



STATUTORY INSTRUMENTS.

S.I. No. 93 of 2015



EUROPEAN UNION (DIRECT SUPPORT RURAL DEVELOPMENT
SCHEMES) OFFENCES AND CONTROL REGULATIONS 2015

EUROPEAN UNION (DIRECT SUPPORT RURAL DEVELOPMENT SCHEMES) OFFENCES AND CONTROL REGULATIONS 2015

I, ALAN KELLY, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving full effect to Regulation (EU) No. 1303/2013 of the European Parliament and of the Council as amended, Regulation (EU) No. 1305/2013 of the European Parliament and of the Council as amended, Regulation (EU) No. 1306/2013 of the European Parliament and of the Council as amended and Regulation (EU) No. 1310/2013 of the European Parliament and of the Council hereby make the following regulations:

1. These Regulations may be cited as the European Union (Direct Support Rural Development Schemes) Offences and Control Regulations 2015.

Interpretation

2. In these Regulations—

“application” means an application for payment or an application for support under the acts of the institution of the European Union listed in the Schedule to these Regulations whether maintained in an electronic form or otherwise;

“authorised officer” means a person appointed under Regulation 7; “document” includes any information or map supplied in support of an application whether maintained in an electronic form or otherwise;

“Minister” means Minister for the Environment, Community and Local Government;

“payment” means any payment payable under the acts of the institution of the European Union listed in the Schedule to these Regulations;

“Relevant Regulations” means the regulations set out in the Schedule to these Regulations.

Offences

3. (1) For the purposes of an application or obtaining a payment under any of the Relevant Regulations, a person shall not—

- (a) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular,

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or

- (b) produce, furnish, cause or knowingly allow to be produced or furnished an application or document which he or she knows to be false in a material particular or reckless as to the submission of such application or document.

(2) A person who contravenes paragraph (1) commits an offence under these Regulations.

4. (1) A person shall not forge or alter, or utter knowing it to be forged or altered with intent to defraud or deceive, an application or document for the purposes of these Regulations or any of the Relevant Regulations set out in the Schedule.

(2) A person shall not include on any application, database or record, a particular which he or she knows to be false or does not know to be true or recklessly include in such application, database or record a particular which is false or which he or she does not know to be true.

(3) A person shall not have, without lawful authority, in his or her possession or control a forged or altered document.

(4) A person who contravenes this regulation commits an offence under these Regulations.

5. (1) A person shall not aid or abet the commissioning of an offence under these Regulations.

(2) A person who contravenes paragraph (1) commits an offence under these Regulations.

6. (1) A person who—

- (a) obstructs or impedes an authorised officer in the exercise of his or her powers under Regulation 8, or

- (b) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 8—

- (i) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or

- (ii) fails to disclose a material particular

commits an offence under these Regulations.

Authorised Officers

7. (1) For the purposes of the Relevant Regulations, the Minister may appoint such and so many persons or a class of persons as he or she thinks fit

to be authorised officers for the purposes of ensuring compliance with these Regulations and the provisions of the Relevant Regulations.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her under paragraph (1), whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (2),

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from re-appointing as an authorised officer a person to whom paragraph (3) relates.

(5) Every authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and shall if requested by any person thereby affected, produce such warrant of appointment to that person for inspection.

Powers of an Authorised Officer

8. (1) For the purposes of these Regulations an authorised officer may—

(a) enter and inspect, at all reasonable times, a premises at which he or she has reasonable grounds for believing that—

(i) it is relevant to an application or payment, or

(ii) a record relating to an application is, may be or has been present,

(b) require the owner or person in charge of a premises to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,

(c) require the name and address of a person,

(d) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or extracts from the record that the officer finds or is produced to him or her during an inspection,

(e) seize and detain (for so long as is necessary) documents, other records including a record in non-legible form and anything considered evidence of or connected to an offence under these regulations.

(2) Where an authorised officer has reasonable grounds for believing that—

- (a) an offence is being or has been committed under these Regulations, or
- (b) evidence of a matter referred to in subparagraph (a) or an offence or contravention to which subparagraph (a) relates may be, is or has been on a premises,

the officer may, in addition to the powers exercisable by him or her under paragraph (1), do one or more of the following:

- (i) search the premises;
- (ii) if necessary, cause to have stopped, a vehicle, vessel, aircraft, container, equipment, machinery or other thing in connection with an application or payment and may require it to be moved for inspection to such places he or she directs;
- (iii) give such direction to a person who has an application in his or her possession or under his or her control or information relating to such application or payment, as the authorised officer may reasonably consider necessary for the purposes of these Regulations;
- (iv) seize and detain an application, document, record or other thing;
- (v) mark or otherwise identify an application, document or other thing.

(3) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under paragraph (9).

(4) An authorised officer, when exercising a power under these Regulations, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the performance of the power.

(5) An authorised officer is not liable in any proceedings for an offence under these Regulations for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for so doing it.

(6) If, in the course of exercising a power under this Regulation, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, it may be seized and retained for use in evidence in criminal proceedings for an offence under these Regulations.

(7) An authorised officer who is not a member of An Garda Síochána shall not stop a vehicle in a public place for the purposes of paragraph (2), unless he or she is accompanied by such a member of An Garda Síochána.

(8) Nothing in these Regulations shall be construed as affecting a power conferred by another enactment to search, or to stop, seize or detain property, which may be exercised by a member of An Garda Síochána.

(9) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) an offence is being or has been committed under these Regulations,
- (b) evidence of an offence or contravention or intended contravention to which paragraph (a) relates may be, is or has been on a premises, or
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises,

the judge may issue a search warrant.

(10) A search warrant under these Regulations shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, vehicle, vessel or aircraft named in the warrant.

(11) If a premises is entered under a warrant issued under these Regulations, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Penalty Provisions

9. (1) A person who commits an offence under these Regulations is liable on summary conviction, to a Class A fine, or imprisonment for a term not exceeding 6 months, or both.

(2) An offence under these Regulations may be prosecuted summarily by the Minister.

(3) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first mentioned offence.

SCHEDULE

Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013¹.

Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013².

Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013³

Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013⁴

Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013⁵

Commission Implementing Regulation (EU) No. 808/2014 of 17 July 2014⁶

Commission Implementing Regulation (EU) No. 809/2014 of 17 July 2014⁷

Commission Delegated Regulation (EU) No. 640/2014 of 11 March 2014⁸

Commission Delegated Regulation (EU) No. 807/2014 of 11 March 2014⁹

Commission Regulation (EC) 65/2011 of 27 January 2011¹⁰ as amended by Commission Implementing Regulation (EU) No. 147/2012 of 20 February 2012¹¹.



GIVEN under my Official Seal,
3 March 2015.

ALAN KELLY,
Minister for the Environment, Community and
Local Government.

¹O.J. No. L 347, 20.12.2013, p.487

²O.J. No. L 347, 20.12.2013, p.549

³O.J. No. L 347, 20.12.2013, p.320

⁴O.J. No. L 347, 20.12.2013, p.865

⁵O.J. No. L 347, 20.12.2013, p.608

⁶O.J. No. L 227, 31.07.2014, p.18

⁷O.J. No. L 227, 31.07.2014, p.69

⁸O.J. No. L 181, 20.06.2014, p.48

⁹O.J. No. L 227, 31.07.2014, p.1

¹⁰O.J. No. L 25, 28.1.2011, p.8

¹¹O.J. No. L 48, 21.2.2012, p.7

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations set out the powers of authorised officers engaged in carrying out inspections on projects and beneficiaries funded under the European Agricultural Fund for Rural Development (EAFRD) Rural Development Programme (RDP), Axis 3 and Axis 4.

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