

Statutory Instrument 1995 No. 2202

The Rural Development Grants (Agriculture) (No. 2) Regulations 1995

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STATUTORY INSTRUMENTS

1995No. 2202

AGRICULTURE

The Rural Development Grants (Agriculture) (No. 2) Regulations 1995

Made 17th August 1995
Laid before Parliament 24th August 1995
Coming into force 14th September 1995

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 promotion of rural development, 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, extent and commencement

1. These Regulations may be cited as the Rural Development Grants (Agriculture) (No.2) Regulations 1995, shall extend to England and shall come into force on 14th September 1995.

Interpretation

2.—(1) In these Regulations, unless the context requires otherwise—

"approved operation" means an operation which the Minister has approved in writing for the receipt of financial assistance, and "approve" and "approval" shall be construed accordingly;

"authorised person" means a person authorised by the Minister for the purpose of these Regulations, and includes any duly appointed official of the Commission who accompanies such an authorised person;

"beneficiary" means a person who has applied for and 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;

"the Council Regulation" means the Council Regulation (EEC) No. 4253/88 of 19th December 1988^[3], laying down provisions for implementing Regulation (EEC) No. 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operation of the European Investment Bank and the other existing financial instruments, as amended by Council Regulation (EEC) No. 2082/93 of 20th July 1993^[4];

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

"LIBOR", in relation to any particular day of any month, means the rate of interest per centum per annum notified to the Minister by the Bank of England on the first working day of that month, rounded if necessary to two decimal places;

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

"sub-programme" means a sub-programme set out in a Single Programming Document approved by one of the Commission Decisions appearing in the Schedule.

(2) In these Regulations—

(a) any reference to a numbered regulation or to "the Schedule" shall be construed as a reference to the regulation so numbered in these Regulations or to the Schedule to these Regulations respectively;

(b) any reference in a regulation to a numbered paragraph shall be construed as a reference to the paragraph so numbered in that regulation.

Assistance for rural development

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

Applications

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

Approval of operations

5.—(1) The Minister may, provided that he is satisfied that an operation to which the application relates falls within a sub-programme and is eligible for Community assistance, approve the operation for the receipt of financial assistance, and any such approval may be given subject to such conditions as the Minister reasonably may determine.

(2) The Minister may, with the written consent of the beneficiary, vary any condition attached to the approval of an operation pursuant to paragraph (1).

Payment

6. The Minister may make payments of financial assistance at such a time, or by such instalments at such intervals or times as he thinks fit, and may make the

payment of financial assistance subject to such conditions relating to payment as he reasonably may determine.

Claims

7. Any claim for payment of financial assistance shall be made at such time and in such form and be accompanied by such information as the Minister reasonably may require.

Information

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

(2) Where the Minister requires information under paragraph (1), the beneficiary shall supply that information within such period as the Minister reasonably may determine.

Entry and inspection

9.—(1) An authorised person, at all reasonable times and on production of his authority on demand, may enter upon any land to which an approved operation relates or on which documents relating to an approved operation are retained, other than land which is used solely for the purposes of a dwelling, for the purpose of—

- (a) verifying the accuracy of any information contained in an application under regulation 4 or a claim under regulation 7, or any other information provided by the beneficiary relating to the operation;
- (b) ascertaining whether any financial assistance is payable or recoverable or the amount of such financial assistance that is payable or recoverable;
- (c) ascertaining whether an offence under these Regulations has been or is being committed.

(2) An authorised person who has entered any land by virtue of this regulation may inspect the land and any document, record or equipment thereon which that person reasonably believes relates to the operation.

(3) An authorised person who has entered any land by virtue of this regulation may—

- (a) require the beneficiary, or any employee, servant or agent of the beneficiary, to produce any document or supply any additional information in that person's possession or under his control relating to the operation;
- (b) where any document or record relating to the operation is kept by means of computer, have access to and inspect any computer and any associated apparatus or material which is or has been used in connection with that document or record;
- (c) require that copies of, or extracts from any document or record relating to the operation be produced;
- (d) remove and retain for a reasonable period any document or record relating to the operation which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such document 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.

(4) A beneficiary or any employee, servant or agent of a beneficiary shall render all reasonable assistance to an authorised person in relation to the matters mentioned in paragraphs (1), (2) and (3).

(5) An authorised person entering any land by virtue of this regulation may take with him such other persons as he considers necessary and paragraphs (2), (3) and (4) shall apply to such persons, when acting under the instructions of an authorised

person, as if they were an authorised person.

(6) An authorised person shall not be liable in any proceedings for anything done in purported exercise of the powers conferred on him by virtue of this regulation if the court is satisfied that the act was done in good faith, that there were reasonable grounds for doing it and that it was done with reasonable skill and care.

(7) In this regulation, unless the context otherwise requires, "the operation" means the approved operation in relation to which entry onto land has been sought pursuant to paragraph (1).

Record keeping

10.—(1) Save as provided in paragraphs (2) and (3), a beneficiary shall retain any invoice, account or other document relating to an approved operation until the end of six years after the last payment of financial assistance made to him pursuant to regulation 3 in relation to that approved operation.

(2) Paragraph (1) shall not apply where an authorised person has removed any document pursuant to regulation 9(3)(d).

(3) Where, in the normal course of business, a beneficiary transfers the original of any document referred to in paragraph (1) to another person, he shall retain a copy of that document until the end of the period specified in paragraph (1).

Recovery of grant

11.—(1) Where the Minister is satisfied, as regards an approved operation, that—

- (a) any condition referred to in regulation 5 or 6 above has not been satisfied;
- (b) any information provided pursuant to regulations 4, 7, 8 or 9(3)(a) is false or misleading in a material respect;
- (c) the beneficiary has failed, within the required period, to supply any information requested by the Minister pursuant to regulation 8 above;
- (d) the beneficiary has failed to comply with the requirements of regulation 9(4) or regulation 10 above;
- (e) there is a material change in the nature, scale, costs or timing of the operation;
- (f) the operation has not been or is not being properly carried out; or
- (g) the operation has been or is being unreasonably delayed or is unlikely to be completed;

the Minister may revoke the approval of that operation and, where any payment of financial assistance has been made, may recover on demand an amount equal to the whole or any part of such payment.

(2) Where the Commission has decided, pursuant to Article 24.3 of the Council Regulation, to reduce or suspend assistance, the Minister may exercise the powers of revocation and recovery referred to in paragraph (1).

(3) Where the Minister decides, pursuant to this regulation, to recover any amount then the Minister may also recover, on demand, interest on that amount at the rate of 1 percentage point above LIBOR for the period from the day on which the financial assistance was granted until the day on which the Minister recovers the amount.

Offences and penalties

12.—(1) Any person who, for the purposes of obtaining assistance for himself or any other person, knowingly or recklessly makes a statement which is false or misleading in a material particular, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(2) Any person who—

(a) fails, without reasonable excuse, to comply with a requirement imposed by or under regulation 9 or by regulation 10;

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

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for an offence under paragraph (1) or (2) may, subject to paragraph (4), be commenced within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(4) No proceedings for an offence under paragraph (1) or (2) shall be commenced more than three years after the commission of the offence.

(5) For the purposes of this regulation, where the proceedings are instituted by the Minister—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact;

(b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(6) Where an offence under this regulation which has been 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 corporate, or any person who was purporting to act in such capacity, he as well as that body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, paragraph (6) shall apply in relation to acts and defaults of a member in connection with his management functions as if he were a director of that body corporate.

13. The Rural Development Grants (Agriculture) Regulations 1995^[5] are hereby revoked.

Tim Boswell

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

17th August 1995

Notes:

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

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

[3] OJ L374, 31.12.88, p.1. [back](#)

[4] OJ L193, 31.7.93, p.20. back

[5] S.I. 1995/2096. back

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