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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

**The Agriculture (Payments) (Amendment,  
etc) (EU Exit) Regulations 2020**

**PART 4**

**Amendment of retained direct EU legislation**

**Commission Implementing Regulation (EU) No 543/2011**

**20.** In Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors<sup>(1)</sup>, in Title 3, in Chapter 1, omit Section 4 (*Producer groups*).

**Commission Delegated Regulation (EU) 2017/891**

**21.**—(1) Commission Delegated Regulation (EU) 2017/891 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors<sup>(2)</sup> is amended as follows.

(2) In Article 2<sup>(3)</sup>—

- (a) in point (k), for “Member State” substitute “appropriate authority”;
- (b) in point (l)—
  - (i) in point (i)—
    - (aa) omit “national”;
    - (bb) after “operational programmes” insert “as referred to in Article 36(2) of Regulation (EU) No 1308/2013”;
  - (ii) in points (ii) and (iii), for “national strategy” substitute “strategy as referred to in Article 36(2) of Regulation (EU) No 1308/2013”;
- (c) after point (m), insert—
  - “(n) ‘constituent nation’ means England, Wales, Scotland or Northern Ireland, as the case may be;
  - (o) ‘public funds’ means moneys provided by Parliament, the Welsh Parliament, the Scottish Parliament, the Northern Ireland Assembly or a body exercising public

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(1) EUR 2011/543, amended by S.I. 2019/822 and S.I. 2019/828.

(2) Under Article 138 of the withdrawal agreement (as defined in s39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1)) and s7A of the European Union (Withdrawal) Act 2018 (c. 16) certain common organisation of the markets and rural development measures committed under the multiannual financial framework 2014-20 and previous financial perspectives continue to be governed by directly applicable EU law.

(3) Article 2 is also amended by S.I. 2020/XXX.

functions within the United Kingdom. References to ‘public funding’ are to be construed accordingly;

- (p) ‘relevant authority’ means:
- (i) in relation to England, the Secretary of State;
  - (ii) in relation to Wales, the Welsh Ministers;
  - (iii) in relation to Scotland, the Scottish Ministers;
  - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (q) ‘third country’ means any country or territory other than:
- (i) the United Kingdom;
  - (ii) the Bailiwick of Jersey;
  - (iii) the Bailiwick of Guernsey;
  - (iv) the Isle of Man.”.

(3) After Article 2, insert—

*“Article 2A*

*Definition of appropriate authority*

1. For the purposes of this Regulation, ‘appropriate authority’ means:
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
  - (c) in relation to Scotland, the Scottish Ministers;
  - (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.
2. But the appropriate authority is the Secretary of State:
  - (a) in relation to Scotland, at any time that the Secretary of State and the Scottish Ministers so agree;
  - (b) in relation to Northern Ireland, at any time that the Secretary of State and the Department of Agriculture, Environment and Rural Affairs so agree.
3. The relevant authorities for Scotland and Northern Ireland must each ensure that a statement identifying the appropriate authority for their constituent nation is published on a website maintained by them on or on their behalf.”.

(4) After Article 14, insert—

*“Article 14A*

*Head office of a producer organisation*

1. The head office of a producer organisation must be located in the constituent nation in which the organisation achieves the majority of the value of marketed production calculated in accordance with Articles 22 and 23.

But the head office may be established in the constituent nation where the majority of producer members are located, if both the appropriate authority for that constituent nation and the appropriate authority for the constituent nation referred to in the first subparagraph consent.

2. Notwithstanding paragraph 1, the head office:

- (a) may not move to another constituent nation until the end of the implementation of an ongoing operational programme; and
  - (b) may be maintained in a particular constituent nation for as long as the appropriate authority for that constituent nation and the appropriate authorities referred to in paragraph 1 consent.
3. The appropriate authority for the constituent nation in which the head office of the producer organisation is located:
- (a) may:
    - (i) subject to paragraph 4, approve the producer organisation’s operational programme;
    - (ii) grant financial assistance in accordance with Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013;
  - (b) must:
    - (i) organise checks on the producer organisation and apply any administrative penalties in accordance with Article 34A of Regulation (EU) 2017/892; and
    - (ii) provide, on the request of the appropriate authority for a constituent nation in which members are located, all relevant documentation.
4. Notwithstanding paragraph 3(a)(i), where the producer organisation is implementing an operational programme at the time of applying for a new operational programme, the appropriate authority that may approve the new programme is the appropriate authority for the constituent nation in which the producer organisation will have its head office at the time that the new programme will be implemented, to be determined in accordance with paragraphs 1 and 2 on the basis of the new operational programme.”.
- (5) In Article 15(2), for “Member States” substitute “the appropriate authority or authorities (as the case may be)”.
- (6) Before the heading “Chapter II Operational funds and operational programmes”, insert—

*“Article 21A*

*Head office of an association of producer organisations*

1. The head office of an association of producer organisations must be located in the constituent nation in which the member producer organisations achieve the majority of the value of marketed production.

But the head office may be established in the constituent nation where the majority of member producer organisations are located, if both the appropriate authority for that constituent nation and the appropriate authority for the constituent nation referred to in the first subparagraph consent.

2. Notwithstanding paragraph 1, the head office:
- (a) may not move to another constituent nation until the end of the implementation of an ongoing operational programme; and
  - (b) may be maintained in a particular constituent nation for as long as the appropriate authority for that constituent nation and the appropriate authorities referred to in paragraph 1 consent.
3. The appropriate authority for the constituent nation in which the head office of the association of producer organisations is located:
- (a) may:

- (i) subject to paragraph 4, approve the association’s operational programme;
- (ii) grant financial assistance in accordance with Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013;

(b) must:

- (i) organise checks on the association of producer organisations and apply any administrative penalties in accordance with Article 34B of Regulation (EU) 2017/892; and
- (ii) provide, on the request of the appropriate authority for a constituent nation in which members are located, all relevant documentation.

4. Notwithstanding paragraph 3(a)(i), where the association of producer organisations is implementing an operational programme at the time of applying for a new operational programme, the appropriate authority that may approve the new programme is the appropriate authority for the constituent nation in which the association will have its head office at the time that the new programme will be implemented, to be determined in accordance with paragraphs 1 and 2 on the basis of the new operational programme.”.

(7) In Article 23(4)—

- (a) in the heading, omit “Union”;
- (b) in paragraph 1, in the first subparagraph, for “Member States” substitute “The appropriate authority”;
- (c) in paragraph 2, omit “Union”;
- (d) omit paragraph 3;
- (e) in paragraph 4, in the first and second subparagraphs, for “competent authority of the Member State concerned” substitute “appropriate authority”.

(8) In Article 24—

- (a) for “Member States shall ensure that producer organisations comply” substitute “The appropriate authority for the constituent nation in which a producer organisation has its head office must ensure that the producer organisation complies”;
- (b) for “national standards of cost-based accounting” substitute “standards of cost-based accounting applicable in the constituent nation concerned”.

(9) In Article 26(1)—

- (a) in the first subparagraph—
  - (i) for “Member State, which has granted the recognition,” substitute “appropriate authority for the constituent nation in which their head office is located”;
  - (ii) omit “Union”;
  - (iii) after “financial assistance” insert “referred to in Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013”;
- (b) in the second subparagraph, for “Member States may set” substitute “nothing in this Regulation prevents the appropriate authority from setting”.

(10) In Article 27—

- (a) for the heading, substitute “**Strategy**”;
- (b) in paragraph 1—
  - (i) omit “national” in each place it occurs;

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(4) Article 23 is also amended by S.I. 2020/XXX.

- (ii) in the first subparagraph, omit the words from “after having”, in the first place it occurs, to the end;
  - (c) for paragraph 2 substitute—
    - “2. In addition to the elements referred to in Article 36(2) of Regulation (EU) No 1308/2013, the strategy must integrate all the decisions taken and provisions adopted for the purposes of Articles 152 to 163 of that Regulation that apply in the constituent nation concerned”;
  - (d) in paragraph 3—
    - (i) for the first subparagraph substitute—
      - “3. The relevant authority must carry out an analysis of the initial situation as part of the process of drawing up the strategy.”;
    - (ii) in the second and third subparagraphs, for “It” substitute “This analysis”;
  - (e) in paragraph 4—
    - (i) in the first subparagraph, for “Member States” substitute “The relevant authority”;
    - (ii) omit “national” in both places it occurs;
  - (f) in paragraph 5—
    - (i) for “Member States” substitute “The relevant authority”;
    - (ii) omit “national”.
- (11) Omit Article 28.
- (12) In Article 29—
- (a) in the heading, omit “Member State”;
  - (b) for “Member States may adopt” substitute “Nothing in this Regulation prevents the appropriate authority from adopting”.
- (13) In Article 30—
- (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) for “Member State’s” substitute “relevant authority’s”;
      - (bb) for “that Member State” substitute “the appropriate authority for the constituent nation concerned”;
    - (ii) in the second subparagraph—
      - (aa) for “a Member State” substitute “the relevant authority”;
      - (bb) for “national strategy” substitute “strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013”;
  - (b) in paragraph 2, for “Member State concerned” substitute “appropriate authority”;
  - (c) in paragraph 4, for “national strategy” substitute “strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013”;
  - (d) in paragraph 6, for “Member States” substitute “the appropriate authorities”.
- (14) In Article 31(5)—
- (a) in paragraph 2, omit the words from “However” to the end;
  - (b) omit paragraph 3;

- (c) in paragraph 5—
  - (i) in the first subparagraph, in point (b), for “national property rules” substitute “property rules as they apply in the relevant constituent nation”;
  - (ii) in the second subparagraph—
    - (aa) for “Member States” substitute “the appropriate authority”;
    - (bb) for “their national strategy” substitute “the strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013”;
- (d) in paragraph 6—
  - (i) in the first subparagraph, for “Member States” substitute “The appropriate authority”;
  - (ii) in the fourth subparagraph—
    - (aa) for “the Union” substitute “any European Union”;
    - (bb) after “(EAGF)” insert “and any aid paid to finance the investment from public funds shall be recovered by or on behalf of the relevant authority or authorities that provided the aid, in both cases”;
- (e) in paragraph 7, in the second and third subparagraphs, for “Member States” substitute “the appropriate authority”;
- (f) in paragraphs 8 and 9, omit “national”.
- (15) In Article 32(1)—
  - (a) for “Member States may authorise that producer members of associations of producer organisations” substitute “Associations of producer organisations may make provision in their members’ agreements and statutes for producer members”;
  - (b) before “finance” insert “to”.
- (16) In Article 33—
  - (a) in paragraph 1, for “Member States” substitute “The appropriate authority”;
  - (b) in paragraph 2, for “Member States”, in both places it occurs, substitute “The appropriate authority”.
- (17) In Article 34—
  - (a) in paragraph 1—
    - (i) in the first subparagraph, for “Member States” substitute “The appropriate authority”;
    - (ii) in the second subparagraph, for “Member States” substitute “the appropriate authority”;
  - (b) in paragraph 2—
    - (i) in the first subparagraph—
      - (aa) for “Member States” substitute “The appropriate authority”;
      - (bb) for “them” substitute “the appropriate authority”;
    - (ii) in the second subparagraph—
      - (aa) in the words before point (a), for “Member States” substitute “the appropriate authority”;
      - (bb) in point (c), for “percentage to be fixed by Member States” substitute “maximum of 25%”;
      - (cc) in point (d), for “national” substitute “additional”;

- (iii) in the third subparagraph—
    - (aa) for “Member States” substitute “The appropriate authority”;
    - (bb) for “the competent”, in both places it occurs, substitute “that”;
    - (cc) omit “of the Member State”;
    - (dd) for “competent” in the second place it occurs, substitute “appropriate”;
  - (iv) in the fourth subparagraph, for “Member States” substitute “The appropriate authority”.
- (18) In Article 35—
- (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) for “Member States may permit producer organisations to apply” substitute “A producer organisation may apply to the appropriate authority for the constituent nation in which the producer organisation has its head office”;
      - (bb) for “three or four-month period” substitute “quarter”;
    - (ii) for the second subparagraph substitute—

“A producer organisation applying for an advance payment must demonstrate to the satisfaction of the appropriate authority, and the appropriate authority must verify, that:

      - (a) financial contributions to the producer organisation’s operational fund have been levied and paid in accordance with Articles 24 and 25;
      - (b) the corresponding producer organisation contribution has actually been spent; and
      - (c) any previous advance payments received by the producer organisation have actually been spent.”;
  - (b) after paragraph 3, insert—

“4. In this Article ‘quarter’ means a period of three months ending with the last day of March, June, September or December.”.
- (19) In Article 36—
- (a) in paragraph 2(b)—
    - (i) for “Union” substitute “European Union”;
    - (ii) after “EAGF” insert “and any aid paid to finance those investments from public funds shall be recovered by or on behalf of the relevant authority or authorities that provided the aid”;
  - (b) in paragraph 3—
    - (i) for “Union” substitute “European Union”;
    - (ii) at the end insert the following subparagraph—

“Any aid paid from public funds for multiannual commitments, such as environmental actions, where their long term objectives and expected benefits cannot be realised because of the interruption of the measure shall be recovered by or on behalf of the relevant authority or authorities that provided the aid.”.
- (20) Omit Article 37.
- (21) Omit Section 2 of Chapter III of Title II.
- (22) In Article 40—

- (a) for paragraph 1, substitute—
- “1. A producer organisation may apply for support for the administrative cost of setting up mutual funds and the replenishment of mutual funds, as referred to in point (d) of the first subparagraph of Article 33(3) of Regulation (EU) No 1308/2013.”;
- (b) in paragraph 2—
- (i) omit “referred to in paragraph 1”;
- (ii) omit “Union”;
- (iii) after “financial assistance” insert “referred to in Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013”;
- (c) in paragraph 3, omit “referred to in paragraph 1”;
- (d) in paragraph 4, for “Member States may fix” substitute “Nothing in this Regulation prevents the appropriate authority from fixing”.
- (23) Omit Sections 4 to 6 of Chapter III of Title II.
- (24) In Article 51—
- (a) for paragraph 1, substitute—
- “1. Harvest insurance actions must be managed by the producer organisation. Harvest insurance actions do not have to cover all of the members of the producer organisation, and can be targeted at specific producer members.
- Harvest insurance actions are not permitted to cover contracts of insurance that are not effected and carried out as principal by an authorised person in accordance with the Financial Services and Markets Act 2000(6).”;
- (b) in paragraph 2—
- (i) in the first subparagraph—
- (aa) for “Member States” substitute “The appropriate authority for the constituent nation in which the producer organisation has its head office”;
- (bb) omit “national”;
- (ii) in the second subparagraph, omit “Union”.
- (25) Omit Section 8 of Chapter III of Title II.
- (26) In the heading of Chapter 4, for “National” substitute “Additional”.
- (27) In Article 52—
- (a) in the heading, for “national” substitute “additional”;
- (b) omit paragraphs 1 and 2;
- (c) in paragraph 3—
- (i) for “region” substitute “regions”;
- (ii) for “national financial assistance” substitute “additional financial assistance referred to in Article 35 of Regulation (EU) No 1308/2013”;
- (d) in paragraph 4—
- (i) for the first subparagraph substitute—
- “4. Regulations under Article 35(1) of Regulation (EU) No 1308/2013 must specify the regions to which the regulations apply.

The regions must be a distinct part of the territory of the constituent nation concerned and data must be available in order to calculate the degree of organisation of producers in the fruit and vegetables sector in those regions.

The appropriate authority must determine the regions where the degree of organisation of producers in the fruit and vegetables sector is particularly low on the basis of objective and non-discriminatory criteria, such as those regions’—

- (a) agronomic and economic characteristics;
  - (b) agricultural and fruit and vegetable potential; and
  - (c) institutional or administrative structure.”;
- (ii) in the second subparagraph—
- (aa) for “defined” substitute “specified”;
  - (bb) for “a Member State” substitute “such regulations”;
- (e) omit paragraph 5.
- (28) In Article 53, for “national” substitute “additional”.
- (29) For Article 54, substitute—

#### “Article 54

##### *Publications concerning producer organisations and associations of producer organisations*

Each appropriate authority must each ensure that the following information and documents are published on a website maintained by them or on their behalf, starting in 2022:

- (a) by 31 January each year:
  - (i) the total amount of the operational funds approved that year for operational programmes;
  - (ii) the total amount of financial assistance granted under Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013 for that year;
  - (iii) the allocations of the amounts referred to in points (i) and (ii) between:
    - (aa) crisis prevention and management measures;
    - (bb) other measures;
- (b) by 15 November each year, an annual report on producer organisations and associations of producer organisations, and operational funds and operational programmes in operation during the previous year. This annual report must contain the information set out in Annex V to this Regulation. Where the appropriate authorities agree, the annual report may be a single annual report in respect of the United Kingdom as a whole.

Where the appropriate authorities agree, the information and documents may instead be published in respect of the United Kingdom as a whole.”

- (30) In the heading of Section 2 of Chapter 5, omit “national”.
- (31) In Article 56(1), for “national strategies” substitute “strategies referred to in Article 36(2) of Regulation (EU) No 1308/2013”.
- (32) In Article 57(3)—
- (a) in the first subparagraph—
    - (i) after “report” insert “to be sent by the producer organisation or association of producer organisations concerned to the appropriate authority”;

- (ii) omit “as referred in Article 21(4) of Implementing Regulation (EU) 2017/892”;
  - (b) in the last subparagraph for “Article 21” substitute “Article 9(2)(j)”.
- (33) In Article 58—
- (a) omit “national” in each place it occurs (including the heading);
  - (b) in paragraph 1—
    - (i) for “Member States” substitute “Each appropriate authority”;
    - (ii) for “they” substitute “each appropriate authority”;
    - (iii) at the end, insert “Where the appropriate authorities agree, the system may be a single system in respect of the United Kingdom as a whole.”;
  - (c) in paragraph 3, omit the second subparagraph.
- (34) In Article 59—
- (a) in paragraph 1(7), for “Member States” substitute “the appropriate authority”;
  - (b) in paragraph 7, for “Member States” substitute “the appropriate authorities”;
  - (c) in paragraph 8, for “Member State” substitute “appropriate authority”.
- (35) In Article 60—
- (a) in paragraph 1(8)—
    - (i) for “Member States” substitute “The appropriate authority”;
    - (ii) for “national authority” substitute “public authority within the United Kingdom”;
  - (b) in paragraph 2(9)—
    - (i) in the words before point (a)—
      - (aa) for “Member States” substitute “the responsible authority”;
      - (bb) for “under Union and national legislation” substitute “in law”;
    - (ii) after point (c), insert—
 

“In this paragraph, the ‘responsible authority’ is the appropriate authority for the constituent nation in which the producer organisation has its head office”.
- (36) In Article 61(2), for “Member State” substitute “appropriate authority”.
- (37) Omit Articles 62 to 65.
- (38) In Article 67—
- (a) for paragraph 1(b) substitute—
    - “(b) at the following rates—
      - (i) if the undue payment was made from European Union funds, at the rate applied by the European Central Bank to its main refinancing operations published in the ‘C’ series of the *Official Journal of the European Union* and in force on the date on which the undue payment is made, plus three percentage points;
      - (ii) if the undue payment was made from public funds, at the Bank of England base rate in force on the date on which the undue payment is made, plus three percentage points.”;
  - (b) after paragraph 1 insert—

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(7) Article 59(1) is also amended by S.I. 2020/XXX.

(8) Article 60(1) is also amended by S.I. 2020/XXX.

(9) Article 60(2) is also amended by S.I. 2020/XXX.

“1A. In paragraph 1, “Bank of England base rate” for any particular day means—

- (a) except where point (b) applies, the rate as last announced at a meeting of the Monetary Policy Committee of the Bank of England held prior to that day as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or
- (b) if an order under section 19 (reserve powers) of the Bank of England Act 1998<sup>(10)</sup> is in force, any equivalent rate determined by the Treasury under that section.”;

(c) for paragraph 2 substitute—

“2. Payments recovered, and interest and penalties imposed in relation to aid paid from European Union funds must be paid to the EAGF. Payments recovered, and interest and penalties imposed in relation to aid paid from public funds must be paid to the relevant authority that provided the aid.”.

(39) After Article 67, insert—

*“Article 67A*

*Apportionment of recovered aid, interest and penalties*

1. Aid paid from public funds that is recovered under this Regulation, together with any interest payable thereon in accordance with this Regulation, must be apportioned between the relevant authorities in accordance with the proportion of that aid that was provided by each authority.

2. Penalties imposed under this Regulation in relation to aid paid from public funds must be paid to the relevant authority for the constituent nation in which the head office of the producer organisation was located during the period to which the penalty relates.”.

(40) Omit Articles 76 and 77.

(41) In Article 78, for “competent authority of the Member State” substitute “appropriate authority”.

(42) Omit Article 80.

(43) After Article 81, omit the words from “This Regulation” to “Member States.”.

(44) In Annex 2—

- (a) in point 14, for “national” substitute “applicable”;
- (b) in point 15, omit “national or regional”.

(45) In Annex 3—

- (a) in point 1, omit the third paragraph;
- (b) in point 2(a)—
  - (i) in the first paragraph, for “Union financial assistance” substitute “financial assistance referred to in Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013”;
  - (ii) in the third paragraph—
    - (aa) for “Member States may restrict” substitute “Nothing in this Regulation prevents the appropriate authority from restricting”;
    - (bb) for “they” substitute “it”;

(c) in point 2(b)—

- (i) in the first paragraph, for “Member States’ approval” substitute “approval by the appropriate authority”;
  - (ii) omit the third and fourth paragraphs;
  - (d) in point 3, omit the words from “, where applicable” to the end;
  - (e) in point 4, omit the last paragraph;
  - (f) omit point 5;
  - (g) in point 7, for “Union or national support” substitute “support from European Union or public funds”;
  - (h) in point 8, for “Member State concerned” substitute “appropriate authority”;
  - (i) in point 9, for “Union or national support” substitute “support from European Union or public funds”;
  - (j) in point 10, for “Member State” substitute “appropriate authority”;
  - (k) omit point 12;
  - (l) in point 14, omit “, European”.
- (46) Omit Annex IV.
- (47) In the heading of Annex V, omit “of Member States”.
- (48) In Annex V, in Part A(11)—
- (a) omit point 1;
  - (b) in point 2—
    - (i) omit “, and producer groups”, in each place it occurs;
    - (ii) in point (e)—
      - (aa) omit “/groups”;
      - (bb) omit “/recognition plan”;
  - (c) in point 3—
    - (i) in point (a)—
      - (aa) omit “national”;
      - (bb) after “financial assistance” insert “referred to in Articles 32(1)(b), 34 and 35 of Regulation (EU) No 1308/2013”;
    - (ii) omit points (c) and (d);
  - (d) in point 4—
    - (i) in the words before point (a), omit “and recognition plans”;
    - (ii) omit point (b).
- (49) In Annex V, in Part B, in point (a), for “Member State” substitute “appropriate authority”.

### **Commission Implementing Regulation (EU) 2017/892**

**22.**—(1) Commission Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors(12) is amended as follows.

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(11) Part A of Annex V is also amended by S.I. 2020/XXX.

(12) Under Article 138 of the withdrawal agreement (as defined in s39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1)) and s7A of the European Union (Withdrawal) Act 2018 (c. 16) certain common organisation of the markets and rural

(2) After Article 1, insert—

*“Article 1A(13)*

*Definitions*

For the purposes of this Regulation, the following definitions apply:

- (a) ‘constituent nation’ means England, Wales, Scotland or Northern Ireland, as the case may be;
- (b) ‘public funds’ means moneys provided by Parliament, the Welsh Parliament, the Scottish Parliament, the Northern Ireland Assembly or a body exercising public functions within the United Kingdom. References to ‘public funding’ are to be construed accordingly;
- (c) ‘relevant authority’ means:
  - (i) in relation to England, the Secretary of State;
  - (ii) in relation to Wales, the Welsh Ministers;
  - (iii) in relation to Scotland, the Scottish Ministers;
  - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (d) ‘third country’ means any country or territory other than:
  - (i) the United Kingdom;
  - (ii) the Bailiwick of Jersey;
  - (iii) the Bailiwick of Guernsey;
  - (iv) the Isle of Man.

*Article 1B*

*Definition of appropriate authority*

1. For the purposes of this Regulation, ‘appropriate authority’ means:
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
  - (c) in relation to Scotland, the Scottish Ministers;
  - (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.
2. But the appropriate authority is the Secretary of State:
  - (a) in relation to Scotland, at any time that the Secretary of State and the Scottish Ministers so agree;
  - (b) in relation to Northern Ireland, at any time that the Secretary of State and the Department of Agriculture, Environment and Rural Affairs so agree.
3. The relevant authorities for Scotland and Northern Ireland must ensure that a statement identifying the appropriate authority for their constituent nation is published on websites maintained by them on or on their behalf.”

(3) In Article 2—

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development measures committed under the multiannual financial framework 2014-20 and previous financial perspectives continue to be governed by directly applicable EU law.

(13)

Article 1A is amended by S.I. 2020/XXX.

- (a) in the heading, for “National strategy” substitute “Strategy”;
  - (b) omit “national”.
- (4) In Article 3—
- (a) in the heading, for “National framework” substitute “Framework”;
  - (b) in paragraph 1—
    - (i) omit “national”, in each place it occurs;
    - (ii) in the second subparagraph, for “Member State” substitute “constituent nation or the United Kingdom (as the case may be)”;
    - (iii) in the third subparagraph, in point (a), for “Member State concerned” substitute “constituent nation concerned or the rural development programmes of the constituent nations concerned (as the case may be)”;
  - (c) in paragraph 2, in the second subparagraph, for “Member States” substitute “The appropriate authority”;
  - (d) in paragraph 4—
    - (i) in the second subparagraph, for “Member States” substitute “the appropriate authority”;
    - (ii) in the third subparagraph, for “Member State” substitute “appropriate authority”;
  - (e) in paragraph 6, in the second subparagraph, for “national competent” substitute “appropriate”.
- (5) In Article 4—
- (a) in paragraph 1(b), for “national strategy” substitute “strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013 of the constituent nation in which the producer organisation has its head office”;
  - (b) in paragraph 2, for “Union”, in both places it occurs, substitute “public”.
- (6) In Article 5(c), for “Union or national” substitute “European Union or public”.
- (7) In Article 6—
- (a) in paragraph 1—
    - (i) for “programmes” substitute “programme”;
    - (ii) for “competent authority of the Member State” substitute “appropriate authority of the constituent nation”;
    - (iii) for “headquarters” substitute “head office”;
    - (iv) for “Member States may set” substitute “nothing in this Regulation prevents the appropriate authority from setting”;
  - (b) in paragraph 2, omit “a producer group formed pursuant to Article 125e of Regulation (EC) No 1234/2007 or”.
- (8) In Article 8—
- (a) for “Member States”, in the first place it occurs, substitute “The appropriate authority”;
  - (b) for “Member States”, in the second place it occurs, substitute “the appropriate authority”.
- (9) Omit Article 8a.
- (10) In Article 9—
- (a) in paragraph 1, for “competent authority of the Member State” substitute “appropriate authority”;
  - (b) in paragraph 2—

- (i) in point (h)—
  - (aa) for “Union or national” substitute “European Union or public”;
  - (bb) at the end insert “and”;
- (ii) omit point (i);
- (iii) for point (j), substitute—
  - “(j) an annual report on the execution of the operational programme.”;
- (c) in paragraph 4, for “competent authority of the Member State” substitute “appropriate authority”;
- (d) in paragraph 5, for “same Member State which recognised the association of producer organisations” substitute “United Kingdom”;
- (e) after paragraph 5, insert—
  - “**5A.** An application for aid by an association of producer organisations must relate to actions implemented at the level of the association and must be submitted to the appropriate authority for the constituent nation where that association has its head office. The appropriate authorities must ensure that there is no double funding risk.”;
- (f) in paragraph 6(14), for “in the Member State where they are recognised” substitute “to the appropriate authority for the constituent nation in which the producer organisation’s head office is located.”.
- (11) In Article 10, for “Member States” substitute “The appropriate authority”.
- (12) In Article 11—
  - (a) in paragraph 1—
    - (i) omit “as decided by the Member State, either”;
    - (ii) omit “or on a four-monthly basis in January, May and September”;
  - (b) in paragraph 3, for “Member States may set” substitute “Nothing in this Regulation prevents the appropriate authority from setting”.
- (13) In Article 12—
  - (a) in paragraph 1, for “Member States may permit producer organisations to apply” substitute “A producer organisation may apply to the appropriate authority for the constituent nation in which the producer organisation has its head office”;
  - (b) in paragraph 3, for “Member States may set” substitute “Nothing in this Regulation prevents the appropriate authority from setting”.
- (14) For Article 13, substitute—

### *“Article 13*

#### *Training measures and exchanges of better practices*

Training measures and exchanges of better practices cannot constitute crisis prevention and management measures unless they are additional to any ongoing training actions not related to crisis prevention and management being applied by the producer organisation concerned in its operational programme.”.

- (15) In Article 14(1)—
  - (a) for the first subparagraph substitute—

- “1. Promotion and communication measures implemented by producer organisations in relation to crisis prevention or crisis management, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, may be applied rapidly when required.”;
- (b) in the third subparagraph for “Union”, in each place it occurs, substitute “United Kingdom”.
- (16) Omit Articles 15 to 17.
- (17) In Article 21(15)—
- (a) in the heading—
- (i) omit “and annual reports”, in the first place it occurs;
- (ii) for “Member States” substitute “the appropriate authorities”;
- (b) in the first subparagraph—
- (i) for the words from “a competent authority” to “Regulation (EC) No 1234/2007” substitute “the appropriate authority”;
- (ii) after “producer groups”, in the second place it occurs, insert “referred to in Article 27 of Regulation (EU) No 1305/2013”;
- (c) in the second subparagraph, for “Member States” substitute “The appropriate authority”.
- (18) For Article 23(16), substitute—

*“Article 23*

*Submission procedures*

Without prejudice to Articles 9, 24 and 25, the procedures for the submission of aid applications, requests for approval of operational programmes, and payment claims are those published from time to time by the appropriate authority.”.

- (19) In Article 25—
- (a) in paragraph 1—
- (i) for “Member States” substitute “the appropriate authority”;
- (ii) in point (b), for “national strategy and the national framework” substitute “strategy and framework referred to in Article 36 of Regulation (EU) No 1308/2013 of the constituent nation concerned”;
- (b) in paragraph 2(b)—
- (i) omit “national and Union”;
- (ii) omit “national”, in the second place it occurs;
- (iii) for “national strategy” substitute “strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013 of the constituent nation concerned”.
- (20) In Article 26—
- (a) in paragraph 2, for “Member States” substitute “the appropriate authority”;
- (b) in paragraph 4, for “Member State approval”, in both places it occurs, substitute “approval by the appropriate authority”.
- (21) In Article 27—

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(15) Article 21 is also amended by S.I. 2020/XXX.

(16) Article 23 is also amended by S.I. 2020/XXX.

- (a) in paragraph 1, for “Member States” substitute “The appropriate authority”;
  - (b) in paragraph 3—
    - (i) in the words before paragraph (a), for “Member States” substitute “The appropriate authority”;
    - (ii) in paragraph (d), for “Member States” substitute “the appropriate authority”;
  - (c) in paragraph 5—
    - (i) in point (c), for “Union” substitute “applicable”;
    - (ii) omit point (f);
  - (d) in paragraph 6—
    - (i) in the first subparagraph, for “national law” substitute “the law as it applies in the relevant constituent nation”;
    - (ii) in the second subparagraph, for “Member States” substitute “appropriate authority”;
  - (e) in paragraph 7, in the second subparagraph, for “Member States” substitute “the appropriate authority”;
  - (f) in paragraph 9, for “Member State” substitute “appropriate authority”.
- (22) In Article 28(1), for “A detailed report shall be made” substitute “The appropriate authority must produce a detailed report”.
- (23) Omit Articles 29 to 31.
- (24) In Article 34(17)—
- (a) in the first subparagraph—
    - (i) for “Union legislation, Member States shall introduce” substitute “retained EU law, the appropriate authority must conduct”;
    - (ii) before “measures”, in the first place it occurs, insert “take”;
    - (iii) for the words from “so that” to the end substitute “in order to ensure proper management of public funds”;
  - (b) in the second subparagraph—
    - (i) in the words before point (a), for “Member States” substitute “the appropriate authority”;
    - (ii) for point (a) substitute—
      - “(a) all eligibility criteria established by applicable legislation or by the strategy and framework referred to in Article 36 of Regulation (EU) No 1308/2013 of the constituent nation in which the producer organisation or association of producer organisations (as the case may be) has its head office can be checked.”;
    - (iii) in point (b), for “the competent authorities of the Member State responsible for carrying out checks have” substitute “it has”;
    - (iv) in point (c), for “Union or national schemes” substitute “schemes funded in whole or in part by European Union or public funds”.
- (25) After Article 34, insert—

*“Article 34A*

*Checks on producer organisations*

1. The appropriate authority for the constituent nation in which a producer organisation has its head office must:

- (a) organise checks on that organisation in respect of the operational programme and operational fund; and
- (b) apply administrative penalties in accordance with Section 3 of Chapter 5 of Title 2 of Regulation (EU) 2017/891 where such checks demonstrate that the relevant obligations have not been met.

2. The appropriate authorities for any other constituent nations in which the producer organisation’s members are located must, within any reasonable period provided by the appropriate authority in which the producer organisation has its head office:

- (a) provide such administrative assistance and carry out such administrative and on-the-spot checks as are required by that authority; and
- (b) report the results of those checks to that authority.

3. In respect of environmental and phytosanitary measures and crisis prevention and management measures, a producer organisation must comply with the rules of the constituent nation where the respective measures and actions take place. In respect of all other matters in relation to the producer organisation and the operational programme and operational fund, the producer organisation must comply with the rules applicable in the constituent nation in which its head office is located

*Article 34B*

*Checks on associations of producer organisations*

1. The appropriate authority for the constituent nation in which a producer organisation which is a member of an association has its head office must:

- (a) organise checks in respect of actions of the operational programme implemented in that constituent nation and of the operational fund;
- (b) apply administrative penalties in accordance with Section 3 of Chapter 5 of Title 2 of Regulation (EU) 2017/891 where such checks demonstrate that the relevant obligations have not been met;
- (c) provide such administrative assistance as is requested by the appropriate authority for the constituent nation in which the association of producer organisations has its head office; and
- (d) notify the results of checks it has carried out and administrative penalties it has applied without delay to the appropriate authority for the constituent nation in which the association of producer organisations has its head office.

2. The appropriate authority for the constituent nation in which the association of producer organisations has its head office must:

- (a) organise checks in respect of actions of the operational programme implemented at the level of the association and of the operational fund of the association;
- (b) apply administrative penalties in accordance with Section 3 of Chapter 5 of Title 2 of Regulation (EU) 2017/891 where such checks demonstrate that the relevant obligations have not been met; and

- (c) co-ordinate checks and payments in respect of the actions of the operational programme of the association implemented outside the constituent nation where its head office is located.

3. The actions of the operational programmes must comply with the rules and strategy referred to in Article 36(2) of Regulation (EU) No 1308/2013 of the constituent nation where, in accordance with Article 9(6), the application for aid is submitted.

But environmental and phytosanitary measures and crisis prevention and management measures must comply with the rules of the constituent nation where these measures and actions are actually carried out.”.

(26) In Article 35(18)—

- (a) for “competent authority of the Member State” substitute “appropriate authority”;
- (b) for “a Member State” substitute “an appropriate authority”.

(27) After Article 42, omit the words from “This Regulation”, in the second place it occurs, to “Member States.”.

(28) In Annex I—

- (a) in the heading, omit “national”;
- (b) in point 1—
  - (i) in the heading, omit “national”;
  - (ii) for “Member State” substitute “relevant authority”;
- (c) in point 2.2—
  - (i) in the third indent, for “Union” substitute “public”;
  - (ii) in the fourth indent, for “Union” substitute “the constituent nation’s”;
- (d) in the heading of point 2.3 omit “national”;
- (e) in point 3.1—
  - (i) in the first paragraph—
    - (aa) for “Member States”, in the first place it occurs, substitute “The relevant authorities”;
    - (bb) omit “national” in both places it occurs;
    - (cc) after “framework” insert “referred to in Article 36 of Regulation (EU) No 1308/2013”;
    - (dd) omit the third sentence;
  - (ii) in the second paragraph—
    - (aa) for “Member States” substitute “The relevant authorities”;
    - (bb) for “national or regional schemes” substitute “schemes funded in whole or in part by public funds”;
    - (cc) omit the words from “, for ensuring” to the end;
- (f) in point 4—
  - (i) for “Member State” substitute “relevant authority”;
  - (ii) omit “national” in both places it occurs;
- (g) in point 5, omit “national” in the first and second places it occurs;
- (h) in point 5.2, omit “national” in both places it occurs (including the heading).

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(18) Article 35 is also amended by S.I. 2020/XXX.

- (29) In Annex II(19), in the words before Section 1 (*Administrative Information*)
- (a) in the section entitled “Structure of the Annual Report – Part A”—
    - (i) in the words before point 1, in the first paragraph—
      - (aa) for “competent authorities of the Member States are” substitute “appropriate authority is”;
      - (bb) for “transmit to the European Commission” substitute “publish”;
      - (cc) after “each year” insert “starting in 2022,”;
    - (ii) omit point 1;
    - (iii) in point 2—
      - (aa) in the heading, omit “and producer groups”;
      - (bb) omit the row beginning “Table 2.5.”;
    - (iv) in point 3, omit the rows beginning “Table 3.3.” and “Table 3.4.”;
    - (v) in point 4—
      - (aa) in the heading, omit “/recognition plans”;
      - (bb) omit the row beginning “Table 4.2.”;
  - (b) in the section entitled “Explanatory Notes”—
    - (i) in the subsection entitled “Abbreviations”, omit the rows beginning “Producer group” and “Member State”;
    - (ii) in the subsection entitled “Country codes”, omit all rows except the header and the row beginning “United Kingdom”;
    - (iii) omit the subsection entitled “Region codes”;
    - (iv) in the subsection entitled “Code number (ID) of POs, TPOs, APOs, TAPOs and PGs”—
      - (aa) in the heading, omit “and PGs”;
      - (bb) omit “or PG”, in both places it occurs;
    - (v) omit the subsection entitled “Monetary values”;
  - (c) in the section entitled “Contact point for communication”, in the first table—
    - (i) for “Member State” substitute “Constituent nation”;
    - (ii) omit the second row;
  - (d) in the section entitled “Annual Report – Part A”, in the table—
    - (i) for “Member State” substitute “Constituent nation”;
    - (ii) omit the second row.
- (30) In Annex II, omit Section 1 (*Administrative Information*).
- (31) In Annex II, in Section 2 (Information Related to POs, TPOs, APOs, TAPOs and PGs)—
- (a) in the heading, omit “AND PGs”;
  - (b) in Table 2.3., omit footnote 1;
  - (c) omit Table 2.5.;
  - (d) in the section entitled “Annual Report – Part A”, in the table, for “Member State” substitute “Constituent nation”.
- (32) In Annex II, in Section 3 (*Expenditures Information*)—

- (a) in Table 3.1.—
  - (i) for “Union financial assistance”, in both places it occurs, substitute “financial assistance referred to in Articles 32(1)(b) and 34 of Regulation (EU) No 1308/2013”;
  - (ii) for “National”, in the first and second places it occurs, substitute “Additional”;
  - (iii) omit the row containing the words “Estimated amount of the National financial assistance actually paid to be reimbursed by the EU”;
- (b) after Table 3.1. omit “(Data in Euro or national currency)”;
- (c) in Table 3.2.—
  - (i) omit “(Euro or national currency)”;
  - (ii) in the group of rows headed “Investments”, omit the row headed “Crisis prevention and management”;
  - (iii) in the row headed “Quality schemes (EU and national) and measures related to quality improvement” omit “(EU and national)”;
  - (iv) omit the rows from the row headed “Replanting of orchards” to the row headed “Non-harvesting”;
  - (v) omit the row headed “Coaching”;
  - (vi) in the Note, for “33(3)(a)” substitute “33(3)”;
- (d) omit Tables 3.3. and 3.4.;
- (e) after Table 3.4., in the section entitled “Annual Report – Part A”, in the table—
  - (i) for “Member State” substitute “Constituent nation”;
  - (ii) omit the second row.
- (33) In Annex II, in Section 4 (Monitoring of Operational Programmes)—
  - (a) in the words before Table 4.1.—
    - (i) in the first paragraph—
      - (aa) omit “and producer groups”;
      - (bb) omit “/recognition plan”, in both places it occurs;
      - (cc) for “programme/plan’s” substitute “programme’s”;
    - (ii) omit the second paragraph;
  - (b) in Table 4.1.—
    - (i) in the group of rows headed “Investments”—
      - (aa) in the group of rows headed “Boosting products’ commercial value”, for “Euro or national currency” substitute “pounds sterling”;
      - (bb) omit the group of rows headed “Crisis prevention and management”;
    - (ii) in the row headed “Quality schemes (EU and national) and measures related to quality improvement” omit “(EU and national)”;
    - (iii) omit the rows from the row headed “Replanting of orchards” to the row headed “Non-harvesting”;
    - (iv) omit the row headed “Coaching”;
    - (v) in footnote 5, for “a Member State” substitute “the appropriate authority”;
  - (c) omit Table 4.2.
- (34) Omit Annexes III to VI.

### Commission Implementing Regulation (EU) 2017/1185

23.—(1) Commission Implementing Regulation (EU) 2017/1185 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents is amended as follows.

(2) In Article 7(3), for the second sentence substitute—

“Economic operators must provide the relevant authorities with such information at their disposal and specified in Annexes I, II or III as the relevant authorities request. The relevant authorities may specify the manner in which, and the period within which, such information is to be provided. If no such period is specified, the information must be provided within a reasonable time.”.

(3) After Article 16, insert—

*“Article 16a*

*Definitions*

In this Regulation:

- (a) ‘relevant authority’ means:
    - (i) in relation to England, the Secretary of State;
    - (ii) in relation to Wales, the Welsh Ministers;
    - (iii) in relation to Scotland, the Scottish Ministers;
    - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
  - (b) ‘constituent nation’ means England, Wales, Scotland or Northern Ireland, as the case may be.”.
- (4) After Article 17, omit the words from “This Regulation” to “Member States.”.
- (5) In Annex I—
- (a) in the heading, for “notifications referred to in Article 11” substitute “information”;
  - (b) for “Content of the notification”, in each place it occurs, substitute “Information”;
  - (c) in section 1, in the first paragraph, for “Union market” substitute “market in the United Kingdom”;
  - (d) omit sections 2 and 3;
  - (e) in section 4, in the first paragraph—
    - (i) for “Part A of Annex XV to Implementing Regulation (EU) No 543/2011”, substitute “Annex VI of Regulation (EU) 2017/891”;
    - (ii) for “to that Regulation” substitute “to Implementing Regulation (EU) No 543/2011”;
  - (f) in section 6, in the first paragraph, for “Union rules” substitute “legislation made”;
  - (g) in section 7, in the third paragraph, for “notified” substitute “provided”;
  - (h) in section 8, in the third paragraph—
    - (aa) for “notified” substitute “provided”;
    - (bb) for “Member State concerned shall notify” substitute “information must contain”;
  - (i) in section 9, in the third paragraph—
    - (aa) for “notified” substitute “provided”;

- (bb) for “its market structure” substitute “the market structure of the constituent nation concerned”;
  - (cc) for “Member State concerned may notify” substitute “information may contain”.
- (6) In Annex II—
- (a) in the heading, for “notifications as referred to in point (a) of Article 12” substitute “information”;
  - (b) for “Content of the notification”, in each place it occurs, substitute “Information”;
  - (c) in section 3—
    - (i) in the first paragraph—
      - (aa) for “; or” substitute “.”;
      - (bb) omit point (b);
    - (ii) in the fourth paragraph—
      - (aa) for “points”, substitute “point”;
      - (bb) omit “and (b)”;
      - (cc) for “Member States concerned” substitute “relevant authority”;
  - (d) in section 4, in point (a), in the fourth paragraph, for “territory of the Member State” substitute “constituent nation concerned”.
- (7) In Annex III—
- (a) in the heading, omit “notifications as referred to in point (b) of Article 12”;
  - (b) for “Content of the notification”, in each place it occurs, substitute “Information”;
  - (c) omit section 1;
  - (d) in section 2—
    - (i) in subsection A, omit the words from “Member States” in the first place it occurs, to “question.”;
    - (ii) in subsection B—
      - (aa) omit “(30 June for the French departments of Guadeloupe and Martinique)”;
      - (bb) omit the words from “Member States”, in the first place it occurs, to “produced.”;
    - (iii) omit subsection C;
    - (iv) in subsection D—
      - (aa) in the heading, omit “and isoglucose”;
      - (bb) in the first and third paragraphs, omit point (b);
      - (cc) in the fourth paragraph, for the words from “on Union territory” to “points B and C” substitute “in the United Kingdom and to sugar production as defined in point B”;
      - (dd) in the fifth paragraph, omit the third indent;
      - (ee) omit the sixth paragraph;
  - (e) in section 3, in the each of the three paragraphs, omit points (c) to (e);
  - (f) omit sections 5 to 7;
  - (g) in section 8, in the first paragraph—

- (i) in point (a), for “on the territory of the Member State” substitute “in the constituent nation concerned”;
- (ii) in point (b), for “Article 9 of Regulation (EC) No 436/2009” substitute “Article 31 of Regulation (EU) No 2018/273”;
- (iii) in point (c), for Article 11 of Regulation (EC) No 436/2009” substitute “Article 32 of Regulation (EU) No 2018/273”;
- (h) in section 9, in the fourth paragraph—
  - (i) for “territory of the Member State” substitute “constituent nation concerned”;
  - (ii) for “Member States” substitute “The relevant authorities”;
  - (iii) omit “to the competent national authority”;
  - (iv) omit “so as to comply with this requirement”.