

Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 000

EXITING THE EUROPEAN UNION COMPETITION

The State Aid (Agriculture and Fisheries) (Amendment) (EU Exit) Regulations 2019

Made - - - -

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the State Aid (Agriculture and Fisheries) (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

PART 2

Amendments to [Commission Regulation \(EU\) No 702/2014](#)

Amendments to the agricultural block exemption regulation

2. [Commission Regulation \(EU\) No 702/2014](#) declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application

(1) 2018 c. 16.

of Articles 107 and 108 of the Treaty on the Functioning of the European Union is amended in accordance with this Part.

Article 1 (Scope)

3. In Article 1—

- (a) in paragraph 1(a)(ii)—
 - (i) for “falling outside the scope of Article 42 of the Treaty” substitute “other than the production of and trade in agricultural products”;
 - (ii) for “co-financed by the European Agricultural Fund for Rural Development (EAFRD)” substitute “support for rural development”;
 - (iii) omit “national”;
 - (iv) for “such co-financed measures” substitute “rural development”;
- (b) in paragraph 2, for “Member States” substitute “aid grantors”;
- (c) in paragraph 3(a)—
 - (i) for “co-financed by the EAFRD” substitute “support for rural development”;
 - (ii) omit “national”;
 - (iii) for “such co-financed measures” substitute “rural development”;
- (d) in paragraph 3(b)—
 - (i) for “falling outside the scope of Article 42 of the Treaty” insert “other than the production of and trade in agricultural products”;
 - (ii) for “co-financed by the EAFRD”, substitute “support for rural development”;
 - (iii) omit “national”;
 - (iv) for “such co-financed measure” substitute “rural development”;
- (e) in paragraph 4—
 - (i) in point (a)—
 - (aa) for “Commission” in the first place it occurs substitute “CMA”;
 - (bb) for “Member State to the Commission” substitute “aid grantor to the CMA”;
 - (ii) in point (c), omit “towards third countries or Member States”;
- (f) in paragraph 5—
 - (i) in point (a), for the words from “Commission Decision” to the end substitute “CMA decision not to approve unlawful or misused aid under Part 3, Chapters 2 and 3, of the state aid regulations”;
 - (ii) in point (b), omit the words from “following” to the end;
- (g) omit paragraph 7.

Article 2 (Definitions)

4. In Article 2—

- (a) before point (1), insert—
 - “(A1) ‘State aid regulations’ means the State Aid (EU Exit) Regulations 2019(2);
 - (B1) ‘CMA’ means the Competition and Markets Authority;

(C1) ‘support for rural development’ means financial support granted under Title 3 of Regulation (EU) No 1305/2013 or Title 3, Chapter 2 of Regulation (EU) No 1303/2013;

(D1) ‘constituent nation’ means England, Wales, Scotland or Northern Ireland, as the case may be;

(E1) ‘aid grantor’ means a person who plans to grant, or who has granted, aid;”;

(b) in point (14)—

(i) in point (a), for the words from “the types” to “Council” substitute “public companies limited by shares or by guarantee, and private companies limited by shares or by guarantee”;

(ii) in point (b), for the words from “the types” to the end substitute “partnerships, limited partnerships, and unlimited companies”;

(iii) in point (c), omit “under its domestic law”;

(c) for point (18) substitute—

“(18) ‘plant pest’ means pests of plants or of plant products, which belong to the animal or plant kingdoms, or which are viruses, mycoplasmas or other pathogens;”;

(d) in point (29), omit “under the applicable national legal regime”;

(e) for point (30) substitute—

“(30) ‘National standard’ means an applicable mandatory requirement laid down in retained EU law setting the level which individual undertakings must achieve, in particular as regards the environment, hygiene and animal welfare; however, standards or targets which do not bind individual undertakings are not deemed to be national standards;”;

(f) in point (33)—

(i) for “an Union standard” in both places it occurs substitute “a national standard”;

(ii) for “Union legislation”, substitute “retained EU law”;

(g) omit points (35) and (36);

(h) in points (38) and (39)—

(i) for “Member States of the Union” in the first place it occurs substitute “countries”;

(ii) before “Union” in the second place it occurs insert “European”;

(i) in point (46), omit the words from “whatever” to “national law,”;

(j) in point (48)(a), for the words from “by a Member State” to “constituted” substitute “in the United Kingdom”;

(k) in point (49), for “either by Union or by national legislation” substitute “by legislation”;

(l) in point (53)—

(i) for “Member States” in the first place it occurs substitute “the competent authority”;

(ii) for “Member States” in the second place it occurs substitute “competent authority”;

(m) in points (57) and (58), for the words from “an approved” to the end, substitute “the approved regional aid map”;

(n) in point (59), for the words from “by the Commission” to the end, substitute “as such in the approved regional aid map”;

(o) in point (60), after “and of the Council” insert “, as it had effect immediately before exit day”;

(p) for point (61) substitute—

“(61) ‘non-predefined “c” areas’ means the non-predefined areas designated as regions eligible for aid under Article 107(3)(c) of the Treaty in the approved regional aid map for 2014-2020;

(61A) ‘approved regional aid map’ means the regional aid map for the United Kingdom that was approved by the Commission for the period 2014-2020 in decision SA.38113, as amended by decision SA.46361;”.

New Articles 2A and 2B

5. After Article 2, insert—

“Article 2A

References to Articles of the Treaty and certain other EU instruments

1. In this Regulation—

- (a) a reference to Article 107(1) or 108(3) of the Treaty is a reference to that Article as it has effect in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 and regulation 3(1) and (2) of the state aid regulations;
- (b) a reference to Article 107(2) or (3) of the Treaty is to be read in accordance with regulation 3(3)(b) of the state aid regulations;
- (c) a reference to NUTS is a reference to the Nomenclature of Territorial Units for Statistics, as laid down in Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS), as it had effect immediately before exit day.

Article 2B

Competent authority

1. Subject to paragraphs 2 to 5, for the purposes of this Regulation the competent authority is the Secretary of State.

2. In relation to Scotland, in respect of areas within devolved competence, the competent authority is the Scottish Ministers.

In this paragraph, “devolved competence” is to be read in accordance with section 54 of the Scotland Act 1998.

3. In relation to Wales, in respect of functions conferred or imposed under section 56 of the Government of Wales Act 2006, the competent authority is the Welsh Ministers.

4. In relation to Northern Ireland, in respect of functions conferred under sections 22 or 23 of the Northern Ireland Act 1998, the competent authority is the Department of Agriculture, Environment and Rural Affairs.

5. Where prior to exit day the relevant function was delegated to another person or body, the competent authority is that person or body.

6. This Article is without prejudice to any power for the competent authority to delegate functions.”.

Article 3 (Conditions for exemption)

6. In Article 3, for “be compatible with the internal market within the meaning of” substitute “be deemed to be approved under”.

Article 5 (Transparency of aid)

7. In Article 5(2)—

(a) in point (c)—

(i) in point (i), for “Commission notice” substitute “CMA statement of policy”;

(ii) in point (ii)—

(aa) for the words from “Commission Notice” to “successor notice” substitute “CMA statement of policy on State aid in the form of guarantees, or any successor statement of policy”;

(bb) for the words from “the Commission under” to “time” substitute “the CMA under the state aid regulations”;

(b) in point (e), for “Commission” substitute “CMA”.

Article 6 (Incentive effect)

8. In Article 6, for “Member State” in each place it occurs substitute “aid grantor”.

Article 7 (Aid intensity and eligible costs)

9. In Article 7—

(a) in paragraph 1, for “the EAFRD” substitute “support for rural development”;

(b) in paragraph 2, omit “under national VAT legislation”.

Article 8 (Cumulation)

10. In Article 8—

(a) omit paragraph 2;

(b) in paragraph 4, for “Commission” substitute “CMA”.

Article 14 (Aid for investments in tangible assets or intangible assets on agricultural holdings linked to primary agricultural production)

11. In Article 14—

(a) in paragraph 1, for “compatible with the internal market within the meaning of” substitute “deemed to be approved under”;

(b) in paragraph 3—

(i) in point (b), for “Union standards in force” substitute “national standards”;

(ii) in point (d), for “the national or regional rural development programmes of Member States” substitute “a rural development programme”;

(c) in paragraph 4—

(i) in the fifth subparagraph, omit “at national level”;

(ii) in the sixth subparagraph, for “Member States” substitute “competent authority”;

(iii) in the seventh subparagraph—