

*Draft Regulations laid before the Assembly under section 50(6) of the Agriculture Act 2020 for approval*

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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2021 No. 0000**

**AGRICULTURE**

**The Direct Payments to Farmers (Amendment)  
Regulations (Northern Ireland) 2021**

*Made - - - - 00th April 2021  
Coming into operation in accordance with  
regulation 1(1)*

The Department of Agriculture, Environment and Rural Affairs makes these Regulations in exercise of the powers conferred by section 50(3)(d) of, and paragraphs 2, 3 and 5 of schedule 6 to, the Agriculture Act 2020(1).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Direct Payments to Farmers (Amendment) Regulations (Northern Ireland) 2021 and come into operation on the day following the day on which they are made.

(2) The Interpretation Act (Northern Ireland) 1954(2) shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of Regulation (EU) No 1307/2013**

2.—(1) Regulation (EU) No 1307/2013 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(3) is amended as follows:

(2) In Article 4—

(a) in paragraph 1—

(i) in point (c)—

(aa) at the end of point (i) insert “or”;

(bb) in point (ii), omit the words from “on the basis” to the end;

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(1) 2020 c. 21.

(2) 1954 c. 33 (N.I.).

(3) EUR 2013/1307, as amended by S.I. 2020/91, S.I. 2020/576 and S.I. 2020/760. This Regulation was incorporated into domestic law by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2).

- (cc) omit point (iii);
- (ii) after point (s) insert—
  - “(t) ‘total ceiling’ means the amount determined in accordance with Article 5A.”;
- (b) in paragraph 2, in the first subparagraph, omit point (b).
- (3) After Article 5, insert—

*“Article 5A*

*The total ceiling for Northern Ireland*

1. In determining the total ceiling, the Department of Agriculture, Environment and Rural Affairs must determine an amount equivalent to the 2020 national ceiling in Annex II, as it is applicable in relation to Northern Ireland.
  2. The Department of Agriculture, Environment and Rural Affairs must determine the total ceiling
    - (a) for the purposes of the year beginning 1 January 2021, on or before 28 February 2021 and,
    - (b) in the case of any subsequent year, before the start of that year.
  3. When the total ceiling has been determined, the Department of Agriculture, Environment and Rural Affairs must publish that amount as soon as practicable after it has been made.
  4. The total ceiling, for any year, is to be distributed among all allocated payment entitlements, the national reserve or the regional reserves, and ceilings fixed in accordance with Articles 47 and 51 and where applicable, Articles 42 and 53.
  5. Where the Department of Agriculture, Environment and Rural Affairs makes a decision under Article 22(2) to increase the basic payment scheme ceiling, the total ceiling, for any year, may be exceeded by the increase decided pursuant to that Article.”
- (4) Omit Articles 6, 7 and 7A.
  - (5) Omit Article 9.
  - (6) In Article 10—
    - (a) in paragraph 1, for “Subject to paragraph 2, the” substitute “The”;
    - (b) omit paragraph 2.
  - (7) Omit Article 14.
  - (8) In Article 21(b), omit “comply with Article 9 and”.
  - (9) In Article 22—
    - (a) omit paragraph 1;
    - (b) for paragraph 2 substitute—
      - “2. The basic payment scheme ceiling for the given year is the amount which remains for the basic payment scheme after deducting, from the total ceiling, the ceilings set under Article 47 and 51 (and, where applicable, Articles 42 and 53) for that year. The relevant authority may increase the amount of the basic payment scheme ceiling. That increase may not exceed 3% of the total ceiling after deduction of the amount resulting from the application of Article 47(1) for the relevant year.”;
  - (c) in paragraph 4—

- (i) omit “its share of”;
  - (ii) omit the second sentence;
- (d) in paragraph 5—
  - (i) for “paragraph 1” substitute “ paragraph 2”;
  - (ii) for “Article 7A, Article 14,” substitute “or”;
- (10) In Article 23—
  - (a) in the heading, for “national ceilings” substitute “basic payment scheme ceiling”;
  - (b) in paragraph 2, for the words from “its share of” to “Article 22(1)” substitute “the basic payment scheme ceiling referred to in Article 22(2)”.
- (11) In Article 25—
  - (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) for “relevant authority’s share of the national ceiling” substitute “total ceiling”;
    - (ii) in the second subparagraph—
      - (aa) omit “the relevant authority’s share of”, in the first place it occurs;
      - (bb) after “Article 30” insert “, as it had effect immediately before exit day,”.
- (12) In Article 30—
  - (a) for “relevant authority’s share of the basic payment scheme ceiling”, in each place it occurs, substitute “basic payment scheme ceiling in Northern Ireland”;
  - (b) after “regional ceiling”, in each place it occurs, insert “in Northern Ireland”;
  - (c) omit paragraph 5;
  - (d) in paragraph 7(f), omit “and Article 65(1), (2) and (3)”;
- (13) In Article 31(1)(a), omit point (i).
- (14) In Article 32—
  - (a) in paragraph 1—
    - (i) omit “of financial discipline,”;
    - (ii) omit “Article 7 and”;
  - (b) omit paragraph 5.
- (15) In Article 34(1), omit the words from “entitled” to “Article 9”.
- (16) In Article 35(1), omit point (h).
- (17) In Article 50(4)—
  - (a) omit “of financial discipline,”;
  - (b) omit the words from “and of linear” to “this Regulation”.
- (18) In Article 51—
  - (a) in paragraph 1—
    - (i) in the first subparagraph, for “its share of the annual national” substitute “the total”;
    - (ii) for the second subparagraph substitute—
      - “Where the relevant authority decides by 15 October in a calendar year to revise the percentage, that revised percentage will have effect for the following calendar year.”;

- (b) in paragraph 2, for “relevant authority’s share of the national” substitute “total”;
  - (c) in paragraph 3, for “its share of the annual national” substitute “the total”.
- (19) In Article 71—
- (a) in paragraph 1, for “paragraphs 2” substitute “paragraphs 3”;
  - (b) omit paragraph 2.
- (20) Omit Annex 3.

#### **Amendment of Commission Delegated Regulation (EU) 639/2014**

**3.—**(1) Commission Delegated Regulation (EU) No. 639/2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (**4**) is amended as follows.

- (2) Omit Articles 4 and 5.
- (3) Omit Article 8.
- (4) Omit Articles 10 to 13.

#### **Amendment of the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015**

**4.** In the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015(**5**), in regulation 4(3) omit “for claim year 2020”.

#### **Amendment of Regulation (EU) No 1306/2013**

**5.—**(1) Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy(**6**) is amended, insofar as it relates to direct payments, as follows.

- (2) In Article 105—
  - (a) omit paragraph 1;
  - (b) in paragraph 2, in the second sentence, for “Subject to Article 108, they” substitute “They”.
- (3) Omit Article 106(4).
- (4) Omit Article 108.
- (5) In Article 112, in the first paragraph, for the words from “the Funds” to “exit day)” substitute “agricultural support”.

#### **Amendment of Commission Implementing Regulation (EU) No. 809/2014**

**6.—**(1) Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) 1306/2013 of the European Parliament and of the Council with

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(4) EUR 2014/639, amended by S.I. 2020/91 and 576. EUR 2014/639 was prospectively amended with effect from IP completion day by S.I. 2019/208 and 763 (as amended by S.I. 2019/812), but those prospective amendments were revoked by The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020 immediately before IP completion day.

(5) S.R. 2015 No. 191, as amended by S.R. 2020/22

(6) EUR 2013/1306, amended in relation to direct payment schemes by S.I. 2020/90 and 576. EUR 2013/1306 is also amended prospectively with effect from IP completion day by S.I. 2019/748 (as amended by S.I. 2019/831), 763 (as amended by S.I. 2019/812), 831 and 1402. However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

regard to the integrated administration and control system, rural development measures and cross compliance(7), is amended, in so far as it relates to direct payments, as follows.

(2) In Article 6—

(a) omit paragraph 3(b).

(3) In Article 14(1), omit point (h).

(4) In Article 15(2) in the second subparagraph, for “Member States” substitute “the relevant authority”.

(5) In Article 23(2), omit the words from “the payments received” to “exit day), or”, in the second place it occurs.

(6) In Article 34—

(a) in paragraph 2(a), for “points (a) to (e)” substitute “points (a), (b) (d) and (e)”;

(7) In Article 37(2), omit the second subparagraph.

(8) In Article 39(2), omit the first sentence.

(9) In Article 68(1), in the first subparagraph, for “as it has effect in EU law” substitute “as amended for the purpose of agricultural support”.

(10) In Article 69(5), for “30 to 34” substitute “30, 31, 33 and 34”.

(11) Omit Article 70b.

#### **Amendment of Commission Delegated Regulation (EU) No. 640/2014**

7.—(1) Commission Delegated Regulation (EU) No. 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance(8), is amended, in so far as it relates to the direct payment schemes, as follows.

(2) In Article 2(1)—

(a) in point (1), omit the words from “and referred” to the end;

(3) In Article 5(2)(d), omit the words from “areas naturally” to “No 1307/2013”.

(4) In Article 6(3), for “2021” substitute “following the calendar year in question”.

#### **Amendment of Commission Delegated Regulation (EU) No 907/2014**

8. In Commission Delegated Regulation (EU) No 907/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro(9), omit Article 11, insofar as it relates to the direct payment schemes.

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(7) EUR 2014/809, amended in relation to direct payment schemes by [S.I. 2020/90](#) and [576](#). EUR 2014/809 is also amended in relation to direct payment schemes in England by [S.I. 2020/510](#) and [575](#). EUR 2014/809 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#). However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

(8) EUR 2014/640, amended in relation to direct payment schemes by [S.I. 2020/90](#) and in relation to direct payment schemes in England by [S.I. 2020/551](#). EUR 2014/640 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#). However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

(9) EUR 2014/907, amended in relation to direct payment schemes by [S.I. 2020/90](#). EUR 2014/907 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#). However, by virtue of the amendments in The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020, these prospective amendments do not have effect in relation to direct payment schemes.

### **Amendment of Commission Implementing Regulation (EU) No 908/2014**

9.—(1) Commission Implementing Regulation (EU) No 908/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency<sup>(10)</sup> is amended, insofar as it relates to the direct payment schemes, as follows.

(2) In Article 28, omit the words from “under direct” to “Development”.

(3) In Article 58, for “third” substitute “second”.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on  
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<sup>(10)</sup> EUR 2014/908, amended in relation to direct payment schemes by [S.I. 2020/90](#). EUR 2014/908 is also amended prospectively with effect from IP completion day by [S.I. 2019/765](#). However, by virtue of the amendments in *The Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020*, these prospective amendments do not have effect in relation to direct payment schemes.

## EXPLANATORY NOTE

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

These Regulations are made in exercise of the powers conferred by section 50(3)(d) and schedule 6 paragraphs 2, 3 and 5 of the Agriculture Act 2020 (c. 21) in order to make provision in retained EU law governing the direct payment schemes for securing the continuation of the basic payment scheme in Northern Ireland beyond 2020.

Regulations 2 to 4 amend Regulation (EU) No 1307/2013 (the “Direct Payments Regulation”), Regulation (EU) No 639/2014 and the Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015 to allow the basic payment scheme to function effectively beyond 2020. Regulation 2(3) introduces a new Article 5A to the Direct Payments Regulation which provides the manner in which to determine the direct payments ceiling in Northern Ireland beyond 2020.

Regulations 5 to 9 modify Regulations (EU) No 1306/2013, 809/2014, 640/2014, 907/2014 and 908/2014 to the extent necessary for the basic payment scheme to function effectively beyond 2020. Those EU regulations contain some of the rules governing the direct payment schemes as well as other schemes under the common agricultural policy. These regulations amend that body of law insofar as it relates to the direct payment schemes.

Regulations 2 to 9 also amend the retained EU law relating to the direct payment schemes to remove provisions which are spent or not in use.

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.