SCOTTISH STATUTORY INSTRUMENTS

2001 No. 220

AGRICULTURE

The Agricultural Processing and Marketing Grants (Scotland) Regulations 2001

Made - - - -	*8th June 2001*
Laid before the Scottish Parliament - - - -	*11th June 2001*
Coming into force - -	*2nd July 2001*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Agricultural Processing and Marketing Grants (Scotland) Regulations 2001 and shall come into force on 2nd July 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

"approved expenditure" means the costs of an investment or project which the Scottish Ministers have approved for the purpose of calculating grant under these Regulations;

"authorised person" means a person appointed by the Scottish Ministers for the purpose of enforcement of these Regulations;

"Commission Regulation" means Commission Regulation (EC) No 1750/1999 of 23rd July 1999 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(**2**);

"Community legislation" means–

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) O.J. No. L 214, 13.8.99, p.31, as corrected by Corrigendum to Commission Regulation (EC) No 1750/1999 (O.J. No. L 37, 30.12.99, p.75) and amended by Commission Regulation (EC) No 2075/2000 (O.J. No. L 246, 30.9.00 p.46).

(a) Council Regulation (EC) No 1257/1999;

(b) Council Regulation (EC) No 1260/1999 of 21st June 1999 laying down general provisions on the Structural Funds(**3**); and

(c) the Commission Regulation;

"Council Regulation (EC) No 1257/1999" means Council Regulation (EC) No. 1257/1999 of 17th May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(**4**);

"grant" means a payment under these Regulations, which may include a payment from the Guidance Section of the European Agricultural Guidance and Guarantee Fund payable under the Community legislation;

"Highland and Islands area" means that part of Scotland comprising–

(a) the area of the Argyll and Bute Council, other than the Parishes of Arrochar, Rhu, Roseneath, Cardross and Luss;

(b) the area of the Highland Council;

(c) the area of the Orkney Islands Council;

(d) the area of the Shetland Islands Council;

(e) the area of the Comhairle nan Eilean Siar;

(f) in the area of the North Ayrshire Council, the islands of Arran, Great Cumbrae and Little Cumbrae; and

(g) in the area of the Moray Council, the Parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes;

"Lowlands area" means all of Scotland other than the Highland and Islands area; and

"quality agricultural products" means products covered by Annex I to the Treaty establishing the European Economic Community, except fishery products which in the opinion of the Scottish Ministers are above average quality.

(2) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**5**), which has been recorded and is consequently capable of being reproduced.

(3) References in these Regulations to a numbered regulation shall be construed as a reference to the regulation so numbered in these Regulations.

Grants

3.—(1) The Scottish Ministers may pay to an applicant a grant towards approved expenditure incurred in relation to an investment or project which, in the opinion of the Scottish Ministers–

(a) in accordance therewith, would fulfil the purposes of–

(i) Articles 25 to 28 of Council Regulation (EC) No 1257/1999; and

(ii) Articles 21 to 23 of the Commission Regulation;

(b) where the investment or project is in the Highland and Islands area, relates to the marketing of quality agricultural products and falls within any of the purposes set out in Schedule 1 to these Regulations; or

(**3**) O.J. No. L 161, 26.6.99, p.1.
(**4**) O.J. No. L 160, 26.9.99, p.80.
(**5**) 2000 c. 7.

(c) where the investment or project is in the Lowlands area, facilitates the improvement and rationalisation of processing and marketing of agricultural products and thereby contributes to increasing the competitiveness and added value of such products and which meets or contributes to one or more of the objectives set out in Article 25.2 and the fourth indent of Article 33 of Council Regulation (EC) 1257/99.

(2) Subject to paragraph (3) below and to the Community legislation, the amount of grant payable under these Regulations shall be such sum as the Scottish Ministers consider appropriate having regard to the matters set out in regulation 5 but–

(a) in relation to the Highland and Islands area, the amount of grant payable under these Regulations shall not exceed 50 per cent of approved expenditure; and

(b) in relation to the Lowlands area, the amount of grant payable under these Regulations shall not exceed 40 per cent of approved expenditure.

(3) No grant may be paid in relation to an investment or project whose approved expenditure is less than £1,000.

Applications

4.—(1) The Scottish Ministers may from time to time invite applications for grant under these Regulations.

(2) An application shall be delivered to the Scottish Ministers on or before such closing date as they may from time to time determine.

(3) The Scottish Ministers shall publish in such manner as they consider appropriate a notice inviting applications and specifying the closing date.

(4) An application shall be in writing and shall be made in such form and manner as the Scottish Ministers may require.

(5) An applicant shall provide such information relating to the application as the Scottish Ministers may require in order to allow for proper consideration of the application.

Determination of applications

5.—(1) The Scottish Ministers may approve (in whole or in part) or may reject an application and in determining whether an application should be so approved or rejected, they shall have regard to–

(a) the total amount of grant monies available, in relation to the Highland and Islands and Lowlands areas respectively, for payment;

(b) whether the investment or project is eligible for grant in accordance with regulation 3;

(c) the extent to which the application–

(i) meets the criteria set out in Schedule 2 to these Regulations; and

(ii) in relation to an investment or project in the Lowlands area of a non-capital nature, meets the additional criteria set out in Schedule 3 to these Regulations;

(d) the level of grant which is either necessary or appropriate to enable the investment or project to proceed;

(e) the value for money which the investment or project represents having regard to paragraph (c) above and the level of grant likely to be required and how that value compares with other applications; and

(f) the benefits of such an investment or project to small or medium-sized businesses.

(2) Approval of an application may be made subject to such conditions as the Scottish Ministers think fit (including without prejudice to that generality conditions as to the manner and date of completion of the investment or project).

(3) Where the Scottish Ministers approve an application (in whole or in part) they shall determine the approved expenditure and the amount of grant payable to the applicant.

(4) The Scottish Ministers shall notify the applicant of their decision in such manner as they consider appropriate after the application has been determined and, where the application is approved, shall notify the applicant of any conditions imposed and of the matters referred to in paragraph (3) above.

(5) The Scottish Ministers may vary an approval of an application (including any conditions subject to which it was given) or of the matters referred to in paragraph (3) above at the request of, or with the consent of, the applicant.

Payment of grant

6.—(1) Payment of grant shall be made only on receipt of a claim for payment made by the applicant in such form and manner and at such time as the Scottish Ministers may from time to time determine.

(2) No grant shall be paid until the investment or project has been completed or any stage of investment or of the project has been completed.

(3) Payment of grant may be made by lump sum or by instalments as the Scottish Ministers think fit.

(4) The Scottish Ministers may make payment (in whole or in part) of grant subject to the such conditions as they think fit (including without prejudice to that generality conditions as to the manner and date of completion of the investment or project and its continuation).

Information and Records

7.—(1) Subject to paragraphs (2) and (3) below, an applicant–

(a) in the case of a grant for the purchase of heritable property, for a period of ten years; and

(b) in any other case, for a period of five years,

following the last payment of grant under these Regulations, shall–

(i) retain all invoices, accounts and other relevant documents in relation to the application and produce them for inspection if required to do so by the Scottish Ministers; and

(ii) provide such additional information in relation to the investment or project or the grant monies paid in pursuance of that investment or project as the Scottish Ministers may require.

(2) If the applicant transfers the original of any such document to another person in the normal course of business, the duty under paragraph (1) above shall be treated as having been fulfilled if there is kept a copy of that document for the applicable period.

(3) Paragraph (1) above shall not apply if, and for as long as, the document has been removed by an authorised person under regulation 8(3)(d).

Powers of authorised persons

8.—(1) For the purposes set out in paragraph (2) below, an authorised person may at any reasonable time enter upon any land–

(a) which is the subject of an investment or project in respect of which an application has been made under these Regulations; or

(b) which an authorised person has reasonable grounds to believe may be a place in which documents or other information which may require to be produced under these Regulations are kept.

(2) The purposes referred to in paragraph (1) above are–

(a) verifying the accuracy of any information contained in an application or a claim for payment under these Regulations or any other information provided by the applicant relating to the investment or project;

(b) ascertaining whether any grant is payable or recoverable under these Regulations, or the amount that is payable or recoverable; and

(c) ascertaining whether an offence under these Regulations has been or is being committed.

(3) An authorised person who has entered upon any land under paragraph (1)–

(a) may inspect the land and any premises, plant, machinery, equipment, livestock, document or record which that person reasonably believes relates to the grant or the investment or project;

(b) may require the applicant or any employee or agent of the applicant to produce, or secure the production of, any document or supply any additional information in the possession or under the control of that person relating to the grant or the investment or project;

(c) where any document or other record relating to the grant or investment or project is kept by means of a computer, shall be afforded access to any computer and any associated apparatus or material which is or has been used in connection with that document or record;

(d) may require copies of or extracts from any such documents or other record to be produced and may retain them and take them away;

(e) may remove and retain for a reasonable period any document or other record which that person reasonably believes may be required as evidence in any proceedings and, if it is recorded otherwise than in legible form, require it to be produced in a form in which it is legible or in which it can be taken away.

(4) An applicant or any employee or agent of the applicant shall give an authorised person all reasonable assistance in relation to the matters mentioned in paragraphs (1) and (3) above.

(5) An authorised person entering upon any land under paragraph (1) above may be accompanied by such other person as considered necessary and paragraphs (3) and (4) above shall apply to such person when acting under the instructions of an authorised person as they apply to authorised persons.

(6) An authorised person shall not be liable in any proceedings for anything done in purported exercise of the powers conferred on an authorised person by these Regulations if the court hearing such proceedings is satisfied that–

(a) the act was done in good faith;

(b) there were reasonable grounds for doing it; and

(c) it was done with reasonable skill and care.

(7) Paragraph (1) above shall apply to any land used for the purposes of a dwelling house only where reasonable notice of its intended exercise has been given to all residents of that dwelling-house.

(8) An authorised person seeking admission to any land under this regulation must, if so required, produce proof of appointment as an authorised person for these purposes.