
STATUTORY INSTRUMENTS

1991 No. 777

**AGRICULTURE
SEA FISHERIES
FISHERIES**

**Agricultural, Fishery and Aquaculture Products
(Improvement Grant) Regulations 1991**

Approved by both Houses of Parliament

Made - - - - 20th March 1991

Coming into force - - 21st March 1991

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations of which a draft has been approved by resolution of each House of Parliament:—

Title, extent and commencement

1. These Regulations, which may be cited as the Agricultural, Fishery and Aquaculture Products (Improvement Grant) Regulations 1991, shall apply in Great Britain and shall come into force on the day after the day on which they are made.

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 appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Wales or Scotland, the Secretary of State;

(1) S.I. 1972/1811.

(2) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48) and with section 52(4) of the Criminal Justice Act 1988 (c. 33) and with S.I. 1984/447; and, as regards Scotland, with section 289GA(2) of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 66 of the Criminal Justice (Scotland) Act 1987 (c. 41), and with S.I. 1984/526.

“approved” means approved by the appropriate Minister in writing, and “approve” and “approval” shall be construed accordingly;

“authorised officer” means an officer authorised by the appropriate Minister for the purposes of these Regulations;

“the Commission” means the Commission of the European Communities;

“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 4028/86 on Community measures to improve and adapt structures in the fisheries and aquaculture sector⁽³⁾, Council Regulation (EEC) No 4042/89 on the improvement of the conditions under which fishery and aquaculture products are processed and marketed⁽⁴⁾ and Council Regulation (EEC) No 866/90 on improving the processing and marketing conditions of agricultural products⁽⁵⁾;

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

“operation” means an investment or project 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.

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 appropriate Minister 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 under 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 under these Regulations shall be made in such form and manner and at such time as the appropriate Minister may from time to time require and the applicant shall furnish all such particulars and information relating to the application as the appropriate Minister may require.

(2) The appropriate Minister 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 under these Regulations and any such approval may be given, or any payments by way of Community aid and of grant made, subject to such conditions as the appropriate Minister thinks fit.

(3) Approval of expenditure for the purposes of Community aid and for the purposes of a grant under these Regulations may be varied by the appropriate Minister with the applicant’s written consent.

(4) Payments by way of Community aid and of grant under these Regulations may be made at such time, or by such instalments at such intervals or times, as the appropriate Minister may determine.

(3) OJ No L376, 31.12.86, p.7.

(4) OJ No L388, 30.12.89, p.1.

(5) OJ No L91, 6.4.90, p.1.

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 under these Regulations 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 under these Regulations is payable or recoverable; or
 - (b) an offence under these Regulations has been, or is being, committed 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) of this regulation 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) of this regulation.

False statements

7.—(1) If any person, for the purposes of obtaining for himself or any other person Community aid or any grant under these Regulations, knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any information relating to the offence referred to in paragraph (1) of this regulation which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within five years after the commission of the offence and within six months after the relevant date.

(3) Summary proceedings for such an offence may be commenced in Scotland at any time within five years after the commission of the offence and within six months after the relevant date; and for the purposes of this paragraph proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such a warrant is executed without undue delay.

(4) In this regulation “relevant date” means the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to his knowledge.

(5) For the purposes of paragraph (4) of this regulation, a certificate of the prosecutor as to the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact.

Revocation of approval and recovery of grant

8.—(1) If at any time after the appropriate Minister has approved any expenditure for the purposes of Community aid or for the purposes of a grant under these Regulations it appears to that Minister 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) above;
 - (ii) has intentionally obstructed any officer in the exercise of his powers under regulation 6 above; 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 any material particular

the appropriate Minister 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 under these Regulations, 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 (a), (b), (c), (d) or (f) of this regulation the appropriate Minister shall—

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

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereto affixed on 18th March 1991.

L.S.

Trumpington
Minister of State, Ministry of Agriculture,
Fisheries and Food

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

20th March 1991

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 21st March 1991 and apply throughout Great Britain, supplement Council Regulation (EEC) No 866/90 (OJ No L91, 6.4.90, p.1), Council Regulation (EEC) No 4042/89 (OJ No L388, 30.12.89, p.1) and provisions of Council Regulation (EEC) No 4028/86 (OJ No L376, 31.12.86, p.7) (“the Council Regulations”) which respectively contain measures for improving—

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

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 Ministers 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 and of a grant under the Regulations, 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 appropriate Minister 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).