

**2017 No. 13**

**AGRICULTURE**

**The Single Common Market Organisation (Exceptional Adjustment Aid) Regulations (Northern Ireland) 2017**

*Made* - - - - - *16th January 2017*

*Coming into operation* - - - - - *1st February 2017*

The Department of Agriculture, Environment and Rural Affairs is designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) as regards matters relating to the common agricultural policy of the European Union and matters relating to the promotion of rural development.

The Department of Agriculture, Environment and Rural Affairs, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Single Common Market Organisation (Exceptional Adjustment Aid) Regulations (Northern Ireland) 2017.

(2) These Regulations come into operation on 1<sup>st</sup> February 2017.

**Interpretation**

2.—(1) In these Regulations—

“agent” means a person, other than an authorised person, who is appointed in writing by the Department for the purposes of these Regulations;

“applicant” means any person who makes an application;

“application” means an application under regulation 5 or regulation 8;

“authorised person” means a person authorised by the Department, either generally or specifically, to act in relation to the enforcement of these Regulations;

“beneficiary” means a person who has applied for and been granted financial assistance under these Regulations;

“Council Regulation 73/2009” means Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under common agricultural policy and establishing certain support schemes for farmers(c);

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(a) S.I. 2000/2812 to which there are amendments not relevant to the subject matter of these Regulations and S.I. 2003/3238

(b) 1972 c. 68

(c) O.J. No. L 30, 31.1.2009, p16, as last amended by Commission Implementing Regulation (EU) No. 320/2014 (O.J. No. L 93, 28.3.2014, p.81) and repealed on 1 January 2015 by Article 72(2) of Regulation 1307/2013

“Council Regulation 1782/2003” means 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(a);

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

“Regulation 1307/2013” means Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(b).

(2) Other terms used in these Regulations that are also used in Council Regulation 1782/2003, Council Regulation 73/2009 and Regulation 1307/2013 have the meaning that they bear in those Regulations.

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

(4) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

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

### **Assistance for removal of Bovine Viral Diarrhoea infected calves**

**3.**—(1) Subject to Regulation 4, the Department may pay financial assistance to a beneficiary as an incentive for the humane destruction and disposal of calves that have a positive test for the presence of Bovine Viral Diarrhoea virus.

(2) The rate of financial assistance shall be—

- (a) for a beef calf £160;
- (b) for a dairy heifer calf £130; or
- (c) for a dairy male calf £50.

**4.**—(1) Payment may only be made where a calf has—

- (a) had notification of its birth recorded in accordance with Regulation 6 of the Cattle Identification (notification of Birth, Deaths and Movements) Regulations (Northern Ireland) 1999(d);
- (b) been sampled in accordance with paragraph 3(1) and (2) of the schedule to the Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016(e) and tested positive;
- (c) not been moved contrary to paragraph 14(1) of the schedule to the Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016;
- (d) been humanely destroyed; and
- (e) had its death recorded in accordance with Regulation 8 of the Cattle Identification (notification of Birth, Deaths and Movements) Regulations (Northern Ireland) 1999 not later than four weeks from the date the keeper received notification in accordance with paragraph 8 of the schedule to the Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016.

(2) Where an applicant elects for repeat analysis of an initial positive or inconclusive result in accordance with paragraph 5 of the Schedule to the Bovine Viral Diarrhoea Eradication Scheme

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(a) O.J. No. L 270, 21.10.2003, p.1, as last amended by Council Regulation (EC) No. 1009/2008 (O.J. No. L 270, 17.10.2008, p.1) and repealed on 1 January 2009 by Council Regulation 73/2009

(b) O.J. No. L 374, 20.12.2013, p. 608 as amended by Regulation (EU) 1310/2013 of the European Parliament and of the Council (O.J. No. L 347, 20.12.2013, p. 865)

(c) 1954 c. 33

(d) S.R. 1999 No. 265, as amended by S.R. 2004 No. 420, S.R. 2011 No. 349 and S.R. 2012 No. 416

(e) S.R. 2016 No. 22

Order (Northern Ireland) 2016, the requirement at regulation 4(1)(e) shall be extended to six weeks.

**5.**—(1) An application for payment shall be made to the Department, or to its agent, at such time, in such form and contain such information as the Department or its agent may require.

(2) Where the Department or its agent requires such information, the applicant shall supply the Department or its agent with the information within such period as the Department or its agent reasonably may determine.

#### **Assistance for pig endoparasite treatment**

**6.** The Department may pay financial assistance to a beneficiary for the purchase of anthelmintic medication for the treatment of pig endoparasites, in accordance with the size of the beneficiary's pig herd.

**7.** Payment may only be made where—

- (a) the applicant has attended a relevant pig health training event organised by the College of Agriculture, Food and Rural Enterprise; and
- (b) a veterinary practitioner has confirmed the presence of pig endoparasites in the applicant's herd.

**8.**—(1) An application for payment shall be made to the Department, or its agent, at such time, in such form and contain such information as the Department or its agent may require.

(2) Where the Department or its agent requires such information, the applicant shall supply the Department or its agent with the information within such period as the Department or its agent reasonably may determine.

#### **Recovery of payments**

**9.**—(1) The Department may recover on demand any sum paid to a beneficiary—

- (a) in excess of any payment due to a beneficiary under these Regulations; or
- (b) where the beneficiary has furnished false information to the Department or its agent.

(2) Any sum recoverable under paragraph (1) is recoverable as a debt.

#### **Interest**

**10.**—(1) Interest may be charged in respect of each day of the period beginning with the date after the demand made in accordance with regulation 9(1) and ending with (and including) the date on which the Department receives full payment of the sum recoverable under that regulation.

(2) For the purposes of paragraph (1), the interest applicable on any day is one percentage point above the Bank of England base rate.

(3) In this regulation, "Bank of England base rate" means—

- (a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or
- (b) if an order under section 19 (reserve powers) of the Bank of England Act 1998(a) is in force, any equivalent rate determined by the Treasury under that Act.

#### **Set-off**

**11.** The amount of—

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(a) 1998 c. 11

- (a) any sum payable by the Department or its agent under Title IV of Council Regulation 1698/2005;
- (b) any sum payable by the Department or its agent under Title III of Regulation 1307/2013;
- (c) any sum payable by the Department or its agent under Council Regulation 73/2009 or Council Regulation 1782/2003; or
- (d) any sum payable under these Regulations,

may be set off against the amount of any sum recoverable by the Department under regulations 9 or 10.

### **Powers of entry**

**12.—**(1) An authorised person may exercise any of the powers specified in this regulation for the purpose of enforcing these Regulations.

(2) An authorised person may at all reasonable times, on producing, if so required, some duly authenticated document showing his authority, enter any land or premises, other than premises used solely for the purpose of a dwelling house, on which he has reasonable grounds to believe that documents or animals relating to an application are being kept.

(3) An authorised person entering any land or premises by virtue of this regulation may be accompanied by—

- (a) any representative of the European Commission; and
- (b) such other persons as the authorised person considers necessary for any purpose mentioned in paragraph (1).

(4) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before entry.

### **Powers of an authorised person**

**13.—**(1) An authorised person who has entered any land or premises under regulation 12 may—

- (a) inspect the land, premises, buildings and any document, record or equipment thereon which he reasonably believes relates to an application;
- (b) require the applicant or beneficiary, or any employee or agent of such applicant or beneficiary, to produce, or secure the production of, any document or record or supply any additional information in his possession or under his control relating to the application;
- (c) where any document, record or information referred to in sub-paragraph (b) is kept by means of a computer, have access to and inspect any computer and associated apparatus or material which is or has been used in connection with that document, record or information;
- (d) require copies of, or extracts from, any document, record or information relating to the application to be produced;
- (e) remove and retain for a reasonable period any document, record or information relating to the application which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such document, record or information is kept by means of a computer, require it to be produced in a form in which it may be taken away and in which it is visible and legible;
- (f) if necessary for the purposes of enforcing these Regulations or the European Regulations—
  - (i) inspect and count livestock on the land and premises, and
  - (ii) require the applicant or beneficiary, or any employee, servant or agent of such applicant or beneficiary, to arrange for the collection, penning and securing of such livestock;

- (g) require an applicant or beneficiary, or any employee, servant or agent of such applicant or beneficiary, to give an authorised person all reasonable assistance in relation to the matters mentioned in this regulation;
- (h) take samples (and send them for laboratory testing) from any animal;
- (i) seize and detain any animal for further examination, investigation or testing;
- (j) mark any animal found on the premises for identification purposes;
- (k) require that samples previously collected and dispatched to an approved laboratory for testing for the presence of bovine viral diarrhoea virus in accordance with the Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016 are further tested for DNA.

(2) Paragraph (1) applies in relation to a person referred to in regulation 12(3)(b) when such a person is acting under the instructions of an authorised person, as if such person were an authorised person.

### **Offences and penalties**

**14.**—(1) It is an offence for any person to—

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, proof of which lies with that person, fail to give any person acting in execution of these Regulations any assistance or information that that person may reasonably require under these Regulations; or
- (c) knowingly or recklessly furnish to any person acting in the execution of these Regulations any information that is false or misleading in any material particular.

(2) Nothing in paragraph 1(b) shall be construed as requiring a person to answer any question if to do so might incriminate the person.

(3) A person guilty of an offence under paragraph (1)(a) or (b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A person guilty of an offence under paragraph (1)(c) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

(5) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981(a), proceedings for an offence under paragraph (1) which is triable only summarily may be brought at any time within six months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor's knowledge; but no such proceedings shall be brought by virtue of this paragraph more than two years after the date of the commission of the offence.

(6) For the purposes of paragraph (5), a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient, in the opinion of the prosecutor, to justify the proceedings came to their knowledge is conclusive of that fact.

### **Offences of bodies corporate, partnerships or unincorporated associations**

**15.**—(1) Proceedings for an offence under Regulation 14 alleged to have been committed by a partnership, or by an unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents have effect as if the partnership or association were a body corporate, and

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(a) S.I. 1981/1675 (N.I. 26)

- (b) section 18 of the Criminal Justice Act (Northern Ireland) 1975(a) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 apply in relation to the partnership or association as they apply in relation to a body corporate.

(3) A fine imposed on a partnership or association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) If an offence under regulation 14 committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to the negligence of an officer,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) If the affairs of a body corporate are managed by its members, paragraph (4) applies to the acts and omissions of a member in connection with the member's functions of management as it applies to an officer of a body corporate.

(6) If an offence under Regulation 14 committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to the negligence of a partner,

that partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) If an offence under Regulation 14 committed by an unincorporated association is proved—

- (a) to have been committed with the consent or connivance of an officer or member of the governing body of the association or other person having management responsibilities in respect of the association; or
- (b) to be attributable to the negligence of that officer, member or other person,

that officer, member or other person, as well as the association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 16<sup>th</sup> January 2017



*Colette McMaster*

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

#### **EXPLANATORY NOTE**

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

These Regulations make provision for the implementation in Northern Ireland of Commission Delegated Regulation (EU) 2016/1613 of 8 September 2016 providing for exceptional adjustment aid to milk producers and farmers in other livestock sectors.

Regulations 3, 4, 6 and 7 provide the Department of Agriculture, Environment and Rural Affairs ('the Department') with the power to pay financial assistance to beneficiaries, for specified purposes.

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(a) 1945 c. 15 (N.I.), section 18 was amended by the Magistrates' Courts Act (Northern Ireland) 1964 (c. 21)(N.I.) and by the Justice (Northern Ireland) Act 2002 (c. 26), Schedule 12

Regulations 5 and 8 provide the Department with the power to determine the form of an application for financial assistance.

Regulation 9 allows for payments due to the Department from beneficiaries to be treated by the Department as debt. Regulation 10 sets out how interest to be charged on amounts owed to the Department as debt shall be calculated.

Regulation 11 provides for debts owed to the Department to be deducted from future payments to that beneficiary.

Regulation 12 provides powers of entry to land and premises for the purposes of enforcing these regulations to persons authorised by the Department. Regulation 13 sets out the powers of such authorised persons.

Regulations 14 and 15 make it an offence to obstruct, fail to provide information without reasonable cause or furnish false or misleading information to a person acting to implement these regulations and establishes the penalties which may be imposed.

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