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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 66**

**The Leader Grants (Scotland) Regulations 2008**

**Breaches of obligations, etc.**

**18.**—(1) Paragraph (2) applies where a responsible body has approved an application (in whole or in part) for the purposes of a payment of grant and the responsible body thinks—

- (a) the applicant or beneficiary has given information on any matter relevant to the giving of approval or the making of payment of grant, which is false or misleading in a material particular;
- (b) any condition or undertaking subject to which the approval was given, or the payment was made, has not been complied with;
- (c) the project in respect of which the approval was given, or the payment was made, has not been carried out or has not been carried out in accordance with the application approved by the responsible body;
- (d) the project has been or is being unreasonably delayed beyond the time limits contained in any condition subject to which approval has been given, or grant paid, under these Regulations, or is unlikely to be completed;
- (e) the project was commenced before the date on which the responsible body gave written permission to do so;
- (f) the European Commission has decided that the grant paid, or to be paid, does not comply with a relevant Community Obligation;
- (g) public funds in excess of those permitted under a Scheme have been applied to the project; or
- (h) the applicant or beneficiary has—
  - (i) intentionally obstructed any authorised person in exercise of the powers under regulation 16; or
  - (ii) failed to comply with a requirement imposed under regulation 14(3) (b), (d) or (g)(ii).

(2) Where this paragraph applies, the responsible body may—

- (a) apply a reduction to any payment made, or to be made, to the applicant or beneficiary under these Regulations;
- (b) revoke or vary (including any conditions subject to which it was given) the approval in respect of the whole or any part of a payment made or to be made;
- (c) withhold payment in whole or in part;
- (d) (on demand) recover as a debt the whole or any part of the grant which has been paid.

(3) Where paragraph (2) applies, and the responsible body also thinks that the applicant or beneficiary acted recklessly or intentionally, the responsible body may also—

- (a) withhold or apply a reduction of an additional sum equal to 10% of the sums paid or payable to the beneficiary; and
- (b) prohibit the applicant or beneficiary from applying for payment under these Regulations for such period (not exceeding 2 years) from the date of withholding or reduction of

payment or the revocation of final approval of any payment as the responsible body may specify.

(4) A reduction under paragraph (2)(a) shall be applied in accordance with the Control Regulation.

(5) But, before the responsible body does anything under paragraph (2) or (3), it must–

- (a) give the applicant or beneficiary in respect of whom such a step is proposed to be taken, written notification of that step, and if appropriate the amount by which it is proposed that the grant be reduced or the amount of such grant which it is proposed be withheld or recovered;
- (b) give that applicant or beneficiary an opportunity to make representations about the proposed step, within such time and in such form as the responsible body thinks fit; and
- (c) consider such representations.

(6) In paragraph (1)(f), a “relevant Community Obligation” is–

- (a) Article 14(2) of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(1); or
- (b) the Community legislation.

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(1) O.J. No. L 160, 26.6.1999, p.1, as last amended by Council Regulation 1698/2005.