STATUTORY RULES OF NORTHERN IRELAND

2010 No. 217

AGRICULTURE

Biomass Processing Challenge Fund Regulations (Northern Ireland) 2010

Made - - - -	*16th June 2010*
Coming into operation	*31st July 2010*

The Department of Agriculture and Rural Development is designated(**1**) for the purpose of section 2(2) of the European Communities Act 1972(**2**) as regards measures relating to the operation of Structural Funds.

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 Biomass Processing Challenge Fund Regulations (Northern Ireland) 2010 and shall come into operation on 31st July 2010.

Interpretation

2.—(1) In these Regulations—

"application" in relation to any expenditure means an application in relation to any expenditure under regulation 4;

"approved" means approved by the Department in accordance with regulation 5;

"authorised person" means any person authorised by the Department, either generally or specifically, for the purposes of these Regulations and includes any official of the Commission who accompanies such an authorised person;

"beneficiary" means—

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

(b) in relation to any time after financial support has been paid in connection with the approval, the person for whom the assistance has been paid; and

(**1**) S.I.1999/2788
(**2**) 1972 c68

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

"Community assistance" means the assistance from the European Regional Development Fund for projects under Priority 3;

"Community legislation" means the ERDF Regulation, the Council Regulation and the Commission Regulation;

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

"operation" means a project or a group of projects intended to be implemented by one or more beneficiary to achieve or assist in the achievement of the goals of Priority 3;

"Operational Programme" means the operational programme approved by Commission Decision of 30th October 2007 adopting the operational programme for Community assistance from the European Regional Development Fund under the Regional Competitiveness and Employment objective in the region of Northern Ireland in the United Kingdom;

"Priority 3" means Priority 3 under the Operational Programme;

"the Commission Regulation" means Commission Regulation 1828/2006(**3**) setting out rules for the implementation of Council Regulation 1083/2006(**4**) laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation 1080/2006(**5**) of the European Parliament and the Council on the European Regional Development Fund;

"the Council Regulation" means Council Regulation 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund;

"the ERDF Regulation" means Regulation 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund;

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Grants payable

3.—(1) The Department may pay financial support to a beneficiary towards expenditure approved by it and incurred by the beneficiary in connection with any operation.

(2) Payments in accordance with paragraph (1) shall be:-

(a) of such amounts;

(b) made at such time or by such instalments at such intervals; and

(c) may be made subject to such conditions,

as the Department may determine in accordance with the Community legislation, the Operational Programme and the Framework document.

Approval of expenditure

4. An application for the approval of expenditure in connection with an operation shall be made in such a form and at such time and contain such information as the Department may reasonably require.

(**3**) O.J. No. L371, 27.12.2006
(**4**) O.J. No. L210, 31.7.2006
(**5**) O.J. No. L210, 31.7.2006
(**6**) 1954 c.33 (N.I.)

5.—(1) Subject to paragraph (2) the Department may approve, in whole or in part, expenditure in connection with an operation for which an application has been made.

(2) The Department shall not approve expenditure unless it is satisfied that the operation to which it relates is eligible for Community assistance.

(3) Approval may be given subject to such conditions as the Department may determine.

(4) Subject to paragraph (5), the Department may vary any approval.

(5) The Department shall only vary an approval pursuant to a request in writing from the beneficiary to do so or in any other case after:-

(6) giving the beneficiary notice in writing that it proposes to do so together with a statement of its reasons;

(a) giving the beneficiary an opportunity to make written representations within such time as the Department considers reasonable; and

(b) considering any such representation.

(7) An approval or variation of an approval shall be in writing.

Claims

6. A claim for financial support shall be made at such time and within such a period and in such a form and be accompanied by such information as the Department may reasonably require.

Information

7.—(1) A beneficiary shall give the Department such information about any approved expenditure and any operation in connection with which such expenditure is incurred as the Department may reasonably require.

(2) Where the Department requires such information, the beneficiary shall give it to the Department within such period as the Department may reasonably require.

Record keeping

8.—(1) A beneficiary shall, subject to paragraphs (2) and (3), keep any invoice, account or other document relating to approved expenditure or any operation in connection with which such expenditure is incurred up until 31 December 2022 or such a date specified by the European Commission.

(2) If in the normal course of business a beneficiary transfers to another person the original of any document he is required to keep under paragraph (1) within the period he is required to keep it under that paragraph it shall be sufficient compliance with that paragraph for him to keep a copy of that document for that period.

(3) Paragraph (1) shall not apply in any case where a document to which that paragraph relates has been removed by any person lawfully authorised to remove it.

Powers of authorised persons

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

(a) to which an application or any approved expenditure relates; or

(b) on which he has reasonable grounds to believe that documents or equipment relating to an application for approval or approved expenditure are being kept,

for any of the purposes mentioned in paragraph (2).

(2) The purposes referred to in paragraph (1) are—

(a) inspecting the land or equipment to which the application or approved expenditure relates;

(b) verifying the accuracy of any information provided by a beneficiary relating to an application or approved expenditure; and

(c) determining whether or not a beneficiary has complied with the conditions of an approval.

(3) An authorised person who has entered any land under paragraph (1) may—

(a) inspect the land and any document record or equipment on it which he reasonably believes relates to an application or approved expenditure;

(b) require the applicant or beneficiary or any employee, servant or agent of such applicant or beneficiary, to produce, or secure the production of, any document or supply any additional information in his possession or under his control relating to the application or approved expenditure, as the case may be;

(c) where any information referred to in sub paragraph (b) is kept by means of a computer have access to any computer and any associated apparatus or material which is or has been used for storing that information and require information to be reproduced in a form in which it is legible and can be taken away;

(d) require copies of or extracts from any such document or other record referred to in sub-paragraph (a) or (b) to be produced ; and

(e) seize and retain any document or other record which he reasonably believes may be required as evidence in proceedings under these Regulations.

(4) A beneficiary, and any employee, servant or agent of such a beneficiary shall give an authorised person all reasonable assistance in relation to the exercise of his powers under paragraphs (1) and (3).

(5) An authorised person entering any land under paragraph (1) may take with him such other person as he considers necessary and paragraphs (3) and (4) shall apply to any such person when acting under the instructions of an authorised person as if he were an authorised person.

Breaches of obligations

10.—(1) Subject to paragraph (2) where—

(a) any information furnished to the Department by the beneficiary is false or misleading;

(b) the beneficiary is in breach of any of the conditions of an approval; or

(c) the beneficiary is in breach of any requirement to which he is subject under these Regulations or under the Community legislation,

the Department may exercise the powers contained in regulation 12.

(2) Where—

(a) a beneficiary has transferred all or part of the land to which an approval relates to another person (“the transferee”);

(b) the transferee has given an undertaking to the Department to assume the conditions of the approval in place of the beneficiary; and

(c) the Department has accepted that undertaking,

the beneficiary shall be released from the conditions of the approval, other than in respect of any breach or other matter occurring before the acceptance by the Department of the transferee’s undertaking.