
STATUTORY INSTRUMENTS

1995 No. 362

AGRICULTURE

**The Agricultural Processing and
Marketing Grant Regulations 1995**

<i>Made</i>	- - - -	<i>16th February 1995</i>
<i>Laid before Parliament</i>		<i>17th February 1995</i>
<i>Coming into force</i>	- -	<i>10th March 1995</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Title, extent and commencement

1. These Regulations, which may be cited as the Agricultural Processing and Marketing Grant Regulations 1995, shall extend to Great Britain and shall come into force on 10th March 1995.

Interpretation

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

“applicant”, in relation to the approval of expenditure for the purposes of Community aid or of a grant under these Regulations, means the person who is making or has made the application for that approval;

“the appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Scotland or Wales, the Secretary of State;

“the appropriate Department” means, in relation to England, the Ministry of Agriculture, Fisheries and Food, in relation to Scotland, the Scottish Office and, in relation to Wales, the Welsh Office;

“approval” means approval by the appropriate Minister in writing, and “approve” shall be construed accordingly;

(1) S.I. 1972/1811.
(2) 1972 c. 68.

“authorised officer” means an officer authorised in writing by the appropriate Minister for the purposes of these Regulations;

“the Commission” means the Commission of the European Communities;

“Community aid” means aid from the Guidance Section of the European Agricultural Guidance and Guarantee Fund payable in accordance with the Council Regulation;

“the Council Regulation” means Council Regulation (EEC) No. 866/90 on improving the processing and marketing conditions for agricultural products⁽³⁾, as amended by Council Regulation (EC) No. 3669/93⁽⁴⁾;

“eligible expenditure” means, in relation to any operation, expenditure which the appropriate Minister has approved for the receipt of Community aid;

“operation” means an investment or project in respect of which Community aid is claimed or paid.

(2) Other expressions used in these Regulations have, insofar as the context admits, the same meanings as in the Council Regulation.

Grants in respect of the processing and marketing of agricultural products

3.—(1) The appropriate Minister may make to any applicant a grant towards eligible expenditure incurred in connection with an operation.

(2) The amount of any such grant shall be 5 per cent of eligible expenditure or such other sum which when added to any other grant payable from United Kingdom public funds in relation to the eligible expenditure equals 5 per cent of such expenditure.

(3) The maximum amount of grant payable under this regulation shall be £200,000 in respect of each operation.

Approval of expenditure and payment of grant

4.—(1) Applications for approval of expenditure for the purposes of Community aid and for the purposes of a grant under these Regulations shall be made in such form and manner and at such time as the appropriate Minister may from time to time require and the applicant shall furnish all such particulars and information relating to the application as the appropriate Minister may require.

(2) The appropriate Minister may either refuse to approve expenditure, or approve it in whole or in part, for the purposes of Community aid or for the purposes of a grant under these Regulations and any such approval may be given, or any payments by way of Community aid and of grant made, subject to such conditions as the appropriate Minister thinks fit.

(3) Approval of expenditure for the purposes of Community aid and for the purposes of a grant under these Regulations may be varied by the appropriate Minister with the applicant’s written consent.

(4) Payments by way of Community aid and of a grant under these Regulations may be made at such time, or by such instalments at such intervals or times, as the appropriate Minister may determine.

Records

5. An applicant shall retain invoices, accounts and any other relevant documents as proof of expenditure incurred in connection with an operation, for three years from the last payment of

(3) OJ No. L91, 6.4.90, p.1.

(4) OJ No. L 338, 31.12.93, p.26.

Community aid or of grant under these Regulations in respect of that operation and shall produce them for inspection if so required by an authorised officer.

Powers of entry

6.—(1) For the purposes of ascertaining whether in respect of any operation—

- (a) any amount of Community aid or of grant under these Regulations is payable or recoverable; or
- (b) an offence under these Regulations has been, or is being, committed,

an authorised officer may, on producing, if so required, a warrant of his authority, at any reasonable time enter upon any land to which the operation relates or any land on which relevant documents are being kept.

(2) An authorised officer who has entered any land in accordance with paragraph (1) above may—

- (a) inspect that land or any equipment on it to which the operation relates; and
- (b) require the applicant to produce for inspection, and allow the officer to make a copy of, or extracts from, and to examine and remove for a reasonable period, any invoice, account or other document relating to that application which is relevant to the purposes mentioned in the said paragraph (1).

False statements

7.—(1) If any person, for the purposes of obtaining for himself or any other person Community aid or any grant under these Regulations, knowingly or recklessly makes a false statement, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any information relating to the offence referred to in paragraph (1) above which is triable by a magistrates' court in England and Wales may be tried if it is laid at any time within five years of the commission of the offence and within six months of the relevant date.

(3) Summary proceedings for the offence referred to in paragraph (1) above may be commenced in Scotland at any time within five years of the commission of the offence and within six months of the relevant date; and for the purposes of this paragraph proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted.

(4) In this regulation “relevant date” means the date on which evidence to justify proceedings comes to the knowledge of the prosecutor.

(5) For the purposes of paragraph (4) above, a certificate of the prosecutor as to the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact.

Revocation of approval and recovery of grant

8.—(1) If at any time after the appropriate Minister has approved any expenditure for the purposes of Community aid or for the purposes of a grant under these Regulations it appears to that Minister that—

- (a) any condition subject to which the approval was given, the grant has been made or the Community aid has been paid has not been complied with;
- (b) the operation in respect of which the expenditure was incurred has not been properly carried out;
- (c) the operation has been or is being unreasonably delayed beyond the time limits set out in the notification of grant or is unlikely to be completed;

- (d) the operation was commenced before the date on which the appropriate Department gave written permission to do so;
- (e) the Commission has decided to reduce, suspend or discontinue the Community aid; or
- (f) the applicant—
 - (i) has failed to comply with a requirement imposed by or under regulation 5 or under regulation 6(2)(b) above;
 - (ii) has intentionally obstructed any officer in the exercise of his powers under regulation 6 above; or
 - (iii) has given information on any matter relevant to the giving of the approval or the making of a payment relevant to the approval which is false or misleading in a material particular,

the said Minister may revoke the approval in respect of the whole or part of the expenditure and, where any payment has been made by way of Community aid or of grant under these Regulations, may on demand recover an amount equal to the whole or any part of the payment which has been so made.

- (2) Before revoking an approval in whole or in part under paragraph (1) above, the appropriate Minister shall—
 - (a) give to the applicant a written notification of the reasons for the action proposed to be taken by the said Minister;
 - (b) afford the applicant an opportunity of appearing before and being heard by a person appointed for the purpose by the said Minister; and
 - (c) consider the report by a person so appointed and supply a copy of the report to the applicant.

Revocation of previous regulations

- 9. The Agricultural Processing and Marketing Grant Regulations 1994(5) are hereby revoked.

13th February 1995

Michael Jack
Minister of State, Ministry of Agriculture,
Fisheries and Food

16th February 1995

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 10th March 1995 and extend to Great Britain, supplement Council Regulation (EEC) No. 866/90 (OJ No. L91, 6.4.90, p.1), as amended by Council Regulation (EC) No. 3669/93 (OJ No. L338, 31.12.93, p.26), which respectively contain measures for improving the processing and marketing conditions of agricultural products.

The above-mentioned Council Regulation empowers the Commission to grant aid from the Guidance Section of the European Agricultural Guidance and Guarantee Fund (“the Guidance Fund”) towards investments or projects which fulfil its objectives and towards which the Member States on the territory of which the investments or projects are to be located make a financial contribution.

These Regulations—

- (a) empower Ministers to make grants towards expenditure in respect of investments or projects approved for the payment of aid from the Guidance Fund of amounts sufficient to enable those investments or projects to qualify for that aid (*regulation 3*);
- (b) lay down procedures for approval of expenditure for the purposes of Community aid and of a grant under the Regulations, and for the payment of such Community aid or grant (*regulation 4*);
- (c) confer on applicants a duty to retain and produce records of expenditure (*regulation 5*);
- (d) confer on authorised officers of the appropriate Minister powers to enter upon land and to require the production of documents (*regulation 6*);
- (e) create an offence in respect of false statements made to obtain Community aid or grant (*regulation 7*); and
- (f) specify circumstances in which approval of expenditure may be revoked and Community aid or grant may be recovered (*regulation 8*).

These Regulations revoke the Agricultural Processing and Marketing Grant Regulations 1994 (S.I.1994/3137); the 1994 Regulations, which were made on 7th December and laid before Parliament on 9th December 1994, were erroneously stated to come into force on 1st January 1994. Those Regulations have not been published. The only changes in the text of these Regulations from that of the previous Regulations are—

- (a) the title and coming into force date (*regulation 1*);
- (b) the insertion of the word “regulation” before “6(2)(b)” (*regulation 8(1)(f)(i)*); and
- (c) the revocation provision (*regulation 9*).