

PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT AGRICULTURE (DELINKED PAYMENTS
AND CONSEQUENTIAL PROVISIONS) (ENGLAND)
REGULATIONS 2023

Wednesday 6 December 2023

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The Committee consisted of the following Members:

Chair: SIR ROBERT SYMS

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|---|---|
| † Anderson, Lee (<i>Ashfield</i>) (Con) | † Metcalfe, Stephen (<i>South Basildon and East Thurrock</i>) (Con) |
| Clarke, Sir Simon (<i>Middlesbrough South and East Cleveland</i>) (Con) | † Mills, Nigel (<i>Amber Valley</i>) (Con) |
| † Edwards, Ruth (<i>Rushcliffe</i>) (Con) | Ribeiro-Addy, Bell (<i>Strettham</i>) (Lab) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | † Spencer, Mark (<i>Minister for Food, Farming and Fisheries</i>) |
| Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | Sultana, Zarah (<i>Coventry South</i>) (Lab) |
| † Hammond, Stephen (<i>Wimbledon</i>) (Con) | † Western, Andrew (<i>Stretford and Urmston</i>) (Lab) |
| † Hussain, Imran (<i>Bradford East</i>) (Lab) | † Zeichner, Daniel (<i>Cambridge</i>) (Lab) |
| Khan, Afzal (<i>Manchester, Gorton</i>) (Lab) | |
| † Loder, Chris (<i>West Dorset</i>) (Con) | Abi Samuels, <i>Committee Clerk</i> |
| † Loughton, Tim (<i>East Worthing and Shoreham</i>) (Con) | † attended the Committee |

Seventh Delegated Legislation Committee

Wednesday 6 December 2023

[SIR ROBERT SYMS *in the Chair*]

Draft Agriculture (Delinked Payments and Consequential Provisions) (England) Regulations 2023

2.30 pm

The Minister for Food, Farming and Fisheries (Mark Spencer): I beg to move,

That the Committee has considered the draft Agriculture (Delinked Payments and Consequential Provisions) (England) Regulations 2023.

These draft regulations were laid before the House on 7 November. I will start by drawing attention to my entry in the register of Members' financial interests.

This instrument is part of England's transition from the common agricultural policy to our environmental land management schemes. The instrument introduces delinked payments in 2024, which will take the place of the direct payments of the basic payment scheme in England. Delinked payments are similar. However, unlike the basic payment scheme, delinked payments will not be based on the amount of land someone has. Instead, they will be based on the basic payment scheme payments made in a reference period. That will reduce administrative burden as we phase the payments out by the end of 2027.

There will be no need for an annual application form, as the Rural Payments Agency will already hold the data needed to check eligibility for those payments. That will mean farmers having to spend less time filling in forms than under the current scheme, and that will provide flexibility for farmers. We are allowing reference amounts to be transferred between businesses during a transfer window from February to May next year. That will be particularly helpful for businesses that have changed in structure since the start of the reference period; for example, if two or more businesses have merged, a reference amount could be transferred from the original business to the current business. Special rules will apply in cases of inheritance.

The Government intend to reduce the payments each year by applying percentage reductions to gradually phase them out, which will continue to free up money to be reinvested in our new farming schemes. The reduction percentages will be set out in secondary legislation, which will be debated in this House. We intend to make the payments in two instalments each year to continue to help with cash flow and ending the basic payment scheme also means ending the associated cross-compliance system. When cross compliance ends, farm standards will be maintained through domestic regulations that protect the environment, the public, animal and plant health, and animal welfare.

Those regulations will be enforced in a fair, consistent and proportionate way by our existing regulatory authorities. The cross-compliance rules that are not in

underlying domestic legislation will have cover through current and forthcoming guidance, regulation or incentives. We will deliver a fair, clear and effective system to regulate agriculture. The Department for Environment, Food and Rural Affairs is working with regulators to implement a more preventive, advice-led approach to monitoring and enforcement. The introduction of delinked payments is an important step in our transition to payments that deliver better environmental outcomes.

Nigel Mills (Amber Valley) (Con): The explanatory memorandum states that a recipient will not actually need to have any land to continue to receive payments. Could the Minister explain the logic behind giving a farm payment to someone who has no farm? Would we expect the payment to then be transferred to the person had come into ownership of the land, or could they just keep receiving it for a number of years?

Mark Spencer: To be clear, that is not the case. An individual will have to have control of the land parcels associated with that business. If those entitlements are transferred to another business, that will be the case. It should not be possible for someone to retain the payments without having ownership or control of that land parcel. They would have to pass it to another person who was operating and farming or being in control of that land parcel. I am happy to come back to my hon. Friend later in the debate.

We will deliver a fair and effective system to regulate. For example, we have used the money that has been freed up from direct payments already to establish the slurry infrastructure grant to help livestock farmers tackle pollution from slurry. That includes committing to spend over £200 million on ongoing grant support for equipment and infrastructure. We are also funding our sustainable farming incentive, which rewards farmers for farming practices that help to produce food sustainably and protect the environment. Our expanded 2023 offer has already attracted more than 4,000 applications in the two months since the application window opened. That, of course, builds on the success of our countryside stewardship scheme, which now funds more than 32,000 agreements, which is a 94% increase since 2020.

Those are just some of the ways in which we are reinvesting the money from direct payments to deliver improved environmental outcomes and to support sustainable food production. As delinked payments are in place of the basic payment scheme, this instrument revokes the law governing the basic payment scheme as it applies in England. It also makes minor changes to other domestic and retained EU legislation that applies in relation to England. Those changes ensure that the legislation continues to work effectively once the basic payment scheme ends.

In conclusion, by introducing delinked payments, this instrument enables us to pay former basic payment scheme recipients for the rest of the agricultural transition, but without the bureaucracy associated with the current scheme.

2.36 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Sir Robert. This is a weighty instrument. In fact, it is probably three instruments.

It is a shame that the three issues cannot be considered separately, because, while we support the intention of moving away from basic payments and support an environmentally friendly sustainable food system, frankly, we are deeply unimpressed by the way that the Government are doing it, and we have significant concerns about the potential environmental risk caused by the removal of cross-compliance. However, we must decide on the instrument as a whole, so we will not be opposing it today, but that should not be read as approval for the Government's failures.

These draft regulations are familiar grounds. I have discussed many very similar statutory instruments over the past three years or so, and debated the Agriculture Act 2020 and indeed the Direct Payments to Farmers (Legislative Continuity) Act 2020 with the Minister's predecessors. I am sure that the Minister will be delighted to know that I have at hand both his and his predecessors' speeches, from which I can quote. This instrument marks another step in the Government's long-drawn-out post-Brexit reforms to the farm-support system over the past five years and counting. One is tempted to ask, "Are we nearly there yet?"

It is worth repeating that we on the Opposition Benches agree that farm support should be changed to a system that uses taxpayers' money to incentivise public goods in the form of environmental benefits. We have also repeatedly and consistently argued throughout that those public goods should include support for sustainable food production, and that a baseline of farming regulation is critical to ensuring that the environmental gains are genuine. Furthermore, the system should not end up with farmers who do not wish to take part enjoying an unfair advantage at the expense of our wildlife and landscapes. Those remain our key tests for the Government's plans, and I am not particularly convinced that this set of regulations does enough to meet them.

Large sums of public money are at stake. Even with the reductions that have already taken effect, the National Farmers Union has estimated the amount to be paid out in 2024 alone will still amount to around £700 million. The taxpayer is entitled to ask what public value will be got from all that cash. Equally, what has happened to the money that has already been deducted from farm payments during the transition period? According to the figures in annex D of the Government's original 2020 transition plan, in total, from 2020 to 2023, around £1.3 billion to £1.4 billion should have already been saved by the end of this year, with another £1 billion to come next year. Can the Minister confirm how much of that has actually been paid out to farmers to date under the new environmental land management scheme?

The Minister's predecessor, the right hon. and learned Member for Banbury (Victoria Prentis) told us in 2021: "All funding released from the reductions will be reinvested in new schemes in this Parliament."—[*Official Report, Fifth Delegated Legislation Committee*, 18 March 2021; c. 3.]

And, in March 2022, she said:

"All moneys that are saved by those reductions will be invested in farming and farming businesses."—[*Official Report, Third Delegated Legislation Committee*, 15 March 2022; c. 11.]

The Minister himself told me, only in February this year, that he was, "more than happy to" reassure me "that we will deliver that cash", and that as

"we move into these new schemes, we will transfer all that cash from one pot into the other."—[*Official Report, Fifth Delegated Legislation Committee*, 28 February 2023; c. 10.]

So, if not all of the £1 billion already saved has yet been paid out, where does that cash now sit, and what are his plans to get it out of door in the remaining few months before the election? What is the Department doing to record what has been saved, what has been paid out, and what has been delivered for that money? As I have asked before, will he explain how any underspend will be dealt with and for how many years it will be rolled forward? I am advised that underspends in the European Union schemes could be carried forward for up to three years. Has the Department agreed with the Treasury that that arrangement will be mirrored?

The Government are fond of claiming that payments under the common agricultural policy went mainly to better-off farmers. We are used to seeing the Institute for Fiscal Studies produce a detailed distributional analysis setting out the impact of Budget measures on people at various points in the income distribution. Will the Minister consider commissioning the IFS to produce a similar analysis of the success—or otherwise—of his new method of allocating funding, according to how well it supports farmers most in need of the cash, or whether, as one might suspect, the lion's share has gone to those who are already very well-heeled?

The Government have also claimed that reducing basic payments would have an impact on tenants and land values. When we debated this in February, the Minister told me that

"we have not seen that impact on land values, but what is more interesting is the impact that that might have on rental values going forward, and we will have to monitor that to see what impact some of these changes will have on the rented sector especially."—[*Official Report, Fifth Delegated Legislation Committee*, 28 February 2023; c. 9.]

So, nine months on, what has that monitoring shown?

Frankly, after our experience of the Government's cavalier approach to public money during covid, with some £4.3 billion written off, taxpayers might find it a little odd that the plan set out in this instrument is that farmers will get paid for the next few years whether they farm or not. That picks up on the interesting observation made by the hon. Member for Amber Valley. I must say that do not think that the Minister's explanation is mirrored in the explanatory memorandum, because that itself makes this rather extraordinary admission, in paragraph 7.4:

"There will be no requirement for the recipient to continue to have land."

I wonder whether the Minister can marry that up with the answer that he gave to the hon. Member earlier.

How does the Minister plan to explain to the people of this country, who have seen their tax burdens rise by £4,300 per household under the Conservatives, that he will be paying out £700 million next year with no requirement that the recipients do anything at all—not even complete an application form, according to paragraph 7.15 of the explanatory memorandum? That is a very efficient system for handing out money to people for apparently doing nothing. I would not have thought that that was necessarily the traditional Conservative approach to public money, but maybe times have changed.

[Daniel Zeichner]

Again, in our debate in February, the Minister referred to people who might “take the mickey”. Given how much the enforcement capability of his Department has already been cut, and that further cuts must now be delivered after the autumn statement, how exactly does he plan to find and deal with any delinked-payment “mickey-takers”?

I am pleased to note that the Department does seem finally to have taken on board my complaints about its habit of making baseless claims in previous explanatory memorandums and have taken out the statement that “Direct Payments are untargeted, can inflate land rent prices and can stand in the way of new entrants to the farming industry.”

Therefore, we do have some progress after three or four years. However, we are asked to believe, yet again, the Department’s claims, in section 12 of the explanatory memorandum, that

“There is no, or no significant, impact on business,”

and that no impact assessment has been prepared because it relates to grants and is “not a regulatory provision”. So, £700 million is being paid next year, with no claim needed and no requirement to do anything, and there is no impact? That seems odd.

I explained earlier that we have consistently argued for a regulatory baseline of standards that all farmers should meet, but the instrument will remove all of the so-called cross-compliance conditions that still apply to farm payments and require recipients to meet environmental, animal-welfare and public, animal and plant-health standards. As Wildlife and Countryside Link and the House of Lords Secondary Legislation Scrutiny Committee have pointed out, while some of those requirements will continue in other legislation, with others, I am afraid, there are gaps.

In particular, from 1 January, there will no longer be legal protection in place covering hedgerows, soil cover and watercourse buffer strips that are not covered by the farming rules for water. It also risks enforcement gaps on compliance with regulations, such as domestic public rights of way, that benefit from conditionality for payments, which falls away from 1 January. The Scrutiny Committee’s report concludes:

“We note that some elements of the new compliance regime are still work in progress, while other cross-compliance requirements will be set out in guidance, codes of practice or incentive schemes. This raises questions as to whether they can be enforced as effectively as the current statutory requirements.”

Wildlife and Countryside Link has called for the Government to commit to a new system of farm regulation and conditionality to ensure genuine environmental benefits are being delivered by the new environmental land management schemes. Wildlife and Countryside Link has commented that the explanatory memorandum refers to

“generalised and outcome-focussed rules in existing regulation”, but it points out:

“Many of these domestic standards are guidance and voluntary incentivisation frameworks that do not apply to all farmers...they are not appropriate replacements for enforceable rules under regulatory conditionality. This also creates an unlevel playing field between farmers, risking a ‘race to the bottom’ as those who comply with voluntary standards are disadvantaged commercially.”

I ask the Minister: what assessment has been made of the environmental benefits of removing cross-compliance? I will take his likely silence as confirmation that no such assessment has been made. That is hardly surprising, given that it is actually quite a hard thing to do without the proper baseline assessment that we called for at the beginning.

In conclusion, we support an agricultural transition, but the Government have never set out the destination clearly, so it is unsurprising that they are failing. We will have to pick up the pieces. We want it to work effectively in order to move to a more environmentally friendly and nature-positive food production system, but as we see in this instrument today, we remain concerned that the Government’s piecemeal and long, drawn-out approach is failing to deliver for farmers, taxpayers, or the environment.

2.46 pm

Mark Spencer: May I start by clarifying the question asked by my hon. Friend the Member for Amber Valley. Delinked payments will only be made to farmers who claimed in the previous schemes in 2023. In the basic repayment scheme, there is not the necessity to hold that land in future, but in practice, if people take on lots of land from neighbours, those rights could be transferred if businesses are amalgamated and changed. Technically, it is possible for someone to receive payments without farming that land, but these payments are very much on a diminishing scale and will evaporate very soon, which is the whole purpose of this transition. This transition is to move away from that basic payment scheme to improve our environmental footprint, and to help farmers on that journey of improving our biodiversity and our environment as we move forward.

The hon. Member for Cambridge again asked me about the budgets, and as I have told him in the past, the budget is clear—it is ringfenced. It is £2.4 billion-worth of cash, and it is there to be invested in UK farming to get the outcomes that we want to achieve. If there is an underspend, such as if we spend £2.3 billion this year, we could spend £2.5 billion next year. That is agreed with the Treasury and we can roll that money forward and it will be invested. That is why we have been able to do some of the great schemes that we have been able to roll out to allow farmers to invest in slurry.

Daniel Zeichner: The Secretary of State confirmed only the other day at the Country Land and Business Association conference that only 800 sustainable farming incentive schemes are currently being paid out—that is compared to 80,000 basic payment agreements. There is a gap, and I wonder if the Minister would agree to write to me to explain where in the accounts that money is located.

Mark Spencer: Of course, I am more than happy to write the hon. Gentleman, but he fails to mention the doubling in the number of people that are receiving countryside stewardship agreements—a 93% increase. We now have slurry infrastructure grants, calf housing grants, beef housing grants, and investment in robotics and new technology. All of those were not available under the basic payment scheme, but farmers are now eligible to apply for those capital sums to invest in their

own productivity going forward. Of course, I will write to the hon. Gentleman and try to reassure him again, but I fear that he may not want to be reassured, but instead wants to try to frustrate.

That leads me to the hon. Gentleman's distrust of UK farmers and his worry that UK farmers are going to wreck our beautiful landscape following the loss of cross-compliance. I have to say that that is the environment and the landscapes that they created over generations. Let us just look at the landowners up and down the country who do not receive basic payments and who are not under obligations to meet these rules. Why is he not worried about local authorities that may cut hedgerows in May or June? Why is he not worried about the Coal Authority, which owns vast amounts of property and may go and commit those crimes, as he has indicated?

Why is he not worried about golf courses, which may well go and cut their hedgerows in May and June? Why is he only worried about farmers—the people who have protected those landscapes and created them over generations? I trust those farmers. I believe in those landowners and farmers to do the right thing. They have done it for generations, and they will continue to. We are going to help and support them on that journey by investing in them and ensuring that they can do the right thing to improve biodiversity and their environmental footprint.

Question put and agreed to.

2.50 pm

Committee rose.

