STATUTORY RULES OF NORTHERN IRELAND

2015 No. 326

AGRICULTURE

RURAL DEVELOPMENT

The Rural Development Programme Regulations (Northern Ireland) 2015

Made - - - - 4th September 2015

Coming into operation 5th October 2015

The Department of Agriculture and Rural Development is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) as regards matters relating to the common agricultural policy of the European Union and matters relating to the promotion of rural development.

The Department of Agriculture and Rural Development, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Rural Development Programme Regulations (Northern Ireland) 2015 and come into operation on 5th October 2015.

Interpretation

2.—(1) In these Regulations—

"agent" means a person, other than an authorised person, who is appointed in writing by the Department for the purposes of these Regulations;

"applicant" means any person who makes an application;

"application" means an application under regulation 5;

"approved operation" means an operation approved by the Department or an agent under regulation 6;

"authorised person" means a person authorised by the Department, either generally or specifically, to act in relation to the enforcement of these Regulations;

"beneficiary" means—

(**1**) S.I. 2000/2812 to which there are amendments not relevant to the subject matter of these Regulations and S.I. 2000/3238
(**2**) 1972 c. 68

(a) a person who has applied for and been granted approval for an operation;

(b) in relation to any time after a rural development payment has been made in connection with the operation, the person to whom the payment was made; or

(c) any person who has undertaken to assume the conditions of an approval in place of a previous beneficiary;

"Council Regulation 73/2009" means Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers(**3**);

"Council Regulation 1782/2003" means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(**4**);

"Council Regulation 1698/2005" means Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) etc(**5**);

"the Department" means the Department of Agriculture and Rural Development;

"the European Regulations" means the instruments listed in Schedule 1;

"EU assistance" means assistance payable pursuant to the Rural Development Regulation from the European Agricultural Fund for Rural Development in accordance with the European Regulations;

"the Horizontal Implementing Regulation" means Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance(**6**);

"operation" means an investment, plan, commitment, project or action which is the subject of an application;

"Regulation 1307/2013" means Regulation (EU) No. 1307/2013 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(**7**);

"rural development payment" means any payment made by the Department under Regulation 3;

"the Rural Development Programme 2014-2020" means the Rural Development Programme submitted by the United Kingdom to the European Commission in accordance with the Rural Development Regulation, as approved by Commission Decision C(2015) 6018 of 25th August 2015(**8**);

(**3**) O.J. No. L 30, 31.1.2009, p.16, as last amended by Commission Implementing Regulation (EU) No. 320/2014 (O.J. No. L 93, 28.3.2014, p.81) and repealed on 1st January 2015 by Article 72(2) of Regulation 1307/2013

(**4**) O.J. No. L 270, 21.10.2003, p.1, as last amended by Council Regulation (EC) No. 1009/2008 (O.J. No. L 276, 17.10.2008, p.1) and repealed on 1st January 2009 by Council Regulation 73/2009

(**5**) O.J. No. L 277, 21.10.2005, p.1 as last amended by Regulation (EU) No. 1312/2011 of the European Parliament and of the Council (O.J. No. L 339, 21.12.2011, p.1) and repealed on 1st January 2014 by Article 88 of the Rural Development Regulation

(**6**) O.J. No. L 227, 31.7.2014, p.69

(**7**) O.J. No. L 347, 20.12.2013, p. 608 as amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No. L 347, 20.12.2013, p.865)

(**8**) CCI No. 2014UK06RDRP002. Copies of the Northern Ireland Rural Development Programme may be downloaded from http://www.dardni.gov.uk/2014-2020-rdp-version-1.2.pdf

"the Rural Development Regulation" means 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(**9**).

(2) Other terms used in these Regulations that are also used in the European Regulations have the meaning they bear in those Regulations.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date on which these Regulations are made.

(4) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

(5) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Assistance for rural development

3.—(1) The Department may pay financial assistance to a beneficiary towards expenditure incurred or to be incurred by him in connection with any approved operation.

(2) Where, as a direct result of carrying out any operation, a farmer forgoes income that would otherwise have accrued to him from the carrying out of agricultural activity, then in relation to that operation "expenditure incurred" includes such income foregone.

Payment

4.—(1) The Department may make a rural development payment in the form of a single lump sum or by instalments.

(2) Rural development payments may be made—

(a) at such time or times as the Department thinks fit; and

(b) subject to such conditions as the Department reasonably may determine.

Applications for approval of operations

5.—(1) An application for the approval of an operation shall be made to the Department or, in such circumstances as the Department may determine and publish in writing, to an agent.

(2) Such an application shall be made in such form and contain such information as the Department or its agent, as appropriate, may require.

Approval of operations

6.—(1) The Department or its agent may, on application made to it, approve any operation for the purposes of Regulation 3 and may do so—

(a) in whole or in part; or

(b) unconditionally or subject to such conditions as it may determine,

but shall not do so except in accordance with paragraph (2).

(2) The Department or its agent shall not approve an operation unless it is satisfied that—

(a) the operation is in accordance with the Rural Development Programme 2014-2020; and

(**9**) O.J. No. L 347, 20.12.2013, p.487, as amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (O.J. No. L. 347, 20.12.2013, p.865)

(**10**) 1954 c. 33 (N.I.)

(b) the operation is eligible for EU assistance.

(3) The Department or its agent may vary any approval given by it.

(4) The variation of an approval under paragraph (3) may include—

(a) the variation of any condition to which the approval is subject;

(b) the addition of new conditions; or

(c) the removal of any existing conditions.

(5) Before the Department or its agent decides to vary an approval under paragraph (3) it shall—

(a) give the beneficiary notice in writing of its proposed decision with a statement of its reasons;

(b) give that beneficiary an opportunity to make written representations within such time as the Department or, as the case may be, the agent considers reasonable; and

(c) consider any such representations.

(6) An approval or variation under this regulation shall be in writing.

(7) In exercising its powers under paragraphs (1) and (3), the Department or its agent will take into account the need for approved operations to contribute towards achieving the objectives described in Article 4 of the Rural Development Regulation.

Claims

7. A claim for a rural development payment shall be made at such time and in such form and be accompanied by such information as the Department or its agent reasonably may require.

Provision of information

8.—(1) A beneficiary shall supply the Department or its agent with such information about an approved operation as the Department or its agent reasonably may require.

(2) Where the Department or its agent requires such information, the beneficiary shall supply the Department or its agent with the information within such period as the Department or its agent reasonably may determine.

Powers of entry

9.—(1) An authorised person may exercise any of the powers specified in this regulation for the purposes of enforcing these Regulations or the European Regulations.

(2) An authorised person may at all reasonable times, on producing, if so required, some duly authenticated document showing his authority, enter any land or premises, other than premises used solely for the purpose of a dwelling-house—

(a) to which an application or approved operation relates; or

(b) on which he has reasonable grounds to believe that documents or equipment relating to an application or approved operation are being kept.

(3) An authorised person entering any land or premises by virtue of this regulation may be accompanied by—

(a) any representative of the European Commission; and

(b) such other persons as the authorised person considers necessary for any purpose mentioned in paragraph (1).

(4) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before entry.

Powers of an authorised person

10.—(1) An authorised person who has entered any land or premises under regulation 9 may—

(a) inspect the land, premises, buildings and any document, record or equipment thereon which he reasonably believes relates to an application, approved operation or claim;

(b) require the applicant or beneficiary, or any employee or agent of such applicant or beneficiary, to produce, or secure the production of, any document or record or supply any additional information in his possession or under his control relating to the application, approved operation or claim;

(c) where any document, record or information referred to in sub-paragraph (b) is kept by means of a computer, have access to and inspect any computer and any associated apparatus or material which is or has been used in connection with that document, record or information;

(d) require copies of, or extracts from, any document, record or information relating to the application, approved operation or claim to be produced;

(e) remove and retain for a reasonable period any document, record or information relating to the application, approved operation or claim which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such document, record or information is kept by means of a computer, require it to be produced in a form in which it may be taken away and in which it is visible and legible;

(f) if necessary for the purposes of enforcing these Regulations or the European Regulations—

(i) inspect and count livestock on the land and premises, and

(ii) require the applicant or beneficiary, or any employee, servant or agent of such beneficiary, to arrange for the collection, penning and securing of such livestock.

(g) require an applicant or beneficiary, or any employee, servant or agent of such applicant or beneficiary, to give an authorised person all reasonable assistance in relation to the matters mentioned in this regulation.

(2) Paragraph (1) applies in relation to a person referred to in regulation 9(3)(b) when such a person is acting under the instructions of an authorised person, as if such person were an authorised person.

Record keeping

11.—(1) Save as provided in paragraphs (2) and (3), a beneficiary must retain any invoice, account or other document relating to an approved operation for such a period as the Department or its agent reasonably may determine.

(2) If the beneficiary transfers the original of any such document to another person in the normal course of business, he must instead keep a copy of that document for that period.

(3) Paragraph (1) does not apply in relation to any document removed by any person lawfully authorised to remove it.

Transfers of holdings

12. For the purposes of Article 8(3)(a) of the Horizontal Implementing Regulation, the period within which the transferee must inform the Department of the transfer and request payment of the aid or support, or both, is 90 days beginning with the first day after the date of the transfer.