



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**        **The Agriculture (Payments) (Amendments etc.) (EU Exit) Regulations 2020**

**DATE**        **07 October 2020**

**BY**            **Rebecca Evans MS, Minister for Finance and Trefnydd**

The 2020 Regulations amend the following legislation which applies to Wales:

EU legislation

- Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors;
  
- Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing 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 and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors;
  
- Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 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;
  
- Commission Implementing Regulation (EU) 2017/1185 laying down rules for the application of Regulation (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents;

## Domestic legislation

- The Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/763);
- The Common Agricultural Policy (Financing, Management and Monitoring Supplementary Provisions) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/765);
- The Agriculture (Legislative Functions) (EU Exit) Regulations 2019 (S.I. 2019/748);
- The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/733);
- The Rural Development (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/764);
- The Rural Development (Rules and Decisions) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/770);
- The European Structural Investment Funds (Common Provisions) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/785);
- The Market Measures Payment Schemes (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/823);
- The Agriculture (Legislative Functions) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/831);
- The Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1402);
- The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No.2) Regulations 2019 (S.I. 2019/1422); and
- the Common Agricultural Policy and Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1405)

These 2020 Regulations revoke the following domestic legislation:

- The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/207);
- The Common Agricultural Policy (Rules for Direct Payments) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/208);
- Regulation 2 of the Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/812); and;
- Part 4 of the Food and Farming (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/759).

### **Any impact the SI may have on the Senedd’s legislative competence and/or the Welsh Ministers’ executive competence**

The effect of the concurrent and joint functions contained in this SI have potential to engage the consent requirements in Schedule 7B to GoWA and as such represent a potential restriction on the future competence of the Senedd. However, we are in negotiations with the Office for the Secretary of State for Wales in relation to a s.109 Order to amend Schedule 7B so as to negate the potential restriction on the future competence of the Senedd.

### **The purpose of the amendments**

The European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) converts and preserves EU law into domestic law (“retained EU law”) at the end of the transition period following the UK’s withdrawal from the EU.

In relation to Direct Payments, the 2020 Regulations make changes to clarify the position of specified EU Regulations which were incorporated into domestic law with effect from exit day insofar as relating to direct payments and incorporated with effect from the end of the transition period (“IP completion day”) for remaining purposes. The 2020 Regulations amend or revoke a number of earlier EU Exit SIs, to reflect that those SIs will not apply in relation to direct payments following the Withdrawal Agreement and the Direct Payments to Farmers (Legislative Continuity) Act 2020 and regulations made under it.

In relation to Rural Development, the 2020 Regulations amend previous EU Exit SIs, which were made before the Withdrawal Agreement was signed. These need to be updated to reflect the new position, and a small number of amendments are being made to ensure that the rural development rules continue to function effectively at the end of IP completion day. In relation to Public Intervention (“PI”) and Private Storage Aid (“PSA”), the 2020 Regulations make amendments to earlier EU Exit SIs that set the rules for PI and PSA schemes included in the Common Organisation of Agricultural Markets (“CMO”) regime. These amendments will ensure provisions relating to the setting of prices for the intervention tendering process can be run administratively, which is in keeping with domestic processes and will allow relevant authorities to mirror the current system of administering PI and PSA as closely as possible at the end of the transition period, to ensure producers and operators

do not experience any change in how the schemes are run immediately after the end of the transition period.

The 2020 Regulations also amend retained EU law concerning producer groups, producer organisations, notifications in the fruit and vegetables and processed fruit and vegetables sectors, and notifications of agricultural market information to domestic authorities. These amendments should be read in conjunction with The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment Etc.) (EU Exit) Regulations 2020 which also make operability corrections to Commission Delegated Regulation (EU) No 2017/891 and Commission Implementing Regulation (EU) No 2017/892. More generally, the 2020 Regulations make a small number of minor drafting amendments to update drafting and correct errors and oversights in earlier EU Exit SIs, for example missed cross-references that needed amending and substituting a reference to Pounds Sterling for a reference to Euro. In addition, the 2020 Regulations make limited amendments to previous EU Exit SIs to take account of the Northern Ireland Protocol, and to ensure that UK Paying Agencies are able to continue complying with EU rules for the purposes of Article 138 of the Withdrawal Agreement.

The 2020 Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here: <https://www.legislation.gov.uk/ukdsi/2020/9780348212747/contents>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure consistency and coherence of the statute book. The amendments have been considered fully and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.