

# DIRECT PAYMENTS TO FARMERS (LEGISLATIVE CONTINUITY) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Direct Payments to Farmers (Legislative Continuity) Bill as brought from the House of Commons on 28 January 2020 (HL Bill 70).

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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## Overview of the Bill

1. The Direct Payments to Farmers (Legislative Continuity) Bill will provide the legal basis to continue paying Direct Payments to farmers by ensuring that the scheme continues in each part of the UK for claim year 2020. This is necessary because under the terms of the Withdrawal Agreement (WA) the EU Direct Payments legislation will not apply in the UK for the 2020 claim year.
2. The Bill will domesticate the EU Direct Payments legislation, as it stands on 31 January 2020, into UK law. It includes time-limited powers. It contains a power to make secondary legislation to make corrections to that body of law to make it operable once the UK has left the EU. It also contains a discretionary power to enable amendments to be made, during 2020, to the law this Bill domesticates if, for example, there are amendments to the equivalent European law that the Secretary of State or the devolved administrations wish to replicate. There is also a power for the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland to enable them to continue to move towards a uniform unit value of payment entitlements. The Bill also amends the EU Direct Payments legislation to enable an increase to the Direct Payments financial ceilings for the 2020 scheme year to take account of the findings of the Bew Review<sup>1</sup> concerning the allocation of farm support funding in the UK.

## Policy background

### Exiting the EU

3. On 1 January 1973 the UK joined the European Economic Community, which has since evolved to become today's European Union. As part of its membership, the UK became part of the Common Agricultural Policy (CAP), which has underpinned UK agricultural policy since.
4. On 17 December 2015 the European Union Referendum Act 2015 received Royal Assent. The Act made provision for holding a referendum in the UK and Gibraltar on whether the UK should remain a member of the EU. The referendum was then held on 23 June 2016 and resulted in a 52% vote to leave the European Union.
5. The European Union (Notification of Withdrawal) Act 2017 received Royal Assent on 16 March 2017. On 29 March 2017, the Prime Minister gave notification of withdrawal of the United Kingdom from the European Union under Article 50(2) of the Treaty on European Union.
6. In October 2019, the UK and European Council concluded negotiations on the WA. Article 137 of that WA (as was also the case in the November 2018 WA) stipulates that Regulation (EU) No 1307/2013, which is the basic act governing Direct Payments to farmers, does not apply in the UK for claim year 2020 (save for Article 13).

### Direct Payments

7. UK agriculture receives around £3.2 billion in support from the EU every year via the CAP. CAP consists of two pillars. Pillar 1 mainly provides Direct Payments, accounting for ~88% of total

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<sup>1</sup> 'UK government response to the independent intra-UK allocations review (Bew Review)': <https://www.gov.uk/government/publications/domestic-farm-support-funding-bew-review-government-response/uk-government-response-to-the-independent-intra-uk-allocations-review-bew-review>

payments. Pillar 2 accounts for the remaining ~12%, supporting environmental outcomes, farming productivity, socio-economic outcomes and rural growth.

8. The following direct payment schemes operate in each part of the UK:
  - a. the basic payment scheme (BPS), which is the main scheme of Direct Payments to farmers that offers a basic layer of income support;
  - b. the greening payment, which is a top-up payment for agricultural practices beneficial for the climate and the environment; and
  - c. the young farmer scheme, which is a top-up payment for young farmers.
9. In addition, in Wales some of the Welsh Direct Payments budget is used to operate a redistributive payment, in which higher payments are allocated to smaller farms. In Scotland, some of the Scottish Direct Payments budget is used to fund voluntary coupled support, which provides support per head of suckler beef and sheep.
10. Between 2015/16 and 2017/18 the average profit for all farms in England was £43,400, with Direct Payments equivalent to the largest share of this (58%).
11. The WA disapplies the CAP Direct Payments legislation in the UK for the 2020 claim year. This is because CAP Direct Payments for the 2020 claim year will be funded from the EU's new 2021 multi-annual budget (because CAP Direct Payments are paid in arrears).
12. This means that without new legislation, HM Government and the devolved administrations (DAs) cannot continue to make Direct Payments to farmers for the 2020 claim year. The scheme will have no basis in law.
13. The principal purpose of the Bill is to enable the government and the DAs to continue the Direct Payments scheme, thereby providing financial support for farmers via Direct Payments for the 2020 claim year.
14. In September 2019 the Government accepted the recommendations of the Bew Review concerning the allocation of farm support funding in the UK. It agreed that a greater share of the so-called 'convergence funding', an uplift of the financial ceiling for Direct Payments given by the EU to the UK, should in 2020-22 be allocated to Scotland and Wales, while the corresponding allocations for England and Northern Ireland should be maintained. The Bill will enable the Government to implement this decision.

## Legal background

15. As the UK has been a member of the EU, UK farmers have been able to claim Direct Payments under the basic act (Regulation ((EU) No 1307/2013) and the implementing and delegated acts (Regulation (EU) No 639/2014 and 641/2014). Conditionality, inspections and penalties are contained in cross cutting regulations (the basic act is Regulation (EU) No 1306/2013 and the implementing and delegated acts under this Regulation include Regulation (EU) Nos 907/2014, 908/2014, 809/2014 and 640/2014).
16. Under the terms of the WA, EU law continues to be applicable in the UK during the implementation period, which is defined in Article 126 as starting on the date of entry into force of that Agreement and ending on 31 December 2020.
17. Article 137 of the WA provides that Regulation (EU) No 1307/2013 (which governs Direct Payments to farmers) shall not apply in the UK for claim year 2020 save for Article 13 of that Regulation (the state aid exemption). Whilst Article 137 of the Withdrawal Agreement expressly refers to Regulation (EU) 1307/2013, it is also intended to capture legislation connected to the application of that Regulation, and such legislation is captured within the Bill.

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18. The effect of that Article in the WA will therefore mean that the law enabling the Direct Payments scheme to continue and payments to be made for the 2020 claim year will have no force in law from exit day (as defined in section 20(1) of the European Union (Withdrawal) Act 2018 (2018 Act) to mean at 11:00pm on 31 January 2020). Consequently, to allow the scheme to continue for the rest of the 2020 claim year it will need a basis in law.
19. By incorporating EU legislation governing Direct Payments to farmers into domestic law, the Bill will provide the legislative vehicle required to enable the Direct Payments scheme to continue for the whole of claim year 2020 and for payments under that 2020 scheme to be made to farmers. The Bill will include powers to make regulations to amend that body of law to enable it to work effectively. It will also provide a power to enable amendments in 2020 should DEFRA or the devolved administrations need to replicate any amendments made to the equivalent European body of law.
20. The Bill will also amend the Direct Payments basic act (Regulation (EU) No 1307/2013) to include a discretion to increase the total maximum amount of direct payments for claim year 2020. This will enable the Government to implement its decision which was made following the Bew Review, within the legislative framework.

## Territorial extent and application

21. Clause 9 sets out the territorial extent of the clauses in the Bill. The extent of a Bill is the legal jurisdiction where it forms part of the law; application refers to where it has practical effect.
22. Agriculture is a devolved matter and within the competence of the devolved administrations. The Bill provides the Secretary of State with the power to make regulations on a UK wide basis, on behalf of Scotland, Wales and Northern Ireland but only with their consent. The UK Parliament will not normally legislate for areas within the competence of the Scottish Parliament, National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned. As the provisions of this Bill fall within devolved competence, the consent of the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly has been granted through legislative consent motions.
23. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

# Commentary on provisions of Bill

## Clause 1: Incorporation of EU legislation governing the CAP direct payment schemes

24. The purpose of clause 1 is to incorporate EU legislation governing the 2020 CAP direct payment schemes into domestic law.
25. Subsection (1) brings the EU legislation governing the CAP direct payment schemes for claim year 2020 into domestic law on exit day.
26. Subsection (2) clarifies that the body of law referred to in subsection (1) is the legislation as it has effect in EU law immediately before exit day in so far as it is concerned with claim year 2020, excepting any amendments made by the EU before this time concerned with giving effect to the WA.
27. Subsection (3) specifies the legislation being incorporated into UK law under subsection (1) and, in particular, specifies that the Horizontal Regulation (Regulation (EU) No 1306/2013) and regulations made under it will only form part of domestic law as far as they relate to the CAP direct payment schemes.
28. Subsection (4) specifies that the EU legislation being incorporated is in the English language version.
29. Subsection (5) excludes the provisions in this section from having any impact on matters relating to the previous claim year (year 2019) or earlier claim years.
30. Subsection (6) ensures continuity between January 2020 and the rest of the claim year in 2020 by treating the incorporated EU legislation as having formed part of domestic law from 1 January 2020. In relation to the 2020 claim year, farmers will be governed by EU law for January 2020 and by domestic law thereafter, but this provision means that the timeframe for compliance under the 2020 scheme will be treated as starting from the beginning of the claim year on 1 January 2020.
31. Subsection (7) defines terminology used under this clause.

## Clause 2: Interpretation and status

32. Clause 2 sets out the rules for interpreting retained EU law governing CAP direct payment schemes in the domestic courts and makes provision about the status of that law. This clause applies the relevant provisions of the 2018 Act with modifications for the purposes of this Bill.
33. Subsection (1) applies the law within the 2018 Act governing the interpretation of retained EU law (set out in section 6 of that Act) for the purposes of this Bill in respect of the retained EU law incorporated by clause 1(1).
34. Subsection (2) applies section 6 of the 2018 Act but with modifications to certain expressions in that section. The modifications applied are those set out in subsections (5) and (6).
35. Subsection (3) sets out the status of retained EU law for the purposes of this Bill. It applies section 7(2) and (3) of, and specified paragraphs in Schedule 8 to, the 2018 Act but with modifications for the purposes of retained EU law incorporated under clause 1(1) of this Bill. Section 7(2) and (3) of the 2018 Act restrict the way in which retained EU law can be amended by primary and subordinate legislation. Paragraphs 3-8 of Schedule 8 to that Act set out how existing powers relating to subordinate legislation may operate on retained EU law and paragraphs 10-12 of Schedule 8 to that Act deals with how future power would operate on retained EU law.
36. Subsection (4) specifies that the modifications mentioned in subsection (3) are those listed in the table in subsection (5).
37. Subsection (5) lists a number of modifications to phrases used within the 2018 Act. Therefore those provisions are to be read as excluding the words in the left hand column and instead replacing it

with the words in the right hand column.

38. Subsection (6) provides that, for the purposes of subsection (1) of this clause, the definitions applied in section 6(7) of the 2018 Act are modified to apply for the purposes of this Bill.
39. Subsection (7) provides that, when interpreting subordinate legislation which is both retained EU law incorporated by clause 1(1) of this Bill and retained EU law under section 6 of the 2018 Act, section 6 of the 2018 Act will apply with modifications made under this section but only insofar as it relates to the CAP direct payment schemes.
40. Subsection (8) defines the status of legislation listed in clause 1 of this Bill for the purposes of the Human Rights Act 1998.
41. Subsection (9) provides that certain terms within subsection (8) are to be interpreted as they are defined in the Human Rights Act 1998.
42. Subsection (10) defines terminology used under this clause.
43. Subsection (11) ensures that provisions that are not yet in force and any amendments made to the European Union (Withdrawal Agreement) Act 2020 will come into force at the same time as this section comes into force.

### Clause 3: Regulations in connection with the retention of EU legislation under section 1

44. Clause 3 gives the Secretary of State the power to make necessary operability changes to make sure that the law works properly for claim year 2020. The powers are also mirrored for the Devolved Administrations (DAs). The Secretary of State may do so UK wide but only with the consent of the DAs. There is also a power to make amendments during 2020 if the equivalent EU law is amended and the UK or DAs similarly wish to make this amendment. These powers mirror the powers set out in sections 8 and 11 of the 2018 Act with modifications. There is also a power for DAERA to enable them to continue to move towards a uniform unit value of payment entitlements.
45. Subsection (1) provides the Secretary of State with the power to make secondary legislation to fix any deficiency or failure in retained EU law governing the CAP direct payment schemes that arises from EU exit, or to keep pace with any changes made to the CAP direct payments scheme for the claim year 2020 by the EU. A failure of retained EU law governing the CAP direct payments scheme is a type of deficiency: a failure means the law doesn't operate effectively, whereas deficiency covers a wider range of cases where it does not function appropriately or sensibly.
46. Subsection (2) places a duty on the Secretary of State to get consent from the DAs before making UK wide regulations.
47. Subsection (3) gives power to the devolved authorities in Scotland, Wales and Northern Ireland to make regulations to fix any deficiencies in the law that arise from EU exit, or to keep pace with any changes made to the CAP direct payments scheme for the claim year 2020 by the EU.
48. Subsection (4) allows DAERA in Northern Ireland to modify the retained EU law incorporated by clause 1(1) where it concerns the value of payment entitlements in Northern Ireland, so that those entitlements may continue to move towards a uniform unit value.
49. Subsection (5) explains the sorts of deficiencies arising after exit day that may be corrected using the powers in subsections (1)(a)(ii) and 3(a)(ii). It mirrors some of the equivalent provisions in the 2018 Act.
50. Subsection (6) specifies that sections 8(5) to (7), apart from subsection (7)(e), of the 2018 Act apply in relation to regulations made under the powers in subsections (1) and (3) and explains how those

sections of the 2018 Act are to be read.

- Section 8(5) of the 2018 Act provides that secondary legislation made under the power in this section can do anything an Act of Parliament might to deal with deficiencies. This could include altering Acts of Parliament where appropriate and sub-delegating the power to a public authority where they are best placed to deal with the deficiencies. The power is subject to the restrictions set out in Section 8(7) of the 2018 Act.
- Section 8(6) of the 2018 Act provides, non-exhaustively, for what the secondary legislation made under this power can do. For example, it can transfer the functions of EU authorities to UK public authorities. These functions might include the ability to set rules or create standards, which are currently made by the EU as non-legislative acts (delegated and implementing acts). The power can be used to repeal, amend or replace parts of the retained law. There will be other uses of the power necessary to correct deficiencies. The power could be used to amend law which is not retained EU law where that is an appropriate way of dealing with a deficiency in retained EU law.
- Section 8(7) of the 2018 Act stipulates that regulations cannot be used to impose or increase taxation or fees, make retrospective provision, create a relevant criminal offence, establish a public authority, amend the Human Rights Act 1998 or any subordinate legislation made under it, amend the devolution Acts (except in certain specific and limited ways), or for the purposes of implementing the WA.

51. Subsection (7) clarifies that the provisions made by regulations in this clause may apply in relation to matters arising in relation to the CAP direct payment schemes for the whole of the 2020 claim year. This ensures that provisions can cover matters arising in January 2020 whilst still under EU law.
52. Subsection (8) is an important safeguard and makes clear that the powers are temporary and will expire after 31 December 2020. This does not affect the continuation of regulations made before that date so, for example, any outstanding payments to farmers in relation to the 2020 scheme year can continue to be paid after 31 December 2020.
53. Subsection (9) specifies that the regulation making powers in subsections (1) or (3) include the ability to make different provision for different purposes, for example to make amendments to one of the direct payment schemes which only affects certain farmers. It also specifies that the regulation making powers in subsections (1) or (3) include powers to make consequential amendments to the regulations, including the power to re-state any retained EU law governing the CAP direct payment scheme to make it clearer.
54. Subsection (10) defines terminology used under this clause.

#### Clause 4: Publication and rules of evidence

55. Clause 4 makes provision for the domestic publication of certain EU regulations relating to Direct Payments, ahead of exit day. It also contains provision on rules of evidence.
56. Subsection (1) exempts the Direct Payments Regulation, and accompanying Delegated and Implementing Acts, from the publication requirement laid down in the 2018 Act.
57. Subsection (2) places a duty on the Queen's printer to publish specified EU regulations listed in clause 1 as they appear in the Official Journal before exit day.
58. Subsection (3) cross refers to the regulations listed in subsection (1) and sub-paragraphs (i) to (v) of section 1(3)(d).

59. Subsection (4) exempts from publication anything that is repealed before exit day and any changes made after that time.
60. Subsection (5) specifies that retained EU legislation under clause 1(1) is a “relevant matter” for the purposes of paragraph 4 of Schedule 5 to the 2018 Act. Paragraph 4 of Schedule 5 is a power to make provision about judicial notice and admissibility. Matters which are ‘judicially noticed’ are deemed to already be within the knowledge of the court, and so are not required to be ‘proved’ to the court. For example, public Acts of Parliament and the EU Treaties are judicially noticed. Paragraph 4 provides that a Minister of the Crown can make regulations which provide for judicial notice to be taken of a relevant matter, and for the admissibility in legal proceedings of evidence of both a relevant matter and instruments and documents issued by or in the custody of an EU entity, to ensure that appropriate evidential rules can be put in place to reflect the new legal landscape after exit.

### Clause 5: Power to increase direct payments ceilings for 2020

61. Clause 5 amends the retained Direct Payments Regulation to allow the Secretary of State, having regard to the Bew Review, to decide to increase the UK national and net Direct Payments ceilings for 2020. It also amends regulation-making powers that already exist in the Direct Payments Regulation (in Articles 6(3) and 7(3)) so as to widen their scope to enable the 2020 national and net ceilings to be increased to take account of this decision. This will mean that where, as a consequence of the Government’s decision following the Bew Review, the amount of direct payments would go above the limit set by the national and net ceilings for 2020, these powers can be used to increase those ceilings to ensure they are not breached and payments can be made within the legislative framework.
62. Subsection (1) introduces the amendments to the Direct Payments Regulation.
63. Subsection (2) amends Article 6(3) of the Direct Payments Regulation so that the regulations made under the powers provided to the Secretary of State in that paragraph to adapt the 2020 national ceiling can take into account the decision made in accordance with the new Article 7A, explained below. The national ceiling comprises, for the UK, the total value of all allocated payment entitlements, of all national reserves and regional reserves and of all the financial ceilings calculated with respect to the individual direct payment schemes. Regulations made according to decisions relating to the 2020 national ceiling will require the consent of all devolved administrations.
64. Subsection (3) amends Article 7(3) of the Direct Payments Regulation so that the regulations made under the powers provided to the Secretary of State in that paragraph to adapt the 2020 net ceiling can take into account the decision made in accordance with the new Article 7A, explained below. The net ceiling delimits the value of Direct Payments which can be made in the UK for the 2020 claim year. Regulations made according to decisions relating to the 2020 net ceiling will require the consent of all devolved administrations.
65. Subsection (4) inserts Article 7A into the retained Direct Payments Regulation. This article provides the Secretary of State with the power, having regard to the Bew Review, to decide to increase the total maximum amount of direct payments that could otherwise be granted in relation for the claim year 2020. Subsection (1) of the new article provides the power. Subsection (2) specifies what the Bew Review is.
66. Subsection (5) of clause 5 amends paragraph 5 of Article 22 of the Direct Payments Regulation, so that any increase in national or net ceilings as a result of the exercise of the powers in new Article 7A will result in a corresponding increase in the value of payment entitlements.

## Clause 6: Consequential and transitional provision

67. Subsection (1) provides the Secretary of State or relevant national authority with powers to make regulations which he or she considers appropriate as a consequence of this Bill.
68. Subsection (2) clarifies that consequential provision might include modifying both primary and secondary legislation.
69. Subsection (3) gives effect to the consequential provisions contained in Schedule 1 to this Bill.
70. Subsection (4) gives the Secretary of State or relevant national authority the power to make transitional, transitory or savings provision by regulations.
71. Subsection (5) provides a power to the Secretary of State to make UK wide regulations but only with the consent of the DAs.
72. Subsection (6) clarifies what is meant by “consent”, namely consent of Scottish Ministers, Welsh Ministers and DAERA.
73. Subsection (7) defines “relevant national authority”.

## Clause 7: Regulations

74. Clause 7 gives legal effect to Schedule 2.

## Clause 8: Interpretation

75. Clause 8 defines certain terms used throughout the Bill.

## Clause 9: Extent, commencement and short title

76. Subsection (1) provides that the Bill extends to the legal jurisdiction of England and Wales, Scotland and Northern Ireland.
77. Subsection (2) sets out that clause 5 will come into force on exit day.
78. Subsection (3) sets out the provisions of the Bill that will commence on Royal Assent.
79. Subsection (4) establishes the short title of the Bill.

## Schedule 1 – Consequential provision

80. Paragraph 1 specifies how references to EU legislation are to be interpreted on or after exit day.
81. Paragraph 2 disapplies paragraph 2 of Schedule 8 of the 2018 Act in relation to EU legislation listed in clause 1(3) incorporated into domestic law by clause 1(1).
82. Paragraphs 3 – 6 adds definitions to the Interpretation Act 1978 and the equivalent acts in Wales, Scotland and Northern Ireland for the purposes of this Bill.
83. Paragraph 7 confirms the status of EU law listed in the Bill.
84. Paragraph 8 specifies that the effects of paragraphs 3 to 7 do not affect the terms mentioned in paragraph 3 of the 2018 Act.

## Schedule 2 – Regulations under this Act

85. Schedule 2 details the procedures under which regulations can be made and scrutinised.
86. Paragraph 1 details the procedure by which the Secretary of State, the Welsh Ministers and DAERA may make regulations under this Bill.
87. Paragraph 2 provides for regulations to be made under the made affirmative procedure in respect of correcting deficiencies in clauses 3(1)(a) or 3(3)(a) , and under the affirmative procedure in respect of

making modifications in clauses 3(1)(b), 3(3)(b) or 3(4).

88. Paragraph 3 provides that regulations made under clause 6 are subject to the negative resolution procedure.
89. Paragraph 4 details the processes for (a) the Secretary of State, (b) the Scottish Ministers, (c) Welsh Ministers, and (4) DAERA whereby regulations under clause 3 are subject to made affirmative resolution procedure.
90. Paragraph 5 details the conditions of which the period of time in relation to paragraph 4(a) is subject to calculation.
91. Paragraph 6 details the conditions of which the period of time in relation to paragraph 4(b) or (c) is subject to calculation.
92. Paragraph 7 details the conditions of which the period of time in relation to paragraph 4(d) is subject to calculation.
93. Paragraph 8 specifies (a) that regulations that cease in line with the provisions of paragraph 4 will continue to be valid, and (b) that ceasing of regulations in line with the provisions of paragraph 4 will not prevent the making of new regulations.
94. Paragraph 9 sets out conditions on the making of regulations under this Act which are subject to the affirmative resolution procedure.
95. Paragraph 10 sets out conditions on the making of regulations under this Act which are subject to the negative resolution procedure.
96. Paragraph 11 allows for a combination of regulations to be made together, and lays down that regulations subject to negative resolution procedure may be made under affirmative or made affirmative resolution procedure.

## Commencement

97. The Bill comes into force on Royal Assent save for section 5 which will come into force on exit day.

## Financial implications of the Bill

98. The Bill required a money resolution because it gives rise to charges on the public revenue. The money resolution covered:
  - the sums required by the Secretary of State to make payments to farmers under the Direct Payments Regulation as incorporated into domestic law by clause 1 of the Bill;
  - any increase in the amount of the sums payable to farmers as a result of a decision made under the Bill to increase the total maximum amount of direct payments in the UK (see clause 5 of the Bill);
  - other sums required by the Secretary of State for administering the direct payment schemes;
  - increases in the sums payable by virtue of any other Act in connection with the operation of the domesticated direct payment schemes.
99. No ways and means resolution was required for the Bill, because the Bill does not authorise any new taxation or other similar charges on the people.

## Parliamentary approval for financial costs or for charges imposed

100. The Bill was certified as a Money Bill because of the financial nature of its provisions. As the main object of this Bill is the creation of a charge on public expenditure, this Bill was presented under Commons Standing Order No 50 (Erskine May Paragraph 35.24).

## Compatibility with the European Convention on Human Rights

101. The Government considers that the Bill is compatible with the European Convention on Human Rights (“ECHR”). Accordingly, Lord Gardiner of Kimble, Under Secretary of State for Rural Affairs and Biosecurity has made a statement under clause 19(1)(a) of the Human Rights Act 1998 to this effect.

102. The Bill enables Direct Payments to be paid to farmers, depending on the number of entitlements held. It therefore engages Article 1 of Protocol 1, but as the Bill preserves the status quo, there is no interference.

## Related documents

103. The following documents are relevant to the Bill and can be read at the stated locations:

- 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 and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013R1307>
- Commission Delegated Regulation (EU) No 639/2014 of 11 March 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 and amending Annex X to that Regulation)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0639>
- Commission Implementing Regulation (EU) No 641/2014 of 16 June 2014 laying down rules for the application of 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  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0641>
- Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008  
<https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32013R1306>
- Commission Delegated Regulation (EU) No 640/2014 of 11 March 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

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administrative penalties applicable to Direct Payments, rural development support and cross compliance

<https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32014R0640>

- Commission Implementing Regulation (EU) No 809/2014 of 17 July 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  
<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32014R0809>
- Commission Delegated Regulation (EU) No 907/2014 of 11 March 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  
<https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32014R0907>
- Commission Implementing Regulation (EU) No 908/2014 of 6 August 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  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0908>
- The Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014  
<http://www.legislation.gov.uk/uksi/2014/3259/contents>
- The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014 <http://www.legislation.gov.uk/uksi/2014/3263/contents>
- The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/uksi/2019/207/contents/made>
- The Common Agricultural Policy (Rules for Direct Payments) (Amendment) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/uksi/2019/208/contents/made>
- The Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/uksi/2019/812/contents/made>
- The Common Agricultural Policy (Financing, Management and Monitoring Supplementary Provisions) (Miscellaneous Amendments) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/ukdsi/2019/9780111181188>
- The Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019 <http://www.legislation.gov.uk/ukdsi/2019/9780111181133>
- The Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/uksi/2019/812/contents/made>
- The Agriculture (Legislative Functions) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/ukdsi/2019/9780111182529/contents>
- The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2019  
<http://www.legislation.gov.uk/ukdsi/2019/9780111178843/contents>

*These Explanatory Notes relate to the Direct Payments to Farmers (Legislative Continuity) Bill as brought from the House of Commons on 28 January 2020 (HL Bill 70)*

- UK government response to the independent intra-UK allocations review (Bew Review)  
<https://www.gov.uk/government/publications/domestic-farm-support-funding-bew-review-government-response/uk-government-response-to-the-independent-intra-uk-allocations-review-bew-review>

## Annex A - Territorial extent and application in the United Kingdom

The Direct Payments to Farmers (Legislative Continuity) Bill extends and applies to the United Kingdom.<sup>2</sup>

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion sought?
Clause 1 (Incorporation of EU legislation governing the CAP direct payment schemes)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 2 (Interpretation and status)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 3 (Regulations in connection with the retention of EU legislation under section 1)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 4 (Publication and rules of evidence)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 5 (Power to increase direct payment ceilings for 2020)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 6 (Consequential and transitional provision)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 7 (Regulations)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 8 (Interpretation)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Clause 9 (Extent, Commencement and Short Title)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Schedule 1 (Consequential provision)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)
Schedule 2 (Regulations under this Act)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes (S, W, NI)

<sup>2</sup> References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

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# **DIRECT PAYMENTS TO FARMERS (LEGISLATIVE CONTINUITY) BILL**

## **EXPLANATORY NOTES**

These Explanatory Notes relate to the Direct Payments to Farmers (Legislative Continuity) Bill as brought from the House of Commons on 28 January 2020 (Bill 70).

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