
DRAFT STATUTORY INSTRUMENTS

2020 No.

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

PART 4

Amendment of retained direct EU legislation

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⁽¹⁾ is amended as follows.

(2) After Article 1, insert—

“Article 1A(2)

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.

⁽¹⁾ 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.

⁽²⁾ Article 1A is amended by S.I. 2020/XXX.

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—
 - (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(3), 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”;

(3) Article 9(6) is also amended by S.I. 2020/XXX.

- (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(4)—
 - (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(5), substitute—

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

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

“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—

- (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(6)—

- (a) in the first subparagraph—

(6) Article 34 is also amended by S.I. 2020/XXX.

- (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(7)—

- (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—

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

- (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).
- (29) In Annex II(8), 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.