

**2021 No. 346**

**AGRICULTURE**

**The Direct Payments to Farmers (Review of Decisions)  
Regulations (Northern Ireland) 2021**

*Made* - - - - *16th December 2021*

*Coming into operation* - *1st February 2022*

The Department of Agriculture, Environment and Rural Affairs makes these Regulations in exercise of the powers conferred by section 50(3)(b), (c) and (d) of, and paragraph 5 of Schedule 6 to, the Agriculture Act 2020(a).

**Citation and Commencement**

1. These Regulations may be cited as The Direct Payments to Farmers (Review of Decisions) Regulations (Northern Ireland) 2021 and come into operation on 1st February 2022.

**Interpretation**

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

(2) In these Regulations—

“application” means an application for a review of a relevant decision made under regulation 3 and “applicant” shall be construed accordingly;

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

“relevant decision” means a relevant decision made by or on behalf of the Department in connection with any Direct Payment Scheme;

“initial determination” means an initial determination made by or on behalf of the Department in connection with any application;

“Direct Payment Scheme” means—

- (a) a scheme for direct payment to farmers made under Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(c);
- (b) a scheme for direct payment to farmers made under Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(d); or

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(a) 2020 (c. 2).

(b) 1954 c. 33 (N.I.).

(c) EUR 2013/1305.

(d) EUR 2013/1307 as amended by S.I. 2020/91, S.I. 2020/576 and S.I. 2020/760. This Regulation was incorporated into domestic law by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2.).

- (c) a scheme for direct payment to farmers under support schemes within the framework of the Agriculture Act 2020;

“Panel” means a group of persons (not exceeding three members) appointed by the Department to consider an application.

### **Review of relevant Decision**

3.—(1) The Department may establish such procedure as it thinks appropriate for the review by it or on its behalf of a relevant decision.

(2) The procedures established under paragraph (1) shall—

- (a) provide for a review of a relevant decision to be carried out on the application of the person to whom it is directed;
- (b) provide for the manner of making such application; and
- (c) provide for the time within which supporting evidence is to be submitted for the purposes of a review of the relevant decision.

(3) The Department shall consider the application and make an initial determination.

(4) Where the Department has made an initial determination, the applicant shall within a period of 60 days from receipt of it—

- (a) accept the initial determination as the final determination; or
- (b) request consideration of the initial determination by a Panel.

### **Panel review of initial determination**

4.—(1) Subject to regulation 9(2), the Department may provide for consideration of the initial determination by a Panel the Department may appoint for that purpose, with a view to making a report of its conclusion in relation to the initial determination and a decision as to the manner in which the matter should be finally determined.

(2) A Panel shall not exceed a membership of three persons.

(3) A Panel must only consider in the review the grounds of review relied upon and submitted in the initial application under Regulation 3.

### **Panel Powers**

5. Subject to regulations 6, 7 and 9(2) a Panel may affirm, amend, or revoke an initial determination.

### **Panel Procedure**

6.—(1) Subject to regulation 4(3), in considering the application before it the Panel may—

- (a) consider any relevant document or other evidence produced by the applicant or the Department (whether or not that document or other evidence was available at the time of the making of the application);
- (b) invite the applicant or the Department to provide such further information relevant to the review as the Panel considers appropriate; and
- (c) give the applicant an opportunity to appear before it to give evidence and to make representations in person or through a representative.

(2) In paragraph (1)(c) a representative includes a legal representative.

### **Acceptance of Panel decision**

7.—(1) Subject to paragraph (2), the Department must accept and implement the decision of the Panel.

(2) Where the Panel decision is made on the basis of an error of law, including but not restricted to a misapplication of Direct Payment Scheme legislative provisions, the Department is not required to accept that decision.

(3) Where a decision made by the Panel is based upon an error of law, the Department must refer back to the Panel that decision for reconsideration.

### **Panel remuneration**

**8.**—(1) The Department may pay to persons appointed to sit on a Panel such reasonable remuneration in respect of their functions under that review, and such travelling and other allowances, as it may determine.

### **Application Fees**

**9.**—(1) The Department may charge any applicant whose application is considered by the Panel an application fee of £200.

(2) An application shall not be treated as made under these Regulations unless it is accompanied by the payment to the Department of the application fee payable under paragraph (1).

(3) Where an initial determination is—

- (a) amended; or
- (b) revoked,

any fee paid under paragraph (2) shall be refunded to the applicant.

### **Transitional Provision**

**10.** Where an application for a review before a Panel has been made under the Common Agricultural Policy (Review of Decisions) Regulations (Northern Ireland) 2015<sup>(a)</sup> but has not been determined by that Panel before these Regulations come into operation, that application shall be treated as if it had been made under the provisions of these Regulations.

### **Revocation**

**11.** The Common Agricultural Policy (Review of Decisions) Regulations (Northern Ireland) 2015 are revoked.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 16th December 2021.



*Jason Foy*  
A senior officer of the  
Department of Agriculture, Environment and Rural Affairs

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(a) S.R. 2015 No. 318 as amended by S.R. 2019 No. 85

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations enable the Department to establish procedures for the review of a relevant decision made by the Department under any of the Direct Payment Schemes under the instruments listed in Regulation 2 of these Regulations.

These instruments refer to both direct payments to farmers under support schemes previously within the framework of the Common Agricultural Policy of the European Union and as incorporated into domestic law by section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and rural development payments made in pursuance of schemes within the framework of the Northern Ireland Rural Development Programme 2014-2020.

The procedures to be established under these Regulations may include consideration by persons appointed by the Department with a view to their making a decision as to how the matter should ultimately be determined.

The Regulations confer power to pay remuneration and allowances to any such persons appointed, and to charge a fee in respect of the costs of the procedures.

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