

2012 No. 182

AGRICULTURE

The Leader Grants (Scotland) Amendment Regulations 2012

Made - - - - *29th May 2012*

Laid before the Scottish Parliament *31st May 2012*

Coming into force - - *2nd July 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to relevant EU instruments to be construed as references to those instruments as amended from time to time.

Citation and commencement

1. These Regulations may be cited as the Leader Grants (Scotland) Amendment Regulations 2012 and come into force on 2nd July 2012.

Amendment to the Leader Grants (Scotland) Regulations 2008

2.—(1) The Leader Grants (Scotland) Regulations 2008(b) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “claim for payment” insert—

““Commission Regulation 885/2006” means Commission Regulation (EC) No 885/2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD(c), as amended from time to time;

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), section 3(3) and Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, section 3(3) and Schedule, Part 1.

(b) S.S.I. 2008/66 as amended by S.I. 2011/1043 and S.S.I. 2011/260.

(c) OJ L 171, 23.6.2006, p.90, as last amended by Commission Implementing Regulation (EU) No 375/2012 (OJ L 118, 3.5.2012, p.4).

“Commission Regulation 1974/2006” means Commission Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(a), as amended from time to time;”;

(b) after the definition of “cooperation” insert—

““Council Regulation 1290/2005” means Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy(b), as amended from time to time;”;

(c) in the definition of “LEADER funding” for “paid to a local action group” substitute “paid to a lead partner of a local action group”;

(d) after the definition of “LEADER funding” insert—

““lead partner” means the body selected by a local action group as the administrative and financial lead actor in accordance with Article 62(2) of the Council Regulation;”;

(e) for the definition of “the EU legislation” substitute—

““the EU legislation” means—

(a) the Control Regulation;

(b) the Council Regulation; and

(c) Commission Regulation 1974/2006;”;

(f) for the definition of “the Council Regulation” substitute—

““the Council Regulation” means Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(c), as amended from time to time;”;

(g) after the definition of “the Scotland rural development programme” insert—

“;

“service level agreement” means an agreement between the Scottish Ministers and a lead partner for the purposes of Article 6(1) of Council Regulation 1290/2005 and Annex I(1)(C) of Commission Regulation 885/2006.”.

(3) After regulation 2 (interpretation) insert—

“Funding arrangements: LEADER grant

2A. Subject to regulations 2C and 2D, the Scottish Ministers must reimburse the relevant lead partner in respect of payments of LEADER grant.

Service level agreement

2B.—(1) The Scottish Ministers must conclude a service level agreement with a lead partner.

(2) Where a service level agreement was concluded before the coming into force of these Regulations, it is to be treated as a service level agreement for the purpose of these Regulations.

(3) A service level agreement may, with the agreement of the Scottish Ministers and the lead partner, be amended at any time.

(a) OJ L 368, 23.12.2006, p.15, as last amended by Commission Implementing Regulation (EU) No 679/2011 (OJ L 185, 15.7.2011, p.57).

(b) OJ L 209, 11.8.2005, p.1, as last amended by Regulation (EU) No 121/2012 (OJ L 44, 16.2.2012, p.1).

(c) OJ L 277, 21.10.2005, p.1, as last amended by Regulation (EU) No 1312/2011 (OJ L 339, 21.12.2011, p.1).

Breach of service level agreement

2C.—(1) Where, in the opinion of the Scottish Ministers, a lead partner breaches any of the conditions of a service level agreement, the Scottish Ministers may take one or more of the following steps—

- (a) specify what is required by the lead partner to remedy the breach and a timescale for meeting those requirements;
- (b) refuse to reimburse the lead partner in respect of payments of LEADER grant;
- (c) recover on demand the whole or any part of payments already made available to the lead partner (to include interest on that amount at a rate of one per cent above the sterling 3 month London interbank offered rate calculated on a daily basis for the period from the date of payment to the date of recovery);
- (d) terminate the service level agreement.

(2) Before taking any step specified in paragraph (1) the Scottish Ministers must—

- (a) give the lead partner in respect of whom such a step is proposed to be taken, written notification of that step;
- (b) give the lead partner an opportunity to make representations about the proposed step, within such time and in such form as the Scottish Ministers think fit; and
- (c) consider such representations.

Termination of service level agreement

2D.—(1) Where a service level agreement is terminated in accordance with regulation 2C(1)(d), the Scottish Ministers may—

- (a) require the relevant local action group to select another lead partner with whom Ministers must conclude a service level agreement;
- (b) reimburse directly the local action group in respect of any payments of LEADER grant made by that group; or
- (c) direct the local action group to take such other steps as Ministers consider appropriate.

(2) Paragraph (1) is without prejudice to the powers of the Scottish Ministers as a responsible body under regulations 17 to 21.”.

(4) In regulation 12 (funding restrictions on LEADER grant)—

(a) after paragraph (2) insert—

“(2A) A project where the total LEADER grant payable for that project is less than £1,000 will not be eligible for LEADER grant.”; and

(b) in paragraph (3), for sub-paragraphs (a), (b) and (c) substitute—

- “(a) internal staffing costs of any organisation where those costs are not directly related to the project;
- (b) operating and running costs including rent, utilities, equipment or leasing charges, where those costs or charges are not directly related to the project;
- (c) interest on loans;”.

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A member of the Scottish Executive

St Andrew’s House,
Edinburgh
29th May 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Leader Grants (Scotland) Regulations 2008 (“the 2008 Regulations”). The 2008 Regulations make provision for the purposes of implementation of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p.1) and Commission Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 368, 23.12.2006, p.15).

Regulation 2(2) amends regulation 2(1) of the 2008 Regulations to insert new definitions (such as “lead partner” and “service level agreement” as referred to in the amendments inserted by regulation 2(3)) as well as substituting for some of the existing definitions, including those relating to relevant EU instruments. The definitions for those EU instruments are ambulatory given that they are subject to technical amendment by the EU from time to time.

Regulation 2(3) inserts new regulations 2A, 2B, 2C and 2D into the 2008 Regulations.

The new regulation 2A of the 2008 Regulations makes provision for the reimbursement of payments of LEADER grant. The definition of “LEADER funding” in regulation 2(1) of the 2008 Regulations is also amended in consequence of this provision (see regulation 2(2)(c)).

The new regulation 2B of the 2008 Regulations makes provision for the Scottish Ministers to conclude a service level agreement with the lead partner of a local action group for the purposes of Article 6(1) of Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p.1) and Annex I(1)(C) of Commission Regulation (EC) No 885/2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD (OJ L 171, 23.6.2006, p.90).

The new regulation 2C of the 2008 Regulations sets out the powers of the Scottish Ministers in light of a breach of a service level agreement. This includes a power to terminate the agreement. The new regulation 2D of the 2008 Regulations makes further provision for the consequences of such a termination.

Regulation 2(4) amends regulation 12 of the 2008 Regulations to provide that certain projects and costs will not be eligible for LEADER grant, for example, where the total costs are less than £1,000 or are not directly related to a project.

No Business and Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.

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