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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Agriculture (Financial Assistance) Regulations 2021**

**Part 6**

**Inspections and powers of entry**

**Virtual inspections**

**15.**—(1) An authorised person may, at any reasonable hour, carry out a virtual inspection of any land or premises owned or occupied by an agreement holder, or over which the agreement holder has control, other than a private dwelling, if it is for the purposes of—

- (a) checking whether eligibility criteria for receipt of financial assistance continue to be met;
- (b) verifying compliance with conditions subject to which financial assistance is given;
- (c) monitoring the extent to which the purpose of financial assistance is achieved;
- (d) reviewing or evaluating—
  - (i) any of the activities carried out by the agreement holder under a financial assistance scheme;
  - (ii) the success of the financial assistance scheme as a whole;
- (e) verifying whether there has been a breach of these Regulations of the type listed in regulation 20(a) or 20(b)(i);
- (f) verifying whether there has been an offence committed under any other legislation, in so far as it is relevant to the application or the request for, or receipt of, financial assistance;
- (g) offering guidance and support, where appropriate.

(2) Before an authorised person is permitted to carry out a virtual inspection by live video link, the following conditions must be satisfied—

- (a) the agreement holder must have access to, and agree to the use of, a live video link;
- (b) the virtual inspection must be capable of being held fairly and transparently;
- (c) the authorised person must inform the agreement holder of the purpose of the proposed virtual inspection and, where possible, agree a suitable date and time for that inspection; and
- (d) where it is not possible to agree a suitable date and time for that inspection, the authorised person must notify the agreement holder in writing of the purpose of the inspection and the date and time of the inspection, at least 48 hours in advance of the inspection.

(3) In this regulation—

- (a) “remote sensing” means any type of aerial photography, satellite imagery or imagery that is captured remotely from an airborne vehicle including an aeroplane, helicopter or remotely piloted aircraft system (RPAS);
- (b) “virtual inspection” means an inspection carried out by—
  - (i) remote sensing; or

- (ii) a live video link that enables the agreement holder and the authorised person, who are not in the same location, to see and hear each other.

### **Physical inspections**

**16.—**(1) An authorised person may, at any reasonable hour, enter any land or premises owned or occupied by an agreement holder, or over which the agreement holder has control, other than a private dwelling, if it is for any of the purposes listed in regulation 15(1)(a) to 15(1)(g) and it is in accordance with paragraphs (2) and (3) of this regulation.

(2) The authorised person must inform the agreement holder of the purpose of the proposed inspection and, where possible, agree a suitable date and time for that inspection.

(3) Where it is not possible to agree a suitable date and time, the authorised person must notify the agreement holder in writing of the purpose of the inspection and the date and time at least 48 hours in advance of that inspection.

### **Powers of entry**

**17.—**(1) An authorised person may, at any reasonable hour, enter any land or premises owned or occupied by an agreement holder, or over which the agreement holder has control, other than a private dwelling, without notice if—

- (a) there is a reasonable suspicion of—
  - (i) a breach of any condition subject to which financial assistance is given;
  - (ii) a breach of these Regulations of the type listed in regulation 20(a), (b)(i) and (iv) to (vii); or
  - (iii) an offence having been committed under any other legislation, in so far as it is relevant to the application or the request for, or receipt of, financial assistance;
- (b) the authorised person produces, if so required, a duly authenticated document confirming authorisation; and
- (c) one or more of the conditions in paragraph (4) is met.

(2) An authorised person may, at any reasonable hour, enter any private dwelling owned or occupied by an agreement holder, or over which the agreement holder has control, without notice if a warrant has been obtained in accordance with paragraph (3).

(3) A justice of the peace may, by signed warrant, permit an authorised person to enter any private dwelling owned or occupied by an agreement holder, or over which the agreement holder has control, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

- (a) there is a reasonable basis for the suspicion referred to in paragraph (1)(a);
- (b) one or more of the conditions in paragraph (4) is met; and
- (c) if only the condition set out in paragraph (4)(a) is met—
  - (i) notice of intention to apply for a warrant has been served on the agreement holder; or
  - (ii) such notice has not been served on the agreement holder because serving such a notice would interfere with the purpose or effectiveness of the entry.

(4) The conditions are that—

- (a) entry to the land or premises has been refused, or the Secretary of State has reasonable grounds to suspect entry is likely to be refused;
- (b) entry is required urgently;
- (c) the land or premises are unoccupied or the occupier is temporarily absent.

(5) A warrant signed in accordance with paragraph (3) is valid for one month from the date of signature.

(6) An authorised person who enters any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured as they were before entry.

### **Powers of inspection**

**18.**—(1) An authorised person who carries out a virtual or physical inspection of land or premises in accordance with regulation 15, 16 or 17 may—

- (a) carry out any inquiries, checks, examinations, measurements and tests;
- (b) inspect the land or premises;
- (c) inspect any livestock, trees, crops, plants, machinery or equipment specified in the agreement;
- (d) mark any animal or other thing, or require any animal or other thing to be marked, for identification purposes;
- (e) have access to, inspect, copy and print any documents or records (in whatever form they are held) or remove any such documents to enable them to be copied or retained as evidence;
- (f) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the documents or records; and
- (g) take a photograph, or a record in digital form, of anything on or associated with the land or premises.

(2) An authorised person who enters land or premises in accordance with regulation 16 or 17 may also—

- (a) take samples;
- (b) remove a carcass on the land or premises for the purpose of carrying out a post-mortem examination; and
- (c) remove anything reasonably believed to be evidence of a breach or offence referred to in regulation 17(1)(a).

### **Assisting an authorised person**

**19.**—(1) An authorised person carrying out a virtual or physical inspection of land or premises under regulation 15, 16 or 17 may be accompanied by such other persons as the authorised person considers necessary.

(2) An agreement holder, and any employee or agent of that person, must give the authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred on them by regulation 18 and must arrange for the collection, penning and securing of any animal if requested.