composition of the processed product;

13.5 Refund certificates (31 and 32)

- the rights and obligations deriving from refund certificates with regard to export refunds for agricultural products exported in the form of processed products;
- the procedures for applying for and issuing refund certificates, the format and content of refund certificates, measures for limiting the amounts for which refund certificates can be issued, and suspending the lodging of applications for refund certificates;

13.6 Other Measures with Regard to Exports (33)

- procedures for applying levies or charges on exports of processed goods that contain a high content of a basic agricultural product where levies or charges have been adopted under Regulation (EU) No 1308/2013 on exports of that basic agricultural product, and where those measures appear to be insufficient to address or prevent market disturbance;

13.7 Direct Offsetting in Preferential Trade (34(2))

- replace and fix applicable duty on imports and exports of agricultural products where an international agreement is concluded or provisionally applies;

13.8 Methods of Analysis (35(2))

- methods of analysis to determine the composing elements of processed agricultural products where Combined Nomenclature (CN) classification is required;

13.9 Adaptation of the Regulation (36)

- adaptation of the articles and annexes of this regulation;

13.10 Negligible amounts (39)

- setting thresholds for levies or grants so administrative costs are not disproportionate to the amounts levied or granted;

13.11 Securities, checks, verification, scrutiny and penalties (40)

- the application of horizontal rules on securities, checks, verification, scrutiny, and penalties laid down in Regulation (EU) No 1306/2013, with regard to import licenses, tariff quotas and export refunds and refund certificates for processes agricultural products; and

13.12 International obligations and applicable standards (41)

- consideration of international obligations and applicable social, environmental and animal welfare standards, the need to monitor evolution of trade and market developments, the need for sound market management and the need to reduce the administrative burden.

13.13 After EU Exit, this instrument will provide for these powers to make regulations to rest with the Secretary of State.

14. Council Regulation (EU) No 1370/2013

- 14.1 Council Regulation (EU) No 1370/2013 sets the thresholds and rates for CMO aid schemes. The powers being amended relate to determining rules around export refunds, and special measures for export refunds on rice and cereals.

15. Export Refunds

Articles 13(1) and (2)

- 15.1 This article provides powers to the Commission to determine rules around:
- Fixing export refunds at regular intervals for specified products;
 - Tendering procedures for cereals, rice, sugar and milk/milk products;
 - Conditions to be taken into account when fixing export refunds such as prices/availabilities of that product on the UK market and prices of that product on the world market;
 - Ensuring equilibrium and the natural development of prices and trade on the market;
 - The need to avoid disturbances likely to cause a prolonged imbalance between supply/demand on the market;
 - Economic aspects, including demand on UK market and in case of pig meat, eggs and poultry meat sectors, the difference between UK and world prices on feed grain input for the production of products of those sectors;
 - Limits resulting from international agreements;
 - Establishing a balance between the use of UK basic products in the manufacture of processed goods for export and the use of third country products brought in under processing arrangements; and
 - The most favourable marketing costs and transport costs from UK markets to UK ports or exits together with forwarding costs to third countries of destination.

16. Specific measures on export refunds for cereals and rice

Article 14

- 16.1 This article provides powers to the Commission to determine rules around specific measures for cereals and rice, including:
- The fixing and amending of corrective amounts; and
 - The adjustment of export refunds to take account of the intervention price.
- 16.2 After EU Exit, this instrument will provide for these powers to be conferred on the Secretary of State.

17. Producer cooperation and contractual obligations

- 17.1 Commission Regulation (EC) No 1299/2007, Commission Delegated Regulation (EU) No 2016/232 and Commission Implementing Regulation (EU) No 511/2012 all relate respectively to the recognition of producer groups for hops and producer organisations in other sectors, and the requirements for contractual negotiations for producer organisations in the dairy sector. These build on the rules for recognition of producer organisations in the CMO, which are covered in The Common Organisation

of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019.

18. Egg marketing Regulation (Commission Regulation (EC) No 589/2008)

Article 30(1)

- 18.1 This article relates to the import of eggs in shell for human consumption and requires the Secretary of State to make a determination of equivalence in respect of such eggs. The evaluation should make consideration of the rules of labelling and marketing, farming methods and control and an assessment of whether the requirements contained in this regulation are effectively met by operators in the third country concerned.

19. Horizontal Regulation (EU) No 1306/2013

Article 62(1)

- 19.1 Article 62(1) of Regulation (EU) No 1306/2013 allows for the Commission to make regulations setting out additional processes with regard to customs procedures insofar as necessary to ensure eligibility and verification checks are carried out effectively.
- 19.2 The amendments provide for these powers to be conferred on the Secretary of State.

20. The Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019

- 20.1 The amendment made by regulation 5(16)(b) replaces the amendment made by regulation 84(a) of the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 and this instrument consequently revokes regulation 84(a).