



# Direct Payments to Farmers (Legislative Continuity) Act 2020

## 2020 CHAPTER 2

### *Incorporation of Direct Payments Regulation etc*

#### **3 Regulations in connection with the retention of EU legislation under section 1**

- (1) The Secretary of State may by regulations—
  - (a) make such provision as the Secretary of State considers appropriate to prevent, remedy or mitigate—
    - (i) any failure of retained EU law governing the CAP direct payment schemes to operate effectively, or
    - (ii) any other deficiency in that body of law, arising from the withdrawal of the United Kingdom from the EU;
  - (b) modify retained EU law governing the CAP direct payment schemes so as to make provision corresponding to any modification of the EU legislation listed in section 1(3) having effect in EU law on or after exit day for the claim year 2020.
- (2) Before making regulations under subsection (1), the Secretary of State must obtain the consent of—
  - (a) the Scottish Ministers, if the regulations relate to retained EU law governing the CAP direct payment schemes as it applies in or as regards Scotland;
  - (b) the Welsh Ministers, if the regulations relate to that body of law as it applies in or in relation to Wales;
  - (c) DAERA, if the regulations relate to that body of law as it applies in or as regards Northern Ireland.
- (3) A devolved authority may by regulations—
  - (a) make such provision as the authority considers appropriate to prevent, remedy or mitigate—
    - (i) any failure of retained EU law governing the CAP direct payment schemes to operate effectively, or

---

**Changes to legislation:** There are currently no known outstanding effects for the Direct Payments to Farmers (Legislative Continuity) Act 2020, Section 3. (See end of Document for details)

---

- (ii) any other deficiency in that body of law, arising from the withdrawal of the United Kingdom from the EU;
  - (b) modify retained EU law governing the CAP direct payment schemes so as to make provision corresponding to any modification of the EU legislation listed in section 1(3) having effect in EU law on or after exit day for the claim year 2020.
- (4) DAERA may by regulations modify retained EU law governing the CAP direct payment schemes, so far as it applies in or as regards Northern Ireland, for the purpose of ensuring that all payment entitlements, or all payment entitlements within a region, have, or over a period of time reach or move towards, a uniform unit value.
- (5) For the purposes of subsections (1)(a)(ii) and (3)(a)(ii), deficiencies in retained EU law governing the CAP direct payment schemes are where the Secretary of State or a devolved authority considers that retained EU law governing the CAP direct payment schemes—
- (a) contains anything which has no practical application in relation to the United Kingdom or any part of it or is otherwise redundant or substantially redundant,
  - (b) confers functions on, or in relation to, EU entities which no longer have functions in that respect under EU law in relation to the United Kingdom or any part of it,
  - (c) makes provision for, or in connection with, reciprocal arrangements between—
    - (i) the United Kingdom or any part of it or a public authority in the United Kingdom, and
    - (ii) the EU, an EU entity, a member State or a public authority in a member State,
 which no longer exist or are no longer appropriate,
  - (d) makes provision for, or in connection with, other arrangements which—
    - (i) involve the EU, an EU entity, a member State or a public authority in a member State, or
    - (ii) are otherwise dependent upon the United Kingdom's membership of the EU,
 and which no longer exist or are no longer appropriate,
  - (e) makes provision for, or in connection with, any reciprocal or other arrangements not falling within paragraph (c) or (d) which no longer exist, or are no longer appropriate, as a result of the United Kingdom ceasing to be a party to any of the EU Treaties,
  - (f) contains EU references which are no longer appropriate, or
  - (g) contains anything which is of a similar kind to any deficiency which falls within paragraphs (a) to (f).
- (6) Section 8(5) to (7), apart from subsection (7)(e), of the European Union (Withdrawal) Act 2018 (provision that may be made by regulations) apply in relation to regulations under subsections (1) and (3) but as if—
- (a) references in those subsections to section 8(1) of that Act were to subsections (1) and (3) of this section, and
  - (b) the reference in section 8(7)(g) to paragraph 21(b) of Schedule 7 to that Act were to subsection (9)(b) of this section.

---

**Changes to legislation:** There are currently no known outstanding effects for the Direct Payments to Farmers (Legislative Continuity) Act 2020, Section 3. (See end of Document for details)

---

- (7) Despite the application of section 8(7)(b) of the European Union (Withdrawal) Act 2018 (regulations may not make retrospective provision), provision made by regulations under subsection (1) or (3) may apply in relation to any rights, powers, liabilities, obligations, restrictions or other matters arising in relation to the CAP direct payment schemes for the whole of the claim year 2020.
- (8) No regulations may be made under subsection (1) or (3) after 31 December 2020 (but this does not affect the continuation in force of regulations made before that date, including the exercise after that date of any power conferred by regulations made before that date).
- (9) A power to make regulations under this section includes power—
- (a) to make different provision for different purposes;
  - (b) to make supplementary, incidental, consequential, transitional or saving provision (including provision re-stating any retained EU law governing the CAP direct payment schemes in a clearer or more accessible way).
- (10) In this section—
- “devolved authority” means—
    - (a) the Scottish Ministers, so far as the retained EU law governing the CAP direct payment schemes applies in or as regards Scotland,
    - (b) the Welsh Ministers, so far as that body of law applies in or in relation to Wales, or
    - (c) DAERA, so far as that body of law applies in or as regards Northern Ireland;
  - “payment entitlements” has the same meaning as in the Direct Payments Regulation;
  - “public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998.

**Changes to legislation:**

There are currently no known outstanding effects for the Direct Payments to Farmers (Legislative Continuity) Act 2020, Section 3.