

S.I. No. 218 of 1995.

**EUROPEAN COMMUNITIES (COMMON AGRICULTURAL POLICY) (SCRUTINY OF TRANSACTIONS) (AMENDMENT) REGULATIONS, 1995.**

I, IVAN YATES, Minister for Agriculture, Food and Forestry, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Regulation (EEC) No. 4045/89 of 21 December 1989<sup>(1)</sup> as amended by Council Regulation (EC) No. 3094/94 of 12 December 1994,<sup>(2)</sup> hereby make the following Regulations:

1. (1) These Regulations may be cited as the European Communities (Common Agricultural Policy) (Scrutiny of Transactions) (Amendment) Regulations, 1995, and shall come into operation on the 1st day of September, 1995.

(2) The European Communities (Common Agricultural Policy) (Scrutiny of Transactions) Regulations, 1994 (S.I. No. 274 of 1994), and these Regulations may be cited together as the European Communities (Common Agricultural Policy) (Scrutiny of Transactions) Regulations, 1994 and 1995.

2. In these Regulations "the Principal Regulations" means the European Communities (Common Agricultural Policy) (Scrutiny of Transactions) Regulations, 1994.

3. Regulation 2 (1) of the Principal Regulations is hereby amended—

( a ) by the substitution for the definition of "the Council Regulation" of the following definition:

"'the Council Regulation' means Council Regulation (EEC) No. 4045/89 of 21 December 1989 as amended by Council Regulation (EC) No. 3094/94 of 12 December 1994;"

(1) O.J. No. L388/18 of 30/12/1989.

(2) O.J. No. L328/1 of 20/12/1994.

( b ) by the substitution for the definition of "records" of the following definition:

" 'records' means commercial documents within the meaning of Article 1.2 of the Council Regulation, and the commercial documents referred to in the first indent of paragraph 1 of Article 3 and the first subparagraph of paragraph 3 of Article 5 of the Council Regulation;"

( c ) by the insertion after the definition of "supervising officer" of the following definition:

" 'third party' means any person directly or indirectly connected with transactions to which these Regulations apply;"

4. Regulation 3 of the Principal Regulations is hereby amended—

( a ) by the insertion after paragraph (1) of the following paragraph:

"(1A) Where all or part of the commercial documents required to be scrutinised pursuant to this Regulation are located with an undertaking in the same commercial group, partnership or association of undertakings scrutinized, whether located inside or outside Community territory, the undertakings shall make the documents available to officials responsible for the scrutiny, at a place and time to be determined by the Member State responsible for carrying out the scrutiny." and

( b ) by the insertion after paragraph (2) of the following paragraph:

"(3) These Regulations shall not apply to measures covered by the integrated administration and control system established by Regulation (EEC) No. 3508/92(3)."

5. Regulation 5 of the Principal Regulations is hereby amended—

(3)O.J. No. L355/1 of 5/12/1992.

( a ) by the substitution for subparagraph (c) of paragraph (1) of the following subparagraph:

"(c) require any person referred to in subparagraph (a) of this paragraph or any third party or any person who is, or appears to him to be for the time being, in charge of the premises or place to produce any record relating to a transaction to which these Regulations apply and to provide an appropriate data support medium in respect of electronically stored data and to give to him such information or assistance as he may reasonably require,"

( b ) by the substitution for subparagraph (f) of paragraph (1) of the following subparagraphs:

"( f ) verify the accuracy of any entry in such record by comparison with the actual quantities of agricultural products in stock,

( g ) direct any person referred to in Regulation 3 (1) to keep records in a manner and from a date specified by him where in the course of scrutiny he considers that records kept pursuant to Regulation 3 (1) are inadequate for scrutiny purposes.",

and

( c ) by the substitution for paragraph (2) of the following paragraph:

"(2) A person who fails to comply with a requirement under subparagraph (a), (c), or (g) of paragraph (1) of this Regulation, or who obstructs or interferes with an authorised officer when he is exercising a power conferred by these Regulations, shall be guilty of an offence."

6. The Principal Regulations are hereby amended by the substitution for Regulation 10 of the following:

"10. (1) Officials of the Commission of the European Communities may participate in the scrutinies referred to in Regulation 3 (1) of these Regulations but may not exercise the powers of an authorised officer relating to such scrutinies.

(2) Officials of the Commission of the European Communities shall be entitled to inspect all documents prepared either with a view to or following a scrutiny conducted pursuant to these Regulations and such documents shall, if requested, be provided on an appropriate data support medium. For the purposes of this Regulation documents shall include data stored in data processing systems."

7. Regulation 11 of the Principal Regulations is hereby amended by the insertion of the following paragraph after paragraph (2):

"(3) A person who contravenes a provision of the Council Regulation shall be guilty of an offence."  
GIVEN under my Official Seal, this 8th day of August, 1995.

IVAN YATES,

Minister for Agriculture, Food and Forestry.

#### EXPLANATORY NOTE.

These Regulations deal with the changes to S.I. No. 274 of 1994 required by Council Regulation (EEC) No. 4045/89 as amended by Council Regulation (EC) No. 3094/94. These Regulations, inter alia, revise the definition of "records" which are to be kept by persons in receipt of Community funds under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and allow officials of the Commission of the European Communities to participate in scrutinies under those Regulations