



STATUTORY INSTRUMENTS

S.I. No. 264 of 2008



EUROPEAN COMMUNITIES (FINANCIAL CHECKS) REGULATIONS
2008

(Prn. A8/1043)

EUROPEAN COMMUNITIES (FINANCIAL CHECKS) REGULATIONS
2008

I, BRIAN LENIHAN, Minister for Finance, 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 Council Regulation (EC) No. 1083/2006 of 11 July 2006¹, and Commission Regulation (EC) No. 1828/2006 of 8 December 2006², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Financial Checks) Regulations 2008.

2. (1) In these Regulations—

“authorised officer” means a person appointed as an authorised officer under Regulation 3;

“Council Regulation” means Council Regulation (EC) No. 1083/2006 of 11 July 2006³;

“Commission Regulation” means Commission Regulation (EC) No. 1828/2006 of 8 December 2006⁴;

“records” includes any book, document or other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form.

(2) A word or expression which is used in these Regulations and which is also used in the Council Regulation or the Commission Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation or the Commission Regulation.

3. (1) For the purpose of ensuring compliance with the Council Regulation or the Commission Regulation—

(a) the Minister for Finance, or

(b) a Minister of the Government, in relation to any matter for which he or she has responsibility,

¹ O.J. No. L210, 31.7.06, p.1.

² O.J. No. L371, 27.12.06, p.1.

³ O.J. No. L210, 31.7.06, p.1.

⁴ O.J. No. L371, 27.12.06, p.1.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th July, 2008.*

may appoint such and so many persons, as he or she thinks fit, to be authorised officers.

(2) An authorised officer shall be furnished with a warrant on his or her appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if required, by any person affected, produce the warrant to that person.

4. (1) An authorised officer may, for the purpose of ensuring compliance with the Council Regulation or the Commission Regulation—

- (a) enter any premises (other than a private dwelling) or place where the officer has reason to believe records are kept relating to assistance from the Structural Funds or any activities relating to such assistance,
- (b) require the owner or any person employed at the premises or in charge thereof to produce to him or her such records and in the case of information in a non-legible form to reproduce it in permanent legible form or to give to him or her such information as the officer may reasonably require,
- (c) at such premises or place, inspect and take copies of, or such extracts from any records (including in the case of information in non-legible form a copy or extract from such information in permanent legible form),
- (d) inspect and copy or extract information from any data (within the meaning of the Data Protection Acts of 1988 and 2003) found or produced to the officer under this Regulation,
- (e) require any person by whom or on whose behalf data equipment is or has been used on the premises or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation to its use,
- (f) remove those records for such period as may be reasonable for further examination,
- (g) secure for later inspection the premises or part of any premises in which such records are kept or there are reasonable grounds for believing such record are kept,
- (h) summon, at any reasonable time, any person concerned in relation to assistance received from the Structural Funds or any activities relating to such assistance to give to the officer any information which the officer may reasonably require concerning such assistance or activity or to produce to the officer any records which are in that person's power or control.

(2) An authorised officer may, where he or she considers it necessary, be accompanied by a member of the Garda Síochána when exercising any power conferred on an authorised officer under this Regulation.

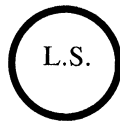
5. (1) A person who—

- (a) obstructs or interferes with an authorised officer in the exercise of the officer's power under Regulation 4,
- (b) fails to comply with a request from an authorised officer under that Regulation, or
- (c) makes a statement to such officer which the person knows is false or misleading,

is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000.

(2) Where an offence is committed under this Regulation by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any 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 was guilty of the first-mentioned offence.

(3) An offence under this Regulation may be prosecuted by a Minister of the Government.



GIVEN under my Official Seal,
11 July 2008

BRIAN LENIHAN.
Minister for Finance.

EXPLANATORY NOTE

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

These Regulations implement Commission Regulation (EC) No. 1826/2006 concerning financial control by Member States of operations co-financed by the Structural Funds.

These Regulations provide for the appointment of authorised officials who will carry out financial control.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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