



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Common Organisation of the Markets in Agricultural Products (Transitional Arrangements etc.) (Amendment) (EU Exit) Regulations 2019**

DATE **7 August 2019**

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

The law which is being amended

Amendment of secondary legislation

- The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019

Amendment of retained EU legislation

- Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products.
- Commission Regulation (EC) No 566/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less.
- 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 Regulation (EC) No 1295/2008 on the importation of hops from third countries.

The purpose of the amendments

The 2019 Regulations amend provisions of the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019 that contain transitional provisions, to take account of subsequent amendments to the definition of “exit day” in the European Union (Withdrawal) Act 2018.

The 2019 Regulations also correct inconsistencies in the drafting of the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019 and deal with minor missed inoperabilities.

The 2019 Regulations also insert provisions into the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019 that will transfer functions exercisable in relation to Wales to the Secretary of State without encumbrance in relation to certain functions set out in Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products.

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>

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

The 2019 Regulations insert provisions into the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019 that will transfer functions exercisable in relation to Wales to the Secretary of State without encumbrance

The relevant functions are set out in articles 158(5), 159 and 163(3) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products:

- The recognition of Producer Organisations in the fruit and vegetable sector.
- Ancilliary functions relating to the recognition of Interbranch Organisations (including for such organisations in the milk and milk products sector), such as carrying out checks and enforcement.

The subject matter of the 2019 Regulations is within the legislative competence of the National Assembly for Wales, as it relates to agriculture and the Common Agricultural Policy (CAP), and does not fall under any of the reservations in Schedule 7A to the Government of Wales Act 2006. As a result, the UK Government, in accordance with the Intergovernmental Agreement, should have sought the Welsh Ministers' consent to make the 2019 Regulations.

The functions transferred so that they are exercisable by the Secretary of State constitute functions of a Minister of the Crown for the purposes of paragraph 11(2) of Schedule 7B to the Government of Wales Act 2006. Any Assembly Bill seeking to remove or modify such functions requires consultation with the relevant UK Government Minister.

Why consent was not given

The Welsh Government's position is that agriculture and the CAP are devolved and do not relate to the reserved matters under any heading in Schedule 7A to the Government of Wales Act 2006. However, the UK Government does not agree, and believes the subject matter of the 2019 Regulations is reserved. Therefore, the UK Government has not requested Welsh Ministerial consent. We have written to the UK Government to inform them of our view that it is not appropriate for UK Government Ministers to take unilateral decisions on matters which have a direct effect upon areas of devolved competence.