SCOTTISH STATUTORY INSTRUMENTS

2001 No. 208

CROFTING

The Crofting Community Development Scheme (Scotland) Regulations 2001

Made - - - -	*5th June 2001*
Laid before the Scottish Parliament - - - -	*7th June 2001*
Coming into force - -	*29th June 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 Crofting Community Development Scheme (Scotland) Regulations 2001 and shall come into force on 29th June 2001.

(2) These Regulations shall extend to Scotland only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires–

"the 1993 Act" means the Crofters (Scotland) Act 1993(**2**);

"application" means an application for financial assistance under the Scheme made in accordance with regulations 4 and 5 and "applicants" and "apply" shall be construed accordingly;

"approved" means approved by the Scottish Ministers in writing and "approve" and "approval" shall be construed accordingly;

"the 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 function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) 1993 c. 44.

(a) 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(**3**); and

(b) Council Regulation (EC) No 1260/1999 of 21st June 1999 laying down general provisions on the Structural Funds(**4**);

(c) Council Regulation (EC) No. 438/2001 of 2nd March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No. 1260/1999(**5**); and

(d) 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)(**6**);

"croft" has the same meaning as in section 3 of the 1993 Act;

"crofting community" means the residents of a township or district within the crofting counties, some or all of whom are the owners, tenants or sub-tenants of crofts situated within that township or district;

"the crofting counties" has the same meaning as in section 61(1) of the 1993 Act;

"eligible applicants" means a grazings committee or any group in a crofting community the majority of whose members are occupiers of crofts;

"grazings committee" means a committee appointed under section 47 of the 1993 Act and shall include a grazings constable appointed under that section;

"plan co-ordinator" means the clerk to a common grazings committee or a grazings constable or the member of any eligible applicants who is responsible for the implementation of any development plan prepared for the purposes of these Regulations;

"scheme area" means the area of the Highlands and Islands of Scotland known as the crofting counties;

"the Scheme" means the Crofting Community Development Scheme being a measure to assist rural communities described at Priority 4, Sub-Priority (a), Measure 3, Sub-Measure (i) of the Highlands and Islands Special Transitional Programme approved by Commission Decision of 8th August 2000 on the adoption of the Single Programming Document for the Highlands and Islands Special Transitional Programme.

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

(3) 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(**7**), which has been recorded and is consequently capable of being reproduced.

Purposes and Objectives

3.—(1) The purposes of the Scheme shall be–

(a) the promotion of co-operative development by eligible applicants within crofting communities; and

(**3**) O.J. No. L 160, 26.6.99, p.80.
(**4**) O.J. No. L 161, 26.6.99, p.1.
(**5**) O.J. No. L 063, 03.03.01, p.21.
(**6**) O.J. No. L 214, 13.8.99, p.31.
(**7**) 2000 c. 7.

(b) the creation of community-based development plans which qualify for financial assistance under the Scheme.

(2) Subject to the provisions of the Scheme and the Community legislation, the Scottish Ministers may make payments under the Scheme to eligible applicants as provided in regulation 6 where they are satisfied that the payments will help to achieve the objectives of encouraging recipients to meet one or more of the following objectives:–

(a) to improve the quality and the marketing of the agricultural output from that community without increasing the level of production;

(b) to diversify and broaden the economic base of the community;

(c) to adopt beneficial environmental measures;

(d) to identify and implement projects of a social or cultural nature for the benefit of the community;

(e) to establish communication links and management structures within communities;

(f) to use information technology;

(g) to prepare and implement suitable local training programmes.

Applications and Development Plans

4.—(1) Eligible applicants who propose to apply for financial assistance under the Scheme shall prepare and submit an application and development plan in accordance with the following paragraphs of this regulation.

(2) The application and development plan shall be in writing in such form as the Scottish Ministers may reasonably require and shall include–

(a) a copy of the constitution of the group and the name and designation of the plan co-ordinator;

(b) a list of the current membership of the group, identifying each member of the group who is the tenant or owner of a croft;

(c) confirmation that the development plan will be implemented within the scheme area;

(d) a statement as to how the implementation of the plan will benefit the crofting community and sufficient information to show that the implementation of the development plan is likely to meet at least one of the objectives specified in regulation 3;

(e) a statement as to whether the implementation of the plan will have any detrimental effect on the local environment;

(f) a statement that the implementation of the plan will promote equal opportunities between men and women;

(g) a statement that public funding has been obtained for the implementation of the constituent elements of the development plan;

(h) sufficient information to satisfy the Scottish Ministers that the development plan contains at least two discrete projects that relate to two or more of the development sectors set out in Schedule 1;

(i) sufficient information to satisfy the Scottish Ministers that the cost of the development plan (including public funding) shall be at least £2,000,

provided that if the eligible applicants are a grazings committee, the information referred to in sub-paragraphs (a) and (b) above will not be required for the determination of an application.

(3) Eligible applicants shall furnish to the Scottish Ministers such further information and evidence in relation to the application and development plan as the Scottish Ministers may reasonably require.

(4) Eligible applicants may submit consecutive applications and development plans under this regulation but no new application and development plan will be considered until each previous application has been determined under regulation 5 and until a previously approved development plan has been duly carried out to the satisfaction of the Scottish Ministers.

(5) The Scottish Ministers may suspend the operation of the Scheme at any time and while so suspended no application under paragraph (1) above may be submitted.

Determination of applications

5.—(1) Subject to the provisions of these Regulations and the Community Legislation, the Scottish Ministers as they think fit may–

(a) refuse to approve an application or approve it in whole or in part;

(b) cause such approval to be given, and any payment by way of financial assistance to be made, subject to such conditions as they may impose; or

(c) at any time on giving reasonable notice vary the approval or amend such conditions attached to the approval.

(2) The Scottish Ministers shall in writing–

(a) notify applicants of their decision in respect of that application; and

(b) notify applicants whose application has been approved under this regulation of any conditions, relating to such approval, which they have imposed or amended under paragraph (1) above.

(3) The Scottish Ministers shall not approve an application for financial assistance under the Scheme in relation to a development plan unless they are satisfied that–

(a) the development plan can be implemented by, or on behalf of, the eligible applicants;

(b) completion of the development plan will achieve at least one of the objectives specified in regulation 3;

(c) the projects specified in the development plan relate to two or more of the development sectors specified in Schedule 1; and

(d) the projects specified in the development plan qualify for financial assistance from the Scottish Ministers or other public sector body or agency.

(4) Before approving an application (in whole or in part), the Scottish Ministers may consult such body or such other interests as they consider appropriate to satisfy themselves that the implementation of the plan will not discriminate between men and women or between social groups and will not cause any unjustified detrimental effect to the environment.

(5) The Scottish Ministers may vary the approval or amend conditions attached to the approval in accordance with paragraph (1)(c) above only if they are satisfied as to the matters mentioned in paragraph (3) above.

(6) Before varying the approval or amending conditions attached to the approval in accordance with paragraph (1)(c) above, the Scottish Ministers shall–

(a) give to the person to whom the application has been granted written notification of the action proposed to be taken;

(b) give that person an opportunity to make representations about the action proposed to be taken within such time and in such form as the Scottish Ministers may require; and

(c) consider any such representations.

Provision of financial assistance to eligible applicants

6.—(1) The Scottish Ministers may give to eligible applicants, whose application has been approved under regulation 5, financial assistance to implement the development plan.

(2) Subject to paragraphs (3) and (4) below, the amount of financial assistance payable in respect of any approved application shall not exceed the amount specified in column 2 of Schedule 2 in relation to the net cost of the approved plan specified in column 1 of that Schedule.

(3) The financial assistance payable under this regulation shall be paid in the manner and at the times following:–

(a) up to 25% of the financial assistance payable in respect of any approved application shall be paid when the application and development plan have been determined under regulation 5;

(b) up to 50% of the financial assistance payable in respect of any approved application shall be paid when–

(i) the Scottish Ministers are satisfied that the quotations in writing for the projects specified on the applicants' development plan have been accepted in writing by the applicants; and

(ii) the projects specified in the development plan have been approved in writing for financial assistance by the Scottish Ministers or other public sector body or agency;

(c) the balance of the financial assistance payable in respect of any approved application shall be paid when the Scottish Ministers are satisfied that the projects specified on the applicants' development plan have been duly completed and the applicants submit details in writing of the actual costs that they incur in implementing the development plan.

(4) The aggregate amount of financial assistance payable in respect of any one application shall not exceed the sum of £7,000.

Claims for financial assistance

7. A claim for financial assistance under these Regulations by eligible applicants whose application and development plan is, or has been, approved under regulation 5 shall–

(a) be made at the times specified in regulation 6 in such form and manner as the Scottish Ministers may from time to time reasonably require; and

(b) include such particulars and information relating to the claim and copies of such documents and records relating thereto as the Scottish Ministers may reasonably require.

Provision of financial assistance to providers of services to eligible applicants

8.—(1) Subject to paragraph (2) below, the Scottish Ministers may provide financial assistance to meet the cost of services provided to eligible applicants by any person or persons approved by them as a fit and proper person to provide such services.

(2) The services for which financial assistance may be paid under the preceding paragraph will be advice and assistance given to eligible applicants by any person approved for that purpose in the preparation and submission of an application and development plan for the purposes of regulation 4 or in the submission of a claim under regulation 7.

Crofters Commission

9.—(1) The Scottish Ministers may, with the agreement of the Crofters Commission, arrange for any of their functions under these Regulations to be exercised on their behalf by the Crofters Commission.