STATUTORY RULES OF NORTHERN IRELAND

2007 No. 418

AGRICULTURE

Agricultural and Forestry Processing and Marketing Grant Regulations (Northern Ireland) 2007

Made - - - -	*1st October 2007*
Coming into operation	*30th October 2007*

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 promotion of rural development.

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

Citation and commencement

1. These Regulations may be cited as the Agricultural and Forestry Processing and Marketing Grant Regulations (Northern Ireland) 2007 and shall come into operation on 30th October 2007.

Interpretation

2.—(1) In these Regulations—

"application" means an application for the approval of expenditure under regulation 4;

"approved" in relation to any expenditure means approved by the Department under 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 person whose application has been granted;

"Community support" means support payable pursuant to Articles 20(b)(iii) and 28 of the Council Regulation from the European Agricultural Fund for Rural Development in accordance with the Community legislation;

(**1**) S.I. 2000/3238
(**2**) 1972 c.68

"the Community legislation" means the Council Regulation and any other instruments or documents listed in the Schedule in so far as they relate to Community support;

"the Council Regulation" means Council Regulation (EC) No. 1698/2005(**3**) of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development;

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

"electronic communication" has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001(**4**);

"financial support" means an amount paid or payable under these Regulations;

"operation" means an investment or project in Northern Ireland.

(2) 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.

(3) The Interpretation Act (Northern Ireland) 1954(**5**) 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 approved expenditure incurred in connection with an operation.

(2) The amount of financial support payable in respect of approved expenditure for a beneficiary shall be determined in accordance with the community legislation.

Approval of expenditure

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

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 support.

(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 granted under this regulation.

(5) The Department shall only vary an approval granted under this regulation pursuant to a request in writing from the beneficiary to do so, or in any other case after—

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

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

(c) considering any such representations.

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

(**3**) O.J. No. L277, 21.10.2005,p.1
(**4**) 2001 c.9 (N.I.)
(**5**) 1954 c.33 (N.I.)

Claims

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

Payments

7.—(1) The Department may pay financial support in respect of approved expenditure in connection with an operation by payment of a single lump sum or by instalments.

(2) Payments may be made—

(a) at such time as the Department reasonably may determine; and

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

Information

8.—(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 reasonably may require.

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

Record keeping

9.—(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 for the period of 6 years beginning with the day on which the last payment of financial support under these Regulations is made to him in connection with that expenditure or operation.

(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

10.—(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 approved expenditure relates; or

(b) on which he has reasonable grounds to believe that documents or equipment relating to an application 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 an application or approved expenditure relates;

(b) verifying the accuracy of any information provided by an applicant or 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) An applicant or beneficiary, and any employee, servant or agent of such applicant or 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

11.—(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 13.

(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.

Other cases in which recovery etc. powers apply

12. The Department may exercise the powers contained in paragraph (1) (a) and (b) of regulation 13 where—

(a) there has been a material change in the nature, scale, costs or timing of the approved expenditure in question or any operation to which it relates; or