STATUTORY RULES OF NORTHERN IRELAND

2001 No. 332

AGRICULTURE

Rural Development (Financial Assistance) Regulations (Northern Ireland) 2001

Made - - - -	*26th September 2001*
Coming into operation	*29th October 2001*

The Department of Agriculture and Rural Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) as regards measures relating to the operation of the Structural Funds and matters relating to the promotion of rural development, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Rural Development (Financial Assistance) Regulations (Northern Ireland) 2001 and shall come into operation on 29th October 2001.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**), except section 20(2) and (3), shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

"agent" means a person authorised in writing by the Department for the purposes of this regulation and regulations 3 to 8 and 11 to 17;

"application" means an application made pursuant to regulation 4;

"approved operation" means an operation which has been approved by the Department or an agent and "approve" and "approval" are to be construed accordingly;

"authorisation", in relation to an agent, means an authorisation in writing under this regulation;

"authorised person" means a person authorised by the Department, either generally or specially, to act under regulation 9 and includes any official of the Commission who accompanies such an authorised person;

(**1**) S.I.1999/2788 and S.I. 2000/3238
(**2**) 1972 c. 68
(**3**) 1954 c. 33 (N.I.)

"beneficiary" means a person who has been granted approval for an operation;

"the Commission" means the Commission of the European Communities;

"Community assistance" means assistance from the Guidance Section of the European Agricultural Guidance and Guarantee Fund or the European Regional Development Fund granted pursuant to the Community legislation;

"the Community legislation" means the instruments listed in the Schedule;

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

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

"electronic communication" has the same meaning as in the Electronic Communications Act 2000(**5**);

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

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

"statutory provision" has the same meaning as in section 1(*f*) of the Interpretation Act (Northern Ireland) 1954(**6**).

(3) 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.

Assistance for rural development

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

(2) The Department may make funds available to an agent to enable him to pay financial assistance under paragraph (1).

Applications for approval of operations

4. An application for the approval of an operation shall be made in such form and contain such information as the Department or an agent may reasonably require.

Approval of operations

5.—(1) The Department or an agent may—

(a) refuse to approve an operation for the receipt of financial assistance; or

(b) approve an operation in whole or in part, unconditionally or subject to such conditions as it may determine,

but it may not approve an operation unless it is satisfied that—

(i) the operation is in accordance with the Rural Development Programme Strategy 2001 – 2006 published on 1st September 2001 by the Department(**7**); and

(ii) the operation is eligible for Community assistance.

(**4**) O.J. No. L161, 26.6.1999, p. 1
(**5**) 2000 c. 7
(**6**) 1954 c. 33 (N.I.); section 1(*f*) was amended by S.I. 1999/663
(**7**) ISBN 1/85527/487/6

(2) The Department or an agent may vary an approval by varying any condition to which it is subject, or by imposing conditions.

(3) Before the Department or an agent decides to refuse approval for an operation under paragraph (1) or to vary an approval under paragraph (2), it shall—

(a) give the applicant or beneficiary, as the case may be, notice in writing of its proposed decision with a statement of its reasons;

(b) give that applicant or 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.

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

Claims

6. A claim for financial assistance shall be made at such time and in such form and be accompanied by such information as the Department or, as the case may be, an agent reasonably may require.

Payment

7.—(1) The Department or an agent may pay financial assistance by payment of a single lump sum or by instalments.

(2) Payments under paragraph (1) may be made—

(a) at such time or times as the Department or, as the case may be, the agent thinks fit; and

(b) subject to such conditions as the Department or, as the case may be, the agent reasonably may determine.

Information

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

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

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 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,

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 operation relates;

(b) verifying the accuracy of any information provided by an applicant or beneficiary relating to an application or approved operation; 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 operation;

(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 operation, as the case may be;

(c) where any document or other record relating to any application or approved operation is kept by means of a computer, have access to any computer and any associated apparatus or material which is or has been used in connection with that document or record;

(d) require copies of or extracts from any such document or other record 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, and if it is recorded otherwise than in a form in which it is legible or can be taken away, 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 beneficiary or any employee, servant or agent of such applicant or beneficiary shall give an authorised person all reasonable assistance in relation to the matters specified in paragraphs (1) to (3).

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

Record keeping

10.—(1) A beneficiary shall keep any invoice, account or other document relating to an approved operation for the period of six years beginning with the day on which the last payment of financial assistance under these Regulations is made to him in connection with that operation, subject to paragraphs (2) and (3).

(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 if the document has been removed by an authorised person under regulation 9(3)(*e*).

Breaches of obligations

11. Where—

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

(b) the beneficiary breaches any of the conditions of an approval; or

(c) the beneficiary breaches any requirement to which he is subject under these Regulations,

the Department may exercise the powers contained in regulation 13.

Other cases in which recovery etc. powers apply

12. The Department may exercise the powers contained in paragraphs (1)(*a*) and (1)(*b*) and paragraph (2) of regulation 13 where—

(a) there has been a material change in the nature, scale, costs or timing of the approved operation;

(b) the approved operation has been or is being delayed, or is unlikely to be completed;