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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the introduction of delinked payments under section 12 of the Agriculture Act 2020 in place of direct payments under the Basic Payment Scheme. They extend to England and Wales but apply in relation to England only.

Part 2 (regulation 3) provides for the making of delinked payments by the Secretary of State during the delinking period. The delinking period is the period beginning with 1st January in the year prescribed in regulation 4, which is 2024, and ending on the last day of the agricultural transition period in England, which is currently 31st December 2027. The delinking period is the three-year period beginning with the year prescribed in regulation 4. The Basic Payment Scheme was established under [Regulation \(EU\) No1307/2013](#) of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (“the Direct Payments Regulation”). Regulation 5 and Schedule 1 provide for the calculation of delinked payments by the Secretary of State by reference to an underlying “reference amount”. The eligibility conditions for receiving a delinked payment (regulation 6) are largely based on the direct payments made to a person under the Basic Payment Scheme during the reference period described in regulation 5(2). Regulation 7 enables the Secretary of State to request further information or evidence from a person in support of their eligibility for a delinked payment. Regulation 8 and Schedule 2 provide for the circumstances in which all, or any part, of a reference amount may, on request, be transferred by the Secretary of State to another person (“the transferee”) in order to enable a delinked payment to be calculated under these Regulations for the transferee during the delinking period.

Part 3 provides for the making and recovery of delinked payments by the Secretary of State. Delinked payments for any year during the delinking period must be paid to a person before the end of the period specified unless the Secretary of State considers that there are good reasons for them being paid after that date. Delinked payments may also be paid in up to two instalments (regulation 9). Provision is also made for the recovery by the Secretary of State of all, or any part, of a delinked payment to which a person was not entitled (regulation 10) and the Secretary of State is able to apply interest, at a daily rate of 1% above the applicable Bank of England base rate, to any amounts outstanding.

Part 4 provides a right of appeal against a decision made by the Secretary of State under these Regulations (regulation 11) and the grounds on which any such appeal may be made (regulation 12). The Secretary of State must appoint no more than three persons to consider any such appeals and to report to the Secretary of State in writing with conclusions and a recommendation about how the appeal should be finally determined (regulation 13). Provision is also made for notification to the appellant of the final determination of an appeal by the Secretary of State and the giving of reasons for that determination (regulation 14).

Part 5 provides for the termination of the Basic Payment Scheme on the coming into force of regulation 15 of these Regulations (regulation 15). It also makes consequential revocations (regulation 16 and Schedule 3) in relation to England only of the legislation governing that scheme that is specified in column 1 of each of the tables in Part 1 of Schedule 3 to the extent specified in column 2 of those tables. The provisions being revoked include the associated cross-compliance rules which applied in relation to England, by virtue of [Regulation \(EU\) No1306/2013](#) of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:  
*The Agriculture (Delinked Payments and Consequential Provisions) (England) Regulations 2023 No. 1430*

of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008. Part 2 of Schedule 3 contains a general saving of the effect of the legislation governing the Basic Payment Scheme that is being revoked for the purposes of dealing with any outstanding rights and liabilities to, and arising in respect of, direct payments under that scheme prior to its termination in England.

Part 6 and Schedule 4 make consequential amendments to legislation arising from the termination of the Basic Payment Scheme in England and the revocation, by regulation 16 and Schedule 3, of the legislation governing that scheme in so far as it applies in relation to England.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.