

2021 No. 187

AGRICULTURE

The Agricultural (2017 North West Area Flooding) (Income Support) Scheme (Northern Ireland) 2021

Made - - - - 28th June 2021

Coming into operation - 27th July 2021

The Minister of Agriculture, Environment and Rural Affairs(**a**), with the approval of the Minister of Finance, makes the following Scheme in exercise of the powers conferred by sections 1(1) and 2 of the Agriculture (Temporary Assistance) Act (Northern Ireland) 1954(**b**).

Citation and commencement

1. This Scheme may be cited as the Agricultural (2017 North West Area Flooding) (Income Support) Scheme (Northern Ireland) 2021 and comes into operation on 27th July 2021.

Interpretation

2. In this Scheme—

“2017 rainfall” means the rainfall caused by Storm Lorenzo on 22nd and 23rd August 2017;

“applicant” means a producer who makes an application;

“application” means an application for an income support payment made in accordance with article 4(4);

“common land” means land on which grazing is shared amongst more than one applicant and which is situate within the severely disadvantaged areas of eligible area;

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“designated map” means the map marker “Map of less-favoured farming areas in Northern Ireland”, dated 8th May 1991, signed by the Secretary of State for Northern Ireland and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Ballymiscaw, Belfast, BT4 3SB;

“disadvantaged land” means, except in the expression “severely disadvantaged land”, land identified by the colour blue on the designated map;

“eligible area” means, in relation to the farmland of each producer, that area of land declared on an application for an area-based scheme to the Department in 2017 and self-declared by the producer in 2017 on the Force Majeure application for the farm business, as may be adjusted by the Department to correct any omission or errors in the 2017 registration of information;

(a) Formerly the Department of Agriculture for Northern Ireland; see S.I. 1999/283 (N.I. 1) Article 3(4) and 2016 c. 5 (N.I.) section 1

(b) 1954 c. 31 (N.I.); sections 1 and 2 are amended by regulation 2 of S.R. 1977 No 352 and by Article 7 of S.I. 1984/702 (N.I. 2)

“farm business ID” means a farm business number issued by the Department to a producer;
“income support payment” means a payment made under article 6;
“producer” means a farm business registered with the Department with a farm business ID issued by the Department;
“rainfall impact” means the loss and damage caused to the eligible area of a producer either by flooding and/or landslide damage, as the case may be, by the 2017 rainfall.
“severely disadvantaged land” means the land identified by the colour pink on the designated map.

Eligibility for an income support payment

3. Subject to the conditions in article 6 and the financial cap in article 7, the Department may, under and in accordance with the provisions of this Scheme, pay an eligible producer an income support payment in respect of income forgone and land restoration costs as a consequence of the rainfall impact.

Applications for income support payment

4.—(1) The Department must publish, in such manner as it considers appropriate, a notice inviting applications for an income support payment.

(2) A notice under paragraph (1) must specify—

- (a) the conditions for an award of income support payment set out in article 7;
- (b) the closing date for receipt of applications; and
- (c) any information which the applicant is required to provide in support of the application.

(3) A notice under paragraph (1) may be amended by further notice published by the Department in the same manner.

(4) An application must be made in such form or manner and be sent to such address as the Department specifies in the notice under paragraph (1) and must be received by the Department on or before the closing date specified in that notice.

(5) But the Department may accept an application received after the closing date if it is satisfied that—

- (a) the particular circumstances of the applicant render it unreasonable to expect the application to have been received by the closing date; and
- (b) the date on which the application was received is as early as can reasonably be expected in those circumstances.

Determination of applications

5.—(1) Where the Department has received an application, it must determine whether the application satisfies the relevant conditions for payment of an income support payment set out in article 6.

(2) The Department must notify the applicant in writing of its decision to approve or reject an application and—

- (a) if an application is rejected in whole or in part, the reason for the rejection and the right of review under article 8; and
- (b) if an application is approved, the amount of the income support payment to be made.

Income support payments

6.—(1) The Department may make an income support payment calculated in accordance with paragraph (3) to a producer if the conditions set out in paragraph (2) are met.

(2) The conditions are that the producer—

- (a) had income forgone due to flooding or landslides as a result of rainfall impact in the eligible area;
 - (b) subject to paragraph (5), at the date of the rainfall impact had a farm business ID; and
 - (c) has—
 - (i) made a Force Majeure application in 2017 due to the flooding event as a result of 2017 rainfall; and
 - (ii) made an area-based scheme application for 2017 for the eligible area.
- (3) The amount of income support payment is either—
- (a) £4,092 for severely disadvantaged / disadvantaged land , excluding common land, per hectare of eligible area; or
 - (b) £729 for lowland land, per hectare of eligible area; or
 - (c) £145 for common land per hectare of eligible area.
- (4) This article is subject to article 7.
- (5) A new farm business ID issued since the date of the rainfall impact shall be treated as an eligible farm business ID under paragraph 2(b) where—
- (a) the original eligible producer’s farm business has merged with another farm business and a new farm business ID has been issued for that merged farm business; or
 - (b) the original eligible producer has died and their farm business has passed either by testate or intestate succession to a new producer who has been issued with a farm business ID.

Amount of income support payment

7. The aggregate amount of income support payment payable by the Department to an applicant under this Scheme must not exceed £106,323.

Review of decision

8.—(1) Where the Department rejects an application in whole or in part under article 5, an applicant may apply to the Department for a review of the decision in accordance with this article.

(2) An applicant must apply to the Department in writing for a review no later than 28 days beginning with the date of the notification of the decision and specify—

- (a) the name and address of the applicant;
- (b) the decision of the Department in respect of which the applicant seeks a review and the date of that decision; and
- (c) full particulars of the grounds upon which the review of the decision is sought.

(3) Where an applicant applies for a review under this article the Department must review the decision specified.

(4) In reviewing the decision the Department may—

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

(5) Following a review of the decision the Department may—

- (a) confirm the decision; or
- (b) substitute it for a new decision.

(6) As soon as reasonably practicable after reviewing the decision, the Department must notify the applicant in writing of its decision under paragraph (5) and the reasons for it.

Withholding and recovery of payment

9.—(1) This Article applies where, having approved an application (whether under article 5 or following a successful review under article 8(5) it appears to the Department that—

- (a) the applicant was not eligible to make the application;
- (b) any condition specified in the notice published under article 4(1) or (2) or 6(2), as the case may be, has not been complied with; or
- (c) the applicant knowingly or recklessly provided materially false or misleading information or any document which is false in a material particular in relation to the application.

(2) Subject to paragraph (3), the Department may—

- (a) revoke the approval of the application; and
- (b) where payment has not been made withhold any income support payment, or any part of it, to be made under article 6(1); or
- (c) where payment of any income support payment has already been made, recover on demand from the applicant an amount equal to the whole or any part of the payment as a civil debt.

(3) Before exercising the power under paragraph (2) the Department must—

- (a) give the applicant a written explanation of the reasons for the proposed action;
- (b) afford the applicant the opportunity to make written representations within a reasonable time specified by the Department; and
- (c) consider any such representations made.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 28th June 2021.



Edwin Poots
Minister of Agriculture, Environment and Rural Affairs

The Minister of Finance hereby approves this Scheme.

Sealed with the Official Seal of the Department of Finance on 28th June 2021.



Conor Murphy
Minister of Finance

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme provides for income support payments to be made by the Department of Agriculture, Environment and Rural Affairs to producers who in 2017 made Force Majeure and area-based scheme applications for land from which they have suffered a financial loss as a consequence of income forgone and land restoration costs as a consequence of flooding and resulting landslides due to rainfall caused by Storm Lorenzo from 22 August 2017 – 23 August 2017.

The Scheme–

- specifies the manner in which applications are to be made (article 4);
- specifies the eligibility criteria and rates of payment (article 6);
- specifies the total amount of income support payment which may be made to a producer (article 7);
- provides for the review of a decision to reject an application (article 8);
- provides for the Department to withhold payment in any case where false or misleading information has been provided or where a person fails to cooperate with an authorised officer and to recover any undue payment (article 9).

Under section 4(1) of the Agriculture (Temporary Assistance) Act (Northern Ireland) 1954, any person who, being required or authorised under or by virtue of this Scheme to furnish any information, record or document, furnishes any information, record or document which, to his knowledge, is false in a material particular shall be guilty of an offence and shall, without prejudice to Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/No. 1714 (N.I. 19)), to be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment not exceeding 12 months or to both such fine and such imprisonment.

Under section 4(2) of that Act any person–

- who acts in contravention of, or neglects or fails to comply with any provision contained in the Scheme; or
- obstructs or impedes an authorised officer in the exercise of any power under this Scheme, shall be liable on summary conviction to a fine not exceeding level 3 of the standard scale.

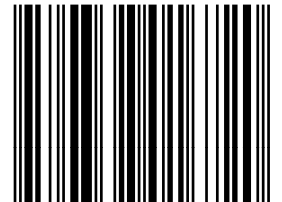
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