



STATUTORY INSTRUMENTS.

S.I. No. 169 of 2016



EUROPEAN COMMUNITIES (DIRECT SUPPORT SCHEMES)
OFFENCES AND CONTROLS REGULATIONS 2016

EUROPEAN COMMUNITIES (DIRECT SUPPORT SCHEMES)
OFFENCES AND CONTROLS REGULATIONS 2016

I, Simon Coveney, Minister for Agriculture, Food and the Marine, 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 1305/2013 of the European Parliament and of the Council of 17 December 2013¹ (as amended by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013², Commission Delegated Regulation (EU) No 994/2014 of 13 May 2014³, Commission Delegated Regulation (EU) No 1378/2014 of 17 October 2014⁴, Commission Delegated Regulation (EU) 2015/791 of 27 April 2015⁵), Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014⁶, Commission Implementing Regulation (EU) No 808/2014 of 17 July 2014⁷, Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013⁸ (as amended by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013), Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014⁹, Commission Delegated Regulation (EU) No 809/2014 of 17 July 2014¹⁰, Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013¹¹ (as amended by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013, Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014¹², Commission Delegated Regulation (EU) No 994/2014 of 13 May 2014, Commission Delegated Regulation (EU) No 1001/2014 of 18 July 2014¹³, Commission Delegated Regulation (EU) No 1378/2014 of 17 October 2014) Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014, Commission Implementing Regulation (EU) No 641/2014 of 16 June 2014¹⁴ hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Direct support schemes) Offences and Controls Regulations 2016.

2. In these Regulations—

¹OJ L347, 20.12.2013, p. 487

²OJ L347, 20.12.2013, p. 865

³OJ L280, 24.9.2014, p. 1

⁴OJ L367, 23.12.2014, p. 16

⁵OJ L127, 22.5.2015, p. 1

⁶OJ L227, 31.7.2014, p.1

⁷OJ L227, 31.7.2014, p. 18

⁸OJ L347, 20.12.2013, p. 549

⁹OJ L181, 20.6.2014, p.48

¹⁰OJ L227, 31.7.2014, p. 69

¹¹OJ L 347, 20.12.2013, p. 608

¹²OJ L181, 20.6.2014, p. 1

¹³OJ L281, 25.9.2014, p.1

¹⁴OJ L181, 20.6.2014, p. 74

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 19th April, 2016.*

“application” means an application for payment under an act of an institution of the European Union listed in the Schedule whether maintained in an electronic form or otherwise;

“authorised officer” means a person appointed under Regulation 6;

“document” includes any information, photograph, image or map whether maintained in an electronic form or otherwise;

“Minister” means Minister for Agriculture, Food and the Marine;

“payment” means any payment payable under an act of an institution of the European Union listed in the Schedule.

3. (1) A person shall not for the purpose of an application or a payment provided for under an act of an institution of the European Union listed in the Schedule—

- (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, 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 shall not have, without lawful authority, in his or her possession or control a forged or altered document to which paragraph (1) refers.

(3) A person who contravenes this Regulation commits an offence.

4. (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.

5. (1) For the purposes of the acts of the institutions of the European Union listed in the Schedule, the Minister may, by instrument in writing, 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 some or all of the functions of an authorised officer as may be specified in the instrument.

(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) An officer of the Minister shall furnish an authorised officer with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer to the person.

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

(a) enter and inspect, at all reasonable times, a premises of 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 or payment is, may be or has been present,

(b) require the owner or person in charge of a premises to produce to the officer such documents or records (and in the case of a document or 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, or

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

(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 functions 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 an 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 (11).

(4) An authorised officer, when exercising a function under this Regulation, 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 function.

(5) An authorised officer may use reasonable force, if necessary, in the exercise of his or her functions under this section.

(6) 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 functions 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.

(7) If, in the course of exercising a function 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.

(8) An authorised officer who is not a member of the Garda Síochána or an officer of Customs and Excise in uniform, 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.

(9) 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 the Garda Síochána or an officer of Customs and Excise.

(10) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by this Act.

(11) 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.

(12) A search warrant under this Regulation 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 (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

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

7. A person who—

- (a) obstructs or impedes an authorised officer in the exercise of his or her functions under Regulation 6, or
- (b) in purporting to give information to an authorised officer for the performance of the officer's functions under Regulation 6—
 - (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.

8. (1) A person who commits an offence under these Regulations is liable on summary conviction to a Class A fine.

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

(3) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of, or to have been attributable to the wilful neglect of, the body corporate or a person who is purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with

the functions of management as if the member were a director or manager of a body corporate.

9. (1) Where an officer of the Minister, authorised by the Minister in that behalf, has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing (“fixed payment notice”) on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister, as the case may be, at the address specified in the notice, a payment of €250 accompanied by the notice,
- (c) the person is not obliged to make the payment, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is served under paragraph (1)—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Minister, at the address specified in the notice, the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and, if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence under these Regulations, the onus of proving that a payment in accordance with a fixed payment notice has been made lies on the person on whom the fixed payment notice was served.

(4) In proceedings for an offence referred to in paragraph (1) it is a defence for the accused to show that he or she has made a payment in accordance with this Regulation pursuant to a fixed payment notice issued in respect of that offence.

SCHEDULE

REGULATION (EU) No 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development

COMMISSION DELEGATED REGULATION (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development and introducing Transitional measures.

COMMISSION IMPLEMENTING REGULATION (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development

REGULATION (EU) No 1306/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 on the financing, management and monitoring of the common agricultural policy

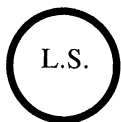
COMMISSION DELEGATED REGULATION (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance.

COMMISSION IMPLEMENTING REGULATION (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance.

REGULATION (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.

COMMISSION DELEGATED REGULATION (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and amending Annex X to that Regulation.

COMMISSION IMPLEMENTING REGULATION (EU) No 641/2014 of 16 June 2014 laying down rules for the application of Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.



GIVEN under my Official Seal,
15 April 2016.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.05



Wt. (B31911). 285. 4/16. Essentra. Gr 30-15.