

2004 No. 447

AGRICULTURE

The Common Agricultural Policy Support Schemes (Review of Decisions) Regulations (Northern Ireland) 2004

Made - - - - - *21st October 2004*

Coming into operation *21st October 2004*

The Department of Agriculture and Rural Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Common Agricultural Policy Support Schemes (Review of Decisions) Regulations (Northern Ireland) 2004 and shall come into operation on 21st October 2004.

Interpretation

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

(2) In these Regulations –

“application” means an application for a review of a relevant determination made under regulation 4(2) and “applicant” shall be construed accordingly;

“Department” means the Department of Agriculture and Rural Development;

“relevant determination” means a determination to which these Regulations apply; and

“holding” has the same meaning as in Article 2 of Council Regulation (EC) No. 1782/2003(d).

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

Application

3. These Regulations shall apply in relation to any initial determination made by or on behalf of the Department –

(a) S.I. 2000/2812 to which there are amendments not relevant to the subject matter of this Order, and S.I. 2000/3238

(b) 1972 c. 68

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

(d) O.J. No. L270, 21/10/2003, p. 1, as last amended by Council Regulation (EC) No.864/2004, O.J. No. L161, 30/4/2004, p. 48

- (a) in connection with any Community instrument listed in the schedule; or
- (b) in connection with any enactment implementing any Community instrument listed in the schedule;
- (c) which relates to a holding or part of a holding within Northern Ireland.

Review of Determinations

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

- (2) The procedures established under paragraph (1) shall –
 - (a) provide for a review of a relevant determination to be carried out on the application of the person to whom it was directed; and
 - (b) provide for the manner of making any such application.

(3) Any such procedure so established may, in particular, provide for consideration of the initial determination by such persons (not exceeding three) as the Department may appoint for that purpose, with a view to their making a report of their conclusions in relation to the initial determination and a recommendation as to the manner in which the matter should be finally determined.

(4) Where the Department establishes any such procedure as is mentioned in paragraph (3), it may –

- (a) pay to the persons so appointed such reasonable remuneration in respect of their functions under that procedure, and such travelling and other allowances, as it may determine; and
- (b) charge any applicant whose application is considered under the procedure so established such fee (not exceeding £100) as the Department may determine in respect of the costs incurred by it by virtue of the operation of that procedure in relation to the review in question.

(5) Any procedure such as is mentioned in paragraph (3) may provide that, where the Department decides to charge fees under paragraph (4)(b), a review in respect of which a fee is payable shall not proceed unless the application for that review is accompanied by the fee.

(6) Where, in pursuance of any such procedure as is mentioned in paragraph (3), a relevant determination is –

- (a) amended, altered or modified; or
- (b) revoked or substituted by another determination,

any fee payable by a person under paragraph (4)(b) in respect of the review shall be refunded to that person.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 21st October 2004.

(L.S.)

R. Jordan

A senior officer of the Department of Agriculture and Rural Development

SCHEDULE

Regulations 2 and 4(1)

COMMUNITY INSTRUMENTS TO WHICH THESE REGULATIONS APPLY

- (i) Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers,
- (ii) Commission Regulation (EC) No. 2237/2003^(a) laying down detailed rules for the application of certain support schemes provided for in Title IV of Council Regulation (EC) No. 1782/2003,
- (iii) Commission Regulation (EC) No. 795/2004^(b) laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No. 1782/2003; and
- (iv) Commission Regulation (EC) No. 796/2004^(c) laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No. 1782/2003.

^(a) O.J. No. L339, 24/12/2003, p. 52

^(b) O.J. No. L141, 30/4/2004, p. 1

^(c) O.J. No. L141, 30/4/2004, p. 18

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations enable the Department of Agriculture and Rural Development (“the Department”) to establish a procedure for the further consideration of an initial determination in relation to a holding or part of a holding situated in Northern Ireland made under any of the Community instruments listed in the Schedule to the Regulations or any enactment which implements those Community instruments in Northern Ireland.

The procedure under these Regulations will allow for a review of an initial determination directed at any person in respect of the administration of any of the Community instruments listed in the Schedule to these Regulations. The procedure may include consideration by persons appointed by the Department with a view to their making a recommendation 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 procedure.

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