

1992 No. 266**AGRICULTURE****SEA FISHERIES****FISHERIES****COMMON AGRICULTURAL POLICY****Agricultural, Fishery and Aquaculture Products (Improvement Grant) Regulations (Northern Ireland) 1992**

Made 10th June 1992

Coming into operation 11th July 1992

The Department of Agriculture, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Economic Community in exercise of the powers conferred on it by that section 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 Agricultural, Fishery and Aquaculture Products (Improvement Grant) Regulations (Northern Ireland) 1992 and shall come into operation on 11th July 1992.

Interpretation

- 2.—(1) In these regulations, unless the context otherwise requires—
- “applicant” in relation to the approval of expenditure for the purposes of Community aid or of a grant under these regulations means the person who is making or has made the application for that approval;
 - “the Department” means the Department of Agriculture;
 - “approved” means approved by the Department of Agriculture in writing;
 - “authorised officer” means an officer authorised by the Department for the purposes of these regulations;
 - “the Commission” means the Commission of the European Communities;

(a) S.I. 1972/1811

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

“Community aid” means aid from the Guidance section of the European Agricultural Guidance and Guarantee Fund payable in accordance with the Council Regulations;

“the Council Regulations” means Council Regulation (EEC) No 866/90 on improving the processing and marketing conditions of agricultural products(a), Council Regulation (EEC) No 4028/86 on community measures to improve and adapt structures in the fisheries and aquaculture sector(b), and Council Regulation (EEC) No 4042/89 on the improvement of the conditions under which fishery and aquaculture products are processed and marketed(c);

“eligible expenditure” means in relation to any operation, expenditure which the Department has approved for the receipt of Community aid; and

“operation” means an investment or project in Northern Ireland in respect of which Community aid is claimed or paid.

(2) Other expressions used in these regulations have, insofar as the context admits, the same meanings as in the Council Regulations.

(3) The Interpretation Act (Northern Ireland) 1954(d) shall apply to the interpretation of these regulations as it applies to the interpretation of a measure of the Northern Ireland Assembly.

Improvement grants in respect of the processing and marketing of agricultural, fishery and aquaculture products and the provision of facilities at fishing ports.

3.—(1) The Department may make to any applicant a grant towards eligible expenditure incurred in connection with an operation.

(2) The amount of any such grant shall be 5 per cent of the eligible expenditure or such other sum which when added to any other grant payable from United Kingdom public funds in relation to the eligible expenditure equals 5 per cent of such expenditure.

Approval of expenditure and payment of grant

4.—(1) Applications for approval of expenditure for the purposes of Community aid and for the purposes of a grant shall be made in such form and manner and at such time as the Department may from time to time require and the applicant shall furnish all such particulars and information relating to the application as the Department may require.

(2) The Department may either refuse to approve expenditure or approve it in whole or in part for the purposes of Community aid or for the purposes of a grant and any such approval may be given, or any payments made by way of Community aid and of grant made, subject to such conditions as it thinks fit.

(3) Approval of expenditure for the purposes of Community aid and for the purposes of a grant may be varied by the Department with the applicant's written consent.

(a) OJ No L91, 6.4.90 p. 1

(b) OJ No L376, 31.12.86 p. 7

(c) OJ No L388, 30.12.89 p. 1

(d) 1954 c. 33 (NI)

(4) Payments by way of Community aid and of a grant may be made at such time, or by such instalments at such intervals or times, as the Department may determine.

Records

5. An applicant shall preserve invoices, accounts and any other relevant documents as proof of expenditure incurred in connection with an operation, shall retain them for three years from the last payment of Community aid or of grant in respect of that operation and shall produce them for inspection if so required by an authorised officer.

Powers of entry

6.—(1) For the purposes of ascertaining whether in respect of any operation—

- (a) any amount of Community aid or of grant is payable or recoverable; or
- (b) an offence has been, or is being, committed,

an authorised officer may on producing, if so required, a warrant of his authority, at any reasonable time enter upon any land to which the operation relates.

(2) An authorised officer who has entered any land in accordance with paragraph (1) may—

- (a) inspect that land and any equipment on it to which the operation relates; and
- (b) require the applicant to produce for inspection, and allow the officer to make a copy of, or extracts from, and to examine and remove for a reasonable period, any invoice, account, or other document relating to that application which is relevant to the purposes mentioned in paragraph (1).

False statements

7.—(1) If any person, for the purposes of obtaining for himself or any other person Community aid or any grant, knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding £2,000.

(2) A complaint charging the commission of an offence referred to in paragraph (1) may be heard and determined by a Magistrate's Court if it is made at any time within 5 years of the time that the offence was committed or ceased to continue and within 6 months after the relevant date.

(3) In this regulation "relevant date" means the date on which evidence sufficient in the opinion of the complainant to justify proceedings comes to his knowledge.

(4) For the purpose of paragraph (3) a certificate purporting to be signed by the complainant as to the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that date.

Revocation of approval and recovery of grant

8.—(1) If at any time after the Department has approved any expenditure for the purposes of Community aid or for the purposes of a grant it appears to the Department that—

- (a) any condition subject to which the approval was given or the grant has been made or the Community aid has been paid has not been complied with;
- (b) the operation in respect of which the expenditure was incurred has not been in fact carried out or has not been properly carried out;
- (c) the operation has been or is being unreasonably delayed, or is unlikely to be completed;
- (d) the operation was commenced more than six months before the date on which the Commission received the application for Community aid;
- (e) the Commission has decided to reduce, suspend or discontinue Community aid and to recover any sums unduly paid; or
- (f) the applicant—
 - (i) has failed to comply with a requirement imposed under regulation 5 or 6(2)(b);
 - (ii) has intentionally obstructed any officer in the exercise of his powers under regulation 6; or
 - (iii) has given information on any matter relevant to the giving of the approval or the making of the payment which is false or misleading in a material particular

the Department may revoke the approval in respect of the whole or part of the expenditure and, where any payment has been made by way of Community aid or of grant, may on demand recover an amount equal to the whole or any part of the payment which has been so made.

(2) Before revoking an approval in whole or in part under paragraph (1)(a), (b), (c), (d) or (f) the Department shall—

- (a) give to the applicant a written notification of the reasons for the action proposed to be taken by the Department;
- (b) afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the Department; and
- (c) consider the report by a person so appointed and supply a copy of the report to the applicant.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 10th June 1992.

(L.S.)

R. S. Johnston

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which come into operation on 11th July 1992, supplement Council Regulation (EEC) No. 866/90 (OJ No L91, 6.4.90, p.1), Council Regulation (EEC) No. 4028/86 (OJ No L376, 31.12.86, p.7) and provisions of Council Regulation (EEC) No. 4042/89 (OJ No L388, 30.12.89, p.1) ("the Council Regulations") which respectively contain measures for improving:—

- (a) the processing and marketing conditions of agricultural products;
- (b) the facilities by which fisheries products are produced, landed and offered for sale at fishing ports; and
- (c) the processing and marketing conditions of fishery and aquaculture products.

The Council Regulations empower the Commission to grant aid from the Guidance Section of the European Agricultural Guidance and Guarantee Fund ("the Guidance Fund") towards investments or projects which fulfil those objectives and towards which the Member States on the territory of which the investments or projects are to be located make a financial contribution.

The Regulations—

- (a) empower the Department of Agriculture for Northern Ireland to make grants towards expenditure in respect of investments or projects approved for the payment of aid from the Guidance Fund of amounts sufficient to enable those investments or projects to qualify for that aid (regulation 3);
- (b) lay down procedures for approval of expenditure for the purposes of Community aid, of a grant and for the payment of such Community aid or grant (regulation 4);
- (c) confer on applicants a duty to keep, retain and produce records of expenditure (regulation 5);
- (d) confer on authorised officers of the Department powers to enter upon land and to require the production of documents (regulation 6);
- (e) create an offence in respect of false statements made to obtain Community aid or grant (regulation 7); and
- (f) specify circumstances in which approval of expenditure may be revoked and Community aid or grant may be recovered (regulation 8).

1992 Nos. 267, 268

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.