

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair,
Constitutional and Legislative Affairs Committee
Mick.Antoniw@assembly.wales

12 February 2020

Dear Mick,

UK Wide Statutory Instrument – The Rules for Direct Payments to Farmers (Amendment) Regulations 2020

I am writing to notify you that UK Government has made the above statutory instrument under powers set out in the Direct Payment for Farmers (Legislative Continuity) Act 2020.

This urgent made affirmative procedure Statutory instrument (SI) addresses the failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU.

The 2020 Regulations make the modifications necessary to continue to ensure that the Common Agriculture Policy (“CAP”) Direct Payment Schemes remain operable for scheme year 2020, once the UK withdraws from the EU.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments>

In respect of any impact the SI may have on the Assembly’s legislative competence and/or the Welsh Ministers’ executive competence, I confirm that the Common Agricultural Policy (“CAP”) and its implementation in Wales is a devolved subject.

This SI contains provision which enables the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise functions in relation to Wales.

The Secretary of State can exercise these UK wide legislative functions only with the consent of a Devolved Administration. These functions relate to the UK direct payment ceiling, and as such it is considered that it falls outside the legislative competence of the Senedd; however

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

changes to the UK ceiling would affect Wales' share of the national ceiling. Due to the impact on a devolved area, these powers will be exercised by the Secretary of State but only with the consent of the Welsh Ministers.

The way these functions are drafted may engage the consent requirements in paragraph 8(1)(c) of Schedule 7B to GOWA 2006 if the functions were removed in an Act of the Senedd in the future.

The Wales Office and DEFRA have confirmed that the Direct Payment for Farmers (Legislative Continuity) Act 2020 will be included in a forthcoming Section 109 Order to ensure that it, and any regulations made pursuant to it are carved out from the effect of the Schedule 7B restrictions. The timetable for this Section 109 Order has not yet been confirmed.

The law being amended is as follows:

- Regulation (EU) No 1307/2013 - establishes rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.
- Commission Delegated Regulation (EU) No. 639/2014 - supplements the Direct Payments Regulation.
- Commission Implementing Regulation (EU) No. 641/2014 - laying down rules for the application of the Direct Payments Regulation.

The Welsh Ministers have provided consent for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. 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.

I am copying this letter to the Counsel General and Brexit Minister and the Minister for Environment, Energy and Rural Affairs.

Yours sincerely,



Rebecca Evans AC/AM
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Minister for Finance and Trefnydd