



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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

DATE **15 February 2019**

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

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

The law which is being amended

European Directly Applicable Instruments

- Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.
- Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005.
- Regulation (EU) 1307/2013 of 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 repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009.
- Commission Regulation (EU) No 1408/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agricultural sector.
- Commission Regulation (EC) No 702/2014 declaring certain categories of aid in agriculture and the forestry sectors in rural affairs compatible with the internal markets in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

- Commission Regulation (EU) 717/2014 on the application of Article 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector.
- Common Implementing Regulation (EU) 808/2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).
- Commission Regulation (EU) No 1388/2014 declaring certain aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

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

Functions transferred to the Competition and Markets Authority (CMA)

This engages paragraph 10 of Schedule 7B to the Government of Wales Act 2006 (GOWA 2006). This provides that a provision of an Act of the Assembly cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a public authority other than a devolved Welsh authority, unless the appropriate (UK) Minister consents to the provision. A future Assembly Bill seeking to remove or modify these functions would require the consent of the appropriate Minister of the Crown.

The purpose of the amendments

The State Aid (Agriculture and Fisheries) (EU Exit) Regulations 2019 make amendments to legislation in the field of Agriculture and Fisheries State aid. Primarily, they correct deficiencies arising from EU Exit and ensure legal operability post EU Exit. They also transfer various regulatory functions to either the Welsh Ministers as “competent authority” in relation to Wales, or to the Competition and Markets Authority.

The SI and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/VNqpZhNQ>

Why consent was not given

Despite the Welsh Government’s position that State aid is a devolved matter and not a reserved matter under any heading of the Reserved Matters Schedule in the Government of Wales Act 2006, the UK Government does not consider it as such, and therefore it has not requested Welsh Ministerial consent under the terms of the Intergovernmental Agreement. The Welsh Government has requested from the UK Government an explanation of its legal position but there has been no response.

However, the Welsh Government is content that the effect of the State Aid (EU Exit) Regulations 2019 and the State Aid (Agriculture and Fisheries) (EU Exit) Regulations 2019 combined achieve the Welsh Ministers’ overarching policy objectives of securing and maintaining the confidence of EU partners, facilitating a dynamic alignment with EU State

aid rules and enabling effective cross-UK alignment. This, in turn, will form an important cornerstone of our future relationship with the European Union. The Welsh Government will continue to work to ensure that a Memorandum of Understanding that will underpin the regulations provides for a meaningful role for Welsh Ministers in the administration of the UK wide State aid regime.