

EXPLANATORY MEMORANDUM TO
THE DIRECT PAYMENTS TO FARMERS (APPLICATION DEADLINES)
(CORONAVIRUS) (AMENDMENT) (ENGLAND) REGULATIONS 2020

2020 No. 510

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 memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends Commission Implementing Regulation 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (“EUR 809/2014”) in relation to Direct Payments for claim year 2020. This instrument extends the deadline for amendments to be made to applications for Direct Payments for 2020 to 30 June to help farmers and land managers who are feeling the impact of Covid-19. The instrument also makes an amendment consequential on the change in application deadline¹ to remove a conflict in the legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument has been drafted to come into force on 15 May and is therefore in breach of the 21-day rule for making instruments by negative resolution. The reasons for this are as follows:
 - This instrument had to be introduced urgently as a direct response to Covid-19 in order to mitigate the impact of Covid-19 on the farming sector;
 - This instrument could not be made until after the Direct Payments to Farmers (Legislative Continuity) Act 2020 (Consequential Amendments) Regulations 2020 came into force on 30 April 2020;
 - This instrument needs to come into force before the existing 15 May application and payment claim deadline. This is to enable the consequential amendment in the instrument to come into force in time to remove a conflict in the legislation that could cause legal uncertainty for those land managers who have not yet submitted their applications or claims. Defra considers it essential to avoid any such uncertainty, particularly given that there are financial penalties attached to the late submission of claims.

¹ Made in the ‘Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) (Coronavirus) (Amendment) (England) Regulations 2020’

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 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument is made under Article 78(b) of Regulation (EU) 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (“EUR 2013/1306”). EUR 2013/1306 was incorporated into domestic law in so far as it relates to direct payment schemes for 2020 by the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2) and amended by S.I. 2020/90. This instrument amends EUR 2014/809 which was also incorporated into domestic legislation with effect from exit day.

6.2 In order to mitigate the impact of Covid-19 on CAP funding recipients in 2020 the Commission published a derogating regulation on 6 April 2020. This allowed the current deadlines for submission of applications for Direct Payments for 2020 to be extended to 15 June 2020, with a consequent derogation extending the deadline for amendments to submitted applications. Under the Withdrawal Agreement, this derogation does not apply directly in relation to Direct Payments in the UK as these payments are to be domestically funded in 2020.

6.3 The government has legislated to extend the deadline for submission of 2020 Direct Payment applications to 15 June 2020 (see the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) (Coronavirus) (Amendment) (England) Regulations 2020). This instrument makes amendments to EUR 2014/809 to extend the deadline for amendments to those applications and to remove a conflict in the drafting. Decisions about the deadlines that apply in Northern Ireland, Scotland and Wales fall to the Devolved Administration concerned.

7. Policy background

What is being done and why?

7.1 Direct Payments provide income support directly to farmers. The scheme aims to provide economic growth and stability, encourage farmers to grow a variety of crops, deliver affordable food for consumers, and support farmers into more environmentally-friendly farming practices. It also includes the “young farmer payment” which provides additional financial support for those who are eligible.

Farmers must apply into the scheme annually and show that land is being used for either agricultural purposes or “greening” options.

- 7.2 In a standard year the initial application deadline for Direct Payment applications is 15 May.
- 7.3 Applications are made to the Rural Payments Agency (“RPA”) for Direct Payments. The RPA process these claims on behalf of the Government. This instrument extends the deadline for amendments to Direct Payments applications in claim year 2020 to 30 June in 2020, taking into account the newly extended deadline for applications of 15 June 2020. The purpose of this is to mitigate difficulties arising from Covid-19, such as farmers being unable to complete forms and gather evidence due to illness or meet with agents because of social distancing measures. In line with Government Covid-19 guidance, the RPA has closed offices, meaning that farmers and land managers are unable to hand in correspondence and supporting documents at drop-in centres. This instrument also makes an amendment consequential on the change in application deadline to remove a conflict in the drafting.

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

- 8.1 This instrument does not relate to withdrawal from the European Union the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 This instrument amends EUR 2014/809. Defra has no intention to consolidate the legislation at this time.

10. Consultation outcome

- 10.1 Defra has discussed proposals for extending the deadlines for submission of applications and amendments with key stakeholders from the farming sector, the agent community and environmental bodies at weekly meetings in late March and April. Some stakeholders, such as the National Farmers’ Union raised concerns over extending the 15 May deadline because they were concerned that extending the original application deadline would cause delays in making Direct Payments from December 2020. However, they supported an extension to the deadline for amendments. Other stakeholders, such as the Central Association of Agricultural Valuers, one of the main agent bodies, have asked for an extension to both deadlines, because they expect significant difficulties in completing applications and claims by 15 May due to issues caused by Covid-19.
- 10.2 Defra has told stakeholders that it will extend the deadline for applications to 15 June and for amendments to 30 June, because it is concerned that not extending the application deadline and amendment deadline together will unfairly disadvantage farmers and land managers making an application or claim. However, to help mitigate the impact of making payments on the RPA, it will continue to urge stakeholders to encourage their members to make the applications as soon as possible and preferably to aim for 15 May.

11. Guidance

- 11.1 The change in dates has been advertised on GOV.UK and communicated directly to stakeholders. Defra alerted the farming press to the changes and posted updates on

social media. Defra has also briefed RPA helplines and equipped them with updated Q&A to respond to any customer queries.

12. Impact

- 12.1 The impact on business, charities and voluntary bodies is advantageous because it extends the time available for farmers and land managers to submit applications and payment claims for schemes without incurring a penalty.
- 12.2 The impact on the public sector is in relation to the RPA, which processes the applications and payment claims. The change to the deadlines does not alter the number of applications or claims which the RPA is expected to receive. It may have some impact on when the RPA makes payments, but these should remain within the published period, which for 2020, is from December 2020 to June 2021.
- 12.3 An Impact Assessment has not been prepared for this instrument because there are no additional costs to businesses, charities, voluntary bodies or the public sector.

13. Regulating small business

- 13.1 This instrument applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that this instrument extends the period during which applications and payment claims are valid and reduces the risk of financial penalty, which will be advantageous for small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that Defra will monitor and review the impact of the provisions as part of its standard policy-making procedure.
- 14.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Victoria Prentis MP, Parliamentary Under of State, has made the following statement:
“A statutory review clause is not appropriate because this instrument amends provisions for the giving of grants by a public authority.”

15. Contact

- 15.1 Richard Beddard at Defra Telephone: 020 8225 8986 or email: Richard.beddard@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Andrew Robinson, Deputy Director for the Common Agricultural Policy, Direct Payments and Sector Interventions, at Defra can confirm that this explanatory memorandum meets the required standard.
- 15.3 Victoria Prentis MP, Parliamentary Under Secretary of State at Defra can confirm that this explanatory memorandum meets the required standard.