
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 448

**The Agricultural Business Development
Scheme (Scotland) Regulations 2000**

Revocation of approval and reduction, withholding or recovery of financial assistance

12.—(1) Subject to paragraph (2) below, if at any time after the Scottish Ministers have approved an application in whole or in part or have paid financial assistance under these Regulations, it appears to them that—

- (a) any condition on which the approval was given or the financial assistance has been paid has not been complied with, or the expected benefits have not been achieved for reasons other than circumstances outwith the control of the eligible person;
- (b) any measure, in respect of which approval was given or financial assistance has been paid, has not been carried out in accordance with the application approved by the Scottish Ministers, or has been or is being unreasonably delayed or is unlikely to be completed;
- (c) the carrying out of the measure, in respect of which such financial assistance is claimed, is contrary to the purposes served by assistance previously given out of money provided by the United Kingdom Parliament, the Scottish Parliament or the European Community;
- (d) the carrying out of the measure, in respect of which such financial assistance is claimed, has been effected in a way which has destroyed or damaged the natural heritage of the countryside to an extent which cannot be justified by the purpose for which financial assistance is claimed;
- (e) public funding in respect of expenditure towards which such financial assistance is claimed has been or may be given otherwise than under these Regulations;
- (f) the expenditure towards which such financial assistance is claimed is excessive, having regard to the measure carried out and to which the claim relates;
- (g) the eligible person has—
 - (i) intentionally obstructed any authorised person in exercise of the powers under regulation 11; or
 - (ii) failed to comply with a requirement imposed under regulation 11(3)(b);
- (h) information was given by the eligible person on any matter relevant to the giving of the approval or the making of the payment which was false or misleading in a material respect;
- (i) the eligible person has not retained the measure in respect of which financial assistance has been paid within the eligible business existing at the time of application for a period of five years, or seven years in the case of financial assistance for housing for rent, after payment of the financial assistance; or
- (j) the European Commission has decided that the grant paid, or to be paid, does not comply with the Community legislation,

the Scottish Ministers may revoke the approval, in whole or in part, or may reduce or withhold any financial assistance under these Regulations and, where any such financial assistance has been paid, may recover on demand and as a debt an amount equal to the financial assistance which has been so paid or such part thereof as they may determine.

(2) Before revoking an approval in whole or in part or reducing or withholding any financial assistance or making a demand by virtue of paragraph (1) above, the Scottish Ministers shall—

- (a) give to the person from whom any such amount is sought written notification of the step proposed to be taken and, if appropriate, the amount by which it is proposed that financial assistance be reduced or the amount of such assistance which it is proposed be withheld;
- (b) give that person an opportunity to make representations about the action proposed to be taken by them within such time and in such form as they think fit; and
- (c) consider any such representations.