
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 391

AGRICULTURE

**Farm Subsidies (Review of Decisions) Regulations
(Northern Ireland) 2001**

Made 23rd October 2001

Coming into operation 14th November 2001

The Department of Agriculture and Rural Development, 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 Community and in relation to matters relating to the promotion of rural development, in exercise of the powers conferred on it by the said section 2(2) and every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Farm Subsidies (Review of Decisions) Regulations (Northern Ireland) 2001 and shall come into operation on 14th November 2001.

Interpretation

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

(2) In these Regulations—

“applicant” means a person who makes an application under regulation 5 or, as the case may be, regulation 8 or regulation 11;

“Commission Regulation 3887/92” means Commission Regulation (EEC) No. 3887/92 laying down rules for applying the integrated administration and control system for certain Community aid schemes(d) as amended by Commission Regulation (EC) No. 229/95(e), Commission Regulation (EC) No. 1648/95(f), Commission Regulation (EC) No. 2015/95(g), Commission Regulation (EC) No. 613/97(h), Commission Regulation (EC) No.

(a) S.I. 2000/2812 and S.I. 2000/3238
(b) 1972 c. 68
(c) 1954 c. 33 (N.I.)
(d) O.J. No. L391, 31.12.1992, p. 36
(e) O.J. No. L27, 4.2.1995, p. 3
(f) O.J. No. L156, 7.7.1995, p. 27
(g) O.J. No. L197, 22.8.1995, p. 2
(h) O.J. No. L94, 9.4.97, p. 1

1678/98(a), Commission Regulation (EC) No. 2801/1999(b) and Commission Regulation (EC) No. 2721/2000(c);

“Council Regulation 3508/92” means Council Regulation (EEC) No. 3508/92 establishing an integrated administration and control system for certain Community aid schemes(d) as amended by Council Regulation (EC) No. 165/94(e), Council Regulation (EC) No. 3233/94(f), Council Regulation (EC) No. 3235/1994(g), Council Regulation (EC) No. 3072/1995(h), Council Regulation (EC) No. 1577/96(i), Council Regulation (EC) No. 2466/96(j), Commission Regulation (EC) No. 613/97(k), Council Regulation (EC) No. 820/97(l), Council Regulation (EC) No. 1036/1999(m), Council Regulation (EC) No. 1593/2000(n) and Commission Regulation (EC) No. 495/2001(o) ;

“the Department” means the Department of Agriculture and Rural Development;

“holding” has the same meaning as in Council Regulation No. 3508/92;

“IACS scheme” means one of the Community schemes set out in Article 1.1 of Council Regulation 3508/92; and

“IACS year” means a period of 12 months commencing on 16th May and “IACS year 2001” means such a period commencing on 16th May 2001.

(3) Any reference in these Regulations to a person to whom a decision is directed or an applicant for review includes a reference to any successor, executor, trustee in bankruptcy, receiver or liquidator of such a person or applicant.

Application

3. These Regulations apply to decisions of the Department of the kind referred to in regulation 4 in relation to holdings which are administered by the Department in accordance with the Integrated Administration and Control System Regulations 1993(p).

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- (a) O.J. No. L212, 30.7.1998, p. 23
 - (b) O.J. No. L340, 31.12.1999, p. 29
 - (c) O.J. No. L314, 14.12.2000, p. 8
 - (d) O.J. No. L355, 5.12.1992, p. 1
 - (e) O.J. No. L24, 29.1.1994, p. 6
 - (f) O.J. No. L338, 28.12.1994, p. 13
 - (g) O.J. No. L338, 28.12.1994, p. 16
 - (h) O.J. No. L329, 30.12.1995, p. 18
 - (i) O.J. No. L206, 16.8.1996, p. 4
 - (j) O.J. No. L335, 24.12.1996, p. 1
 - (k) O.J. No. L94, 9.4.1997, p. 1
 - (l) O.J. No. L117, 7.5.1997, p. 1
 - (m) O.J. No. L127, 21.5.1999, p. 4
 - (n) O.J. No. L182, 21.7.2000, p. 4
 - (o) O.J. No. L72, 14.3.2001, p.6
 - (p) S.I. 1993/1317 amended by S.I. 1994/1134, S.I. 1997/1148, S.I. 1999/1820 and S.I. 2000/2573

Decisions amenable to review

4. The following decisions may be reviewed in accordance with the following provisions of these Regulations—

- (a) a decision, under or in accordance with Commission Regulation 3887/92 (including anything done in accordance with Article 11.1 of the Regulation), by the Department to refuse, reduce or recover (in whole or in part) payment under an IACS scheme for the IACS year 2001 or any IACS year thereafter; and
- (b) a decision by the Department to refuse, reduce or recover (in whole or in part) payment of less favoured area compensatory allowance under the Less Favoured Areas Compensatory Allowances Regulations (Northern Ireland) 2001^(a).

First review by the Department

5.—(1) Subject to paragraph (2), a person to whom a decision referred to in regulation 4 is directed, may apply, no later than 60 days following the date of the decision to be reviewed, to the Department for a review of that decision.

(2) Where a decision referred to regulation 4 was made before the date of the coming into operation of these Regulations, the person to whom the decision was directed, may apply, no later than 60 days following the date of the coming into operation of these Regulations, to the Department for a review of that decision.

(3) An application for a review under this regulation must be in writing and specify—

- (a) the name and address of the applicant;
- (b) the subsidy scheme in relation to which the review is sought and the IACS year to which the decision referred;
- (c) the decision of the Department which is to be reviewed and its date; and
- (d) full details of the grounds upon which the review is sought.

(4) An application under this regulation is to be treated as made if it is received by the Department at its offices at Orchard House, 40 Foyle Street, Londonderry BT48 6AT marked “for the attention of the DARD Grants and Subsidies Appeals Branch”.

6.—(1) Where an application is made under regulation 5, the Department shall review the decision which is the subject of the application.

(2) In reviewing a decision in accordance with this regulation the Department may consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision).

(a) S.R. No. 2001 No. 71

Decision following first review

7.—(1) Following review of a decision in accordance with regulation 6, the Department may—

- (a) confirm its decision;
- (b) amend or alter its decision in any respect which it considers appropriate; or
- (c) revoke its decision in its entirety and substitute a new decision.

(2) The Department shall give its decision under paragraph (1) as soon as practicable in writing, setting out the facts upon which its decision is based and the reasons for its decision.

Further review by the Department

8.—(1) An applicant who is dissatisfied with a decision under regulation 7 may, no later than 30 days following the date of that decision, apply in writing to the Department for a review of that decision.

(2) An application for a review of a decision under regulation 7 must be in writing and specify—

- (a) the name and address of the applicant;
- (b) the subsidy scheme in relation to which the review is sought and the IACS year to which the decision referred;
- (c) the decision under regulation 7 that is to be reviewed and its date;
- (d) full details of the grounds upon which the review is sought if different from the grounds specified under regulation 5(3)(d); and
- (e) the change sought to the decision.

(3) An application under this regulation is to be treated as made if it is received by the Department at its offices at Orchard House, 40 Foyle Street, Londonderry BT48 6AT marked “for the attention of the DARD Grants and Subsidies Appeals Branch”.

9.—(1) Where an application is made under regulation 8, the Department shall review the decision which is specified in it.

(2) In reviewing a decision in accordance with this regulation the Department may—

- (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision under regulation 7);
- (b) invite the applicant to provide such further information relevant to the review as the Department considers appropriate; and
- (c) give the applicant an opportunity to make representations in writing.

Decision following further review

10.—(1) Following a review of a decision in accordance with regulation 9, the Department may—

- (a) confirm its decision;

(b) amend or alter its decision in any respect which it considers appropriate; or

(c) revoke its decision in its entirety and substitute a new decision.

(2) The Department shall give its decision under paragraph (1) as soon as practicable in writing, setting out the facts upon which its decision is based and the reasons for its decision.

Further review by persons appointed

11.—(1) An applicant who is dissatisfied with a decision under regulation 10 may, no later than 30 days following the date of that decision, apply in writing to the Department to have that decision reviewed by persons appointed by it.

(2) An application for a review of a decision under regulation 10 must be in writing and specify—

(a) the name and address of the applicant;

(b) the subsidy scheme in relation to which the review is sought and the IACS year to which the decision referred;

(c) the decision under regulation 10 that is to be reviewed and its date;

(d) full details of the grounds upon which the review is sought if different from the grounds specified under regulation 5(3)(d) or, as the case may be, 8(2)(d); and

(e) the change sought to the decision.

(3) An application under this regulation is to be treated as made if it is received by the Department at its offices at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB marked “for the attention of the DARD Appeals Secretariat” and is accompanied by a fee of £100.

(4) The fee referred to in paragraph (3) is payable to the Department and recoverable by it, in the event of default, as a debt.

Powers of persons appointed

12.—(1) Where an application is made under regulation 11, the Department shall appoint such persons as it considers appropriate to review the decision and provide those persons with a copy of—

(a) the application;

(b) the decisions under regulations 7 and 10; and

(c) any document or note of evidence produced or taken in relation to the earlier reviews by the Department.

(2) The persons appointed under this regulation shall review the decision and may—

(a) consider any document or other evidence produced by the applicant or the Department (whether or not that document or evidence was available at the time of taking the decision under regulation 7 or 10);

- (b) invite the applicant and the Department to provide such further information relevant to the review as the persons appointed consider appropriate; and
 - (c) give the applicant and the Department an opportunity to give evidence and to make representations in person or through a representative.
- (3) Following their review of the matter the persons appointed shall report to the Department—
- (a) their findings in fact on the matter; and
 - (b) their recommendations as to the determination of the application having regard to the law applicable to the facts.
- (4) Having considered the matters reported to it under paragraph (3) the Department may—
- (a) confirm its decision;
 - (b) amend or alter its decision in any respect which it considers appropriate; or
 - (c) revoke its decision in its entirety and substitute a new decision.
- (5) In coming to its decision in accordance with paragraph (4) the Department shall have regard to the findings and recommendations reported to it by the persons appointed under this regulation but is not bound to follow all or any part of such findings or recommendations.
- (6) The Department shall give its decision under this regulation as soon as practicable in writing and where it does not adopt the findings and recommendations reported to it shall set out—
- (a) the relevant facts upon which its decision is based;
 - (b) the reasons for its decision;
 - (c) its reasons for not following in whole or in part the findings or recommendations of the persons appointed; and
 - (d) the effect of its decision on the payment or non-payment of subsidy.
- (7) Where the Department decides in accordance with paragraph (4)(b) or (c), the fee referred to in regulation 11(3) shall be refunded to the applicant.
- (8) The Department may make such payment, by way of fee or reimbursement of expenses, to any of such persons appointed under paragraph (1), as appears to it to be appropriate.

Notification of decisions

13.—(1) A decision under regulation 7, 10 or 12 shall be notified to the applicant as soon as practicable after it is made by recorded delivery post to the address shown on the application for review.

(2) In the case of a decision under regulation 12, the findings and recommendations of the persons appointed shall be notified along with the decision.

Revocations

14. Regulation 12(4) of the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2001 and regulation 10(2) to (4) of the Slaughter Premium Regulations (Northern Ireland) 2001(a) are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 23rd October 2001.

(L.S.)

R. J. Jordan

A senior officer of the Department of
Agriculture and Rural Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations have effect in relation to holdings (whether wholly in Northern Ireland or partly in Northern Ireland and partly elsewhere in the United Kingdom) which are administered by the Department of Agriculture and Rural Development (the “Department”) in accordance with the Integrated Administration and Control System Regulations 1993. They introduce legal rights to seek a review of certain decisions of the Department in relation to payment of certain farm subsidies.

The kind of decisions which can be reviewed are set out in regulation 4. They are decisions to refuse, reduce or recover, in whole or in part, payments under an IACS Scheme (as defined in regulation 2(2)) for the IACS year 2001 or any IACS year thereafter or under the Less Favoured Areas Compensatory Allowances Regulations (Northern Ireland) 2001.

Procedure for first review is by application made to the Department no later than 60 days following the date of the decision to be reviewed or, in the case of decisions made before the coming into operation of these Regulations, within 60 days of the date of the coming into operation of the Regulations (regulation 5). Where an applicant is dissatisfied with a decision on first review, he may apply to the Department for a second review (regulation 8). The first and second reviews will be conducted by the Department and its officials. Certain powers are given to the Department in relation to such reviews (regulations 6(2) and 9(2)). The Department shall, following a review, give its decision in a form specified by regulation 7 or, as the case may be, regulation 10.

Where an applicant is dissatisfied with a decision on second review, he may apply to the Department to have its decision reviewed by persons appointed by it (regulation 11(1)). A fee of £100 is payable in respect of such an application (regulation 11(3)). The Department may appoint such persons as it considers appropriate to conduct this stage of the review (regulation 12(1)). Persons appointed under regulation 12 shall review the decision of the Department and have certain powers to consider additional information or to invite representations from the applicant and the Department (regulation 12(2)). Following their review of the decision the persons appointed by the Department shall report their findings of fact and recommendations to the Department (regulation 12(3)).

The Department is required to make a decision having regard to the findings and recommendations reported to it by the persons appointed (regulation 12(4) and (5)). The Department is required to give its decision in writing and to give full details of the facts and reasons for its decision (regulation 12(6)). Where the Department decides that an applicant has been successful in whole or in part in the review it shall refund the fee of £100 (regulation 12(7)).

The Department may make payments to persons appointed by it under regulation 12(1) (regulation 12(8)).

Decisions shall be notified in accordance with regulation 13.

Consequential amendments are made in the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2001 and the Slaughter Premium Regulations (Northern Ireland) 2001 (regulation 14).

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