

Statutory Instrument 2000 No. 2907

The Rural Development Grants (Agriculture and Forestry) Regulations 2000

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STATUTORY INSTRUMENTS

2000 No. 2907

AGRICULTURE, ENGLAND

The Rural Development Grants (Agriculture and Forestry) Regulations 2000

<i>Made</i>	<i>25th October 2000</i>
<i>Laid before Parliament</i>	<i>7th November 2000</i>
<i>Coming into force</i>	<i>29th November 2000</i>

The Minister of Agriculture, Fisheries and Food, being a Minister designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] as regards measures relating to the promotion of rural development and matters relating to the operation of the Structural Funds, in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Title, commencement and extent

1. - (1) These Regulations may be cited as the Rural Development Grants (Agriculture and Forestry) Regulations 2000 and shall come into force on 29th November 2000.

(2) These Regulations shall extend to England only.

Interpretation

2. - (1) In these Regulations -

"applicant" means a person who has made an application;

"application" means an application made pursuant to regulation 4;

"approved operation" means an operation which has been approved by the Minister and "approve" and "approval" are to be construed accordingly;

"assistance priority" means one of the priorities of the strategy for the provision of Community assistance adopted in a Single Programming Document approved by the Commission in one of the Decisions listed in paragraphs 7, 8 and 9 of the Schedule to these Regulations;

"authorised person" means a person who is authorised by the Minister, either generally or specifically, to act in matters arising under these Regulations, and includes any official of the Commission who accompanies such an authorised person;

"beneficiary" means a person who has been granted approval for an operation;

"the Commission" means the Commission of the European Communities;

"Community assistance" means assistance from the Guidance Section of the European Agricultural Guidance and Guarantee Fund granted pursuant to the Community legislation;

"the Community legislation" means the instruments listed in the Schedule to these Regulations;

"Council Regulation 1260/1999/EC" means Council Regulation (EC) No. 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds[3];

"electronic communication" has the same meaning as in the Electronic Communications Act 2000[4];

"financial assistance" means an amount paid or payable under these Regulations;

"the Minister" means the Minister of Agriculture, Fisheries and Food; and

"operation" means an investment, plan, project or action which is the subject of an application.

(2) 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.

Assistance for rural development

3. The Minister may pay financial assistance to a beneficiary towards expenditure incurred or to be incurred by him in connection with an approved operation.

Applications for approval of operations

4. An application for the approval of an operation shall be made in such form and contain such information as the Minister reasonably may require.

Approval of operations

5. - (1) The Minister may -

- (a) refuse to approve an operation for the receipt of financial assistance; or**
- (b) approve it in whole or in part, unconditionally or subject to such conditions as he may determine,**

but he shall not approve it unless he is satisfied that -

- (i) it is in accordance with an assistance priority; and**
- (ii) it is eligible for Community assistance.**

(2) The Minister may vary an approval by varying any condition to which it is subject, or imposing conditions.

(3) Where the Minister decides to refuse approval for an operation under paragraph (1) or to vary an approval under paragraph (2), he shall -

- (a) give the applicant or beneficiary, as the case may be, notice in writing of his decision with a statement of his reasons;**
- (b) give that applicant or beneficiary an opportunity to make written representations within such time as the Minister considers reasonable; and**
- (c) consider any such representations.**

(4) An approval or variation under this regulation shall be in writing.

Claims

6. A claim for financial assistance shall be made at such time or within such period and in such form and be accompanied by such information as the Minister reasonably may require.

Payment

7. - (1) The Minister may pay financial assistance by payment of a single lump sum or by instalments.

(2) Payments may be made -

- (a) at such time or times as the Minister thinks fit; and**
- (b) subject to such conditions as the Minister reasonably may determine.**

Information

8. - (1) A beneficiary shall supply the Minister with such information about an approved operation as the Minister reasonably may require.

(2) Where the Minister requires such information, the beneficiary shall supply him with it within such period as the Minister reasonably may determine.

Powers of authorised persons

9. - (1) An authorised person may at all reasonable times, on producing, if so required, some duly authorised document showing his authority, enter on any land, other than land used solely for the purpose of a dwelling-house -

- (a) to which an application or approved operation relates; or**
- (b) on which he has reasonable grounds to believe that documents relating to an application or approved operation are being kept,**

for any of the purposes mentioned in paragraph (2).

(2) The purposes referred to in paragraph (1) are -

- (a) inspecting the land to which the application or approved operation relates;**
- (b) verifying the accuracy of any information provided by an applicant or beneficiary relating to an application or approved operation; and**
- (c) determining whether or not a beneficiary has complied with the conditions of an approval.**

(3) An authorised person who has entered any land under paragraph (1) may -

- (a) inspect the land and any document, record or equipment on it which he reasonably believes relates to an application or approved operation;**
- (b) require the applicant or beneficiary or any employee, servant or agent of such applicant or beneficiary, to produce, or secure the production of, any document or supply any additional information in his possession or under his control relating to the application or approved operation, as the case may be;**
- (c) where any document or other record relating to the application or approved operation is kept by means of a computer, have access to any computer and any associated apparatus or material which is or has been used in connection with that document or record;**
- (d) require copies of or extracts from any such document or other record to be produced; and**
- (e) seize and retain any document or other record which he reasonably believes may be required as evidence in proceedings under these Regulations, and if it is recorded otherwise than in a form in which it is legible or can be taken away, require it to be produced in a form in which it is legible or in which it can be taken away.**

(4) An applicant or beneficiary or any employee, servant or agent of such applicant or beneficiary shall give an authorised person all reasonable assistance in relation to the matters specified in paragraphs (1) to (3).

(5) An authorised person entering any land under paragraph (1) may take with him such other persons as he considers necessary and paragraphs (3) and (4) apply to such persons when acting under the instructions of an authorised person as if they were

authorised persons.

Record keeping

10. - (1) A beneficiary shall keep any invoice, account or other document relating to an approved operation for the period of six years beginning with the day on which the last payment of financial assistance under these Regulations is made to him in connection with that operation, subject to paragraphs (2) and (3).

(2) If the beneficiary transfers the original of any such document to another person in the normal course of business, he shall instead keep a copy of that document for that period.

(3) Paragraph (1) does not apply if the document has been removed by an authorised person under regulation 9(3)(e).

Breaches of obligations

11. Where -

(a) any information furnished to the Minister by the beneficiary is false or misleading;

(b) the beneficiary breaches any of the conditions of an approval; or

(c) the beneficiary breaches any requirement to which he is subject under these Regulations,

the Minister may exercise the powers contained in regulation 13.

Other cases in which recovery etc. powers apply

12. The Minister may exercise the powers contained in sub-paragraphs (1)(a) and (1)(b) and paragraph (2) of regulation 13 where -

(a) there has been a material change in the nature, scale, costs or timing of the approved operation;

(b) the approved operation has been or is being delayed, or is unlikely to be completed;

(c) the whole or part of the payment of financial assistance in connection with an approved operation would duplicate assistance provided or to be provided out of monies made available by -

(i) Parliament; or

(ii) a body exercising public functions within the United Kingdom,

and for the purposes of paragraph (c), a payment duplicates such assistance if it would be paid for any of the same purposes.

Minister's powers

13. - (1) Where regulations 11 or 12 apply, the Minister may exercise such of the following powers as are conferred on him by those regulations -

(a) to withhold the whole or any part of the financial assistance payable to the beneficiary;

(b) to recover on demand the whole or any part of any amount of financial assistance already paid to him; and

(c) to require him to pay to the Minister an additional sum equal to no more than 10% of the financial assistance paid or payable to the beneficiary.

(2) Where the Minister takes any step specified in paragraph (1), he may also serve in writing on the beneficiary by post at his last known address a notice suspending or terminating the approval.

(3) Where, under paragraph (2), the Minister treats the approval as terminated, he may also by notice in writing served on the beneficiary by post at his last known address prohibit him from making an application for such period (not exceeding two years) from the date of the termination as may be specified in the notice.

(4) Before taking any step specified in paragraph (1), (2) or (3), the Minister shall -

(a) give to the beneficiary a written explanation of the reasons for the step proposed to be taken;

(b) afford the beneficiary the opportunity of making written representations within such time as the Minister considers reasonable and

(c) consider any such representations.

Recovery of interest

14. - (1) If the Minister decides to recover any amount under regulation 11 or 12, he may also recover on demand interest on that amount for the period beginning with the day following that on which the amount was paid and ending on the day on which the Minister recovers it.

(2) The rate at which the interest is payable for any day in that period is one percentage point above LIBOR.

(3) For the purposes of paragraph (2) "LIBOR" means the sterling three month London interbank offered rate in force on the day in question, and in any proceedings relating to the recovery of such interest a certificate of the Minister stating the LIBOR applicable for any day is conclusive evidence of the rate applicable for that day if the certificate also states that the Bank of England notified the Minister of that rate.

Recovery of payments

15. In any case where an amount falls to be paid to the Minister by virtue of (or by virtue of action taken under) these Regulations, the amount so falling to be paid shall be recoverable as a debt.

Offences and penalties

16. - (1) A person is guilty of an offence if -

(a) for the purposes of obtaining financial assistance for himself or any other person he knowingly or recklessly makes a statement which is false or misleading in a material particular; or

(b) he intentionally obstructs an authorised person (or a person accompanying him and acting under his instructions) in the exercise of his powers under regulation 9.

(2) Any person who is guilty of an offence under this regulation is liable -

(a) in the case of an offence under paragraph (1)(a) -

- (i) on indictment, to a fine; or**
- (ii) on summary conviction, to a fine not exceeding the statutory maximum;**

and

(b) in the case of an offence under paragraph (1)(b), to a fine not exceeding level 3 on the standard scale.

(3) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body or any person who was purporting to act in such a capacity, he also is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) applies to acts and defaults of a member in connection with his management functions as if he was a director.

Revocations and transitional saving

17. - (1) The Rural Development Grants (Agriculture) (No. 2) Regulations 1995[5] ("the 1995 Regulations") and regulation 3 of the Agriculture (Closure of Grant Schemes) (England) Regulations 2000[6] are hereby revoked, subject to paragraph (2).

(2) The revocations in paragraph (1) shall not affect the continued operation of regulations 5(2) and 6 to 12 of the 1995 Regulations in respect of financial assistance paid under those Regulations.

Elliot Morley
Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

25th October 2000

SCHEDULE

regulation 2(1)

MEANING OF "COMMUNITY LEGISLATION"

1. Council Regulation (EC) No. 1260/1999 of 21 June 1999 laying down general

provisions on the Structural Funds (OJ No. L161, 26.6.1999, p.1), in so far as it relates to regions covered by Objective 1 as established pursuant to Article 3 of that Regulation (referred to in this Schedule as "Objective 1 regions").

2. Council Regulation (EC) No. 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ No. L160, 26.6.1999, p.80) in so far as it relates to Objective 1 regions.

3. Commission Regulation (EC) No. 1750/1999 of 23 July 1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ No. L214, 13.8.1999, p.31, as amended by Commission Regulation (EC) No. 2075/2000 (OJ No. L246, 30.9.2000, p.46)) in so far as it relates to Objective 1 regions.

4. Commission Decision (EC) No. 1999/501 of 1 July 1999 fixing an indicative allocation by Member State of the commitment appropriations for Objective 1 of the Structural Funds for the period 2000 to 2006 (OJ No. L194, 27.7.1999, p.49).

5. Commission Decision (EC) No. 1999/502 of 1 July 1999 drawing up the list of regions covered by Objective 1 of the Structural Funds for the period 2000 to 2006 (OJ No. L194, 27.7.1999, p.53).

6. Commission Regulation (EC) No. 1685/2000 of 28 July 2000 laying down detailed rules for the implementation of Council Regulations (EC) No. 1260/1999 as regards eligibility of expenditure of operations co-financed by the Structural Funds (OJ No. L193, 29.7.2000, p.39), in so far as it relates to Objective 1 regions.

7. Commission Decision No. C(2000) 2046 of 24 July 2000 approving the single programming document for Community structural assistance under Objective 1 in the region of Cornwall and the Isles of Scilly.

8. Commission Decision No. C(2000) 2047 of 24 July 2000 approving the single programming document for Community structural assistance under Objective 1 in the region of Merseyside.

9. Commission Decision No. C(2000) 2048 of 24 July 2000 approving the single programming document for Community structural assistance under Objective 1 in the region of South Yorkshire.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England only, supplement the Community legislation listed in the Schedule to the Regulations ("the Community legislation"). The Community legislation inter alia provides for assistance to be paid from the Guidance Section of the European Agricultural Guidance and Guarantee Fund ("Community assistance") towards operations which promote rural development by facilitating the development and structural adjustment of certain rural areas ("Objective 1 regions"). In the case of England, these regions are Cornwall and the Isles of Scilly, Merseyside and South Yorkshire.

The Regulations operate within the scope of these provisions by enabling financial assistance to be paid by the Minister of Agriculture, Fisheries and Food ("the

Minister") in respect of operations which he has approved (regulation 3). Such operations may be approved if they are eligible for assistance under the Community legislation and fall within a priority set out in a Single Programming Document which has been approved by the Commission of the European Communities ("the Commission") (regulation 5).

The Regulations provide for the making of claims for, and the payment of, financial assistance following approval (regulations 6 and 7) and also impose obligations concerning the provision of information (regulation 8) and record-keeping (regulation 10) on those in receipt of financial assistance. In addition, they introduce a system of penalties to be imposed in the event of a breach of obligations by granting the Minister various powers to take action, up to and including termination of the approval in the event of breaches of the conditions of an approval and in a number of other cases (regulations 11 to 13). Regulation 9 confers powers of entry and inspection on certain authorised persons (including officials of the Commission), whilst regulation 16 creates offences in respect of the furnishing of false information for the purpose of obtaining financial assistance and in respect of obstruction.

The Regulations revoke, subject to a transitional saving, the Rural Development Grants (Agriculture) (No. 2) Regulations 1995 (S.I. 1995/2202) and regulation 3 of the Agriculture (Closure of Grant Schemes) (England) Regulations 2000 (S.I. 2000/205).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

Copies of the Commission Decisions approving the Single Programming Documents in respect of the three Objective 1 regions (referred to in paragraphs 7 to 9 of the Schedule) are available for inspection at the library of the Ministry of Agriculture, Fisheries and Food, Whitehall Place, London SW1A 2EY.

Notes:

[1] S.I. 1995/751 and 1999/2788.[back](#)

[2] 1972 c. 68.[back](#)

[3] OJ No. L161, 26.6.1999, p.1.[back](#)

[4] 2000 c. 7.[back](#)

[5] S.I. 1995/2202, amended by S.I. 1996/2394 and 2000/205.[back](#)

[6] S.I. 2000/205.[back](#)

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