



STATUTORY INSTRUMENTS.

S.I. No. 115 of 2012

EUROPEAN COMMUNITIES (DIRECT SUPPORT SCHEMES)
OFFENCES AND CONTROL REGULATIONS 2012

(Prn. A12/0582)

EUROPEAN COMMUNITIES (DIRECT SUPPORT SCHEMES)
OFFENCES AND CONTROL REGULATIONS 2012

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 certain acts of the institutions of the European Union in relation to the Agriculture, Food, Marine and Forestry sectors listed in the Schedule attached to these Regulations, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Direct support schemes) Offences and Control Regulations 2012.

2. In these Regulations—

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

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

“document” includes any information or map supplied in support of an application whether maintained in an electronic form or otherwise;

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

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

3. (1) A person shall not for the purpose of an application or obtaining a payment—

(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 who contravenes paragraph (1) commits an offence.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th April, 2012.*

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 an act of an institution of the European Union listed in the Schedule.

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

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

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.

6. (1) For the purposes of the acts of the institution 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.

7. (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 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, or
 - (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.
- (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 (13).
- (4) Where a member of the Garda Síochána or an officer of Customs and Excise upon the request of an authorised officer has reasonable grounds for believing that, there is evidence on a person of an offence referred to in paragraph (2)(b), the member or officer may without warrant—
- (a) search or cause to be searched by such a member or officer the person and, if the member or officer considers it necessary for that purpose,

detain the person for such time as is reasonably necessary to carry out the search,

- (b) search or cause to be searched by such a member or officer any vehicle in which the member or officer suspects that such substance may be found and for the purpose of carrying out the search, if any such member or officer thinks fit, require the person who is, for the time being, in charge or control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, in case the vehicle is already stationary, to refrain from moving it, or
- (c) seize and detain, or cause to be seized and detained by such a member or officer, anything found in the course of a search under this section which any such member or officer reasonably suspects to be something which might be required as evidence in proceedings for an offence referred to in paragraph (2)(b).

(5) Where a member of the Garda Síochána or an officer of Customs and Excise (as the case may be) decides to search or cause to be searched a person under paragraph (4) the member or officer may require the person to accompany that member or officer to either a Garda Síochána station or a customs office for the purpose of being so searched at that station or office.

(6) An authorised officer, when exercising a power 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 power.

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

(8) 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.

(9) 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.

(10) 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.

(11) 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.

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

(13) 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.

(14) 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.

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

8. A person who—

- (a) obstructs or impedes an authorised officer in the exercise of his or her powers under Regulation 7, or
- (b) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 7—
 - (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.

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 to both.

(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 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.

SCHEDULE

Council Regulation (EC) No. 1257/1999 of 17 May 1999¹ as amended by Council Regulation (EC) No. 1783/2003 of 29 September 2003², Council Regulation (EC) No. 567/2004 of 22 March 2004³, Council Regulation (EC) No. 583/2004 of 22 March 2004⁴ and Council Regulation (EC) No. 2223/2004 of 22 December 2004⁵.

Council Regulation (EC) No. 1698/2005 of 20 September 2005⁶ as amended by Council Regulation (EC) No. 1463/2006 of 19 June 2006⁷, Council Regulation (EC) No. 1944/2006 of 19 December 2006⁸, Council Regulation (EC) No. 2012/2006 of 19 December 2006⁹, Council Regulation (EC) No. 146/2008 of 14 February 2008¹⁰, Council Regulation (EC) No. 74/2009 of 19 January 2009¹¹, Council Regulation (EC) No. 473/2009 of 25 May 2009¹² and Regulation (EU) No. 1312/2011 of the European Parliament and of the Council of 19 December 2011¹³.

Commission Regulation (EC) No. 1974/2006 of 15 December 2006¹⁴ as amended by Commission Regulation (EC) No. 434/2007 of 20 April 2007¹⁵, Commission Regulation (EC) No. 1236/2007 of 22 October 2007¹⁶, Commission Regulation (EC) No. 1175/2008 of 27 November 2008¹⁷, Commission Regulation (EC) No. 363/2009 of 4 May 2009¹⁸, Commission Regulation (EC) No. 482/2009 of 8 June 2009¹⁹, Commission Regulation (EU) No. 108/2010 of 8 February 2010²⁰, and Commission Implementing Regulation (EU) No. 679/2011 of 14 July 2011²¹.

¹O.J. No. L 160, 26.6.1999, p. 80

²O.J. No. L 270, 21.10.2003, p.70

³O.J. No. L 90, 27.3.2004, p.1

⁴O.J. No. L 91, 30.3.2004, p.1

⁵O.J. No. L 379, 24.12.2004, p.1

⁶O.J. No. L 277, 21.10.2005, p.1

⁷O.J. No. L 277, 9.10.2006, p.1

⁸O.J. No. L 367, 22.12.2006, p.23

⁹O.J. No. L 384, 29.12.2006, p.8

¹⁰O.J. No. L 46, 21.2.2008, p.1

¹¹O.J. No. L 30, 31.1.2009, p.100

¹²O.J. No. L 144, 9.6.2009, p.3

¹³O.J. No. L 339, 21.12.2011, p.1

¹⁴O.J. No. L 368, 23.12.2006, p.15

¹⁵O.J. No. L 104, 21.4.2007, p.8

¹⁶O.J. No. L 280, 24.10.2007, p.3

¹⁷O.J. No. L 318, 28.11.2008, p.6

¹⁸O.J. No. L 111, 5.5.2009, p.5

¹⁹O.J. No. L 145, 10.6.2009, p.17

²⁰O.J. No. L 36, 9.2.2010, p.4

²¹O.J. No. L 185, 15.7.2011, p.57

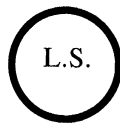
Council Regulation (EC) No. 73/2009 of 19 January 2009²² as amended by Commission Regulation (EC) No. 889/2009 of 25 September 2009²³, Commission Regulation (EC) No. 992/2009 of 22 October 2009²⁴, Council Regulation (EC) No. 1250/2009 of 30 November 2009²⁵, Commission Regulation (EU) No. 360/2010 of 27 April 2010²⁶, Commission Regulation (EU) No. 307/2011 of 29 March 2011²⁷ and

Commission Implementing Regulation (EU) No. 785/2011 of 5 August 2011²⁸.

Commission Regulation (EC) No. 1120/2009 of 29 October 2009²⁹ as amended by Commission Regulation (EU) No. 730/2010 of 13 August 2010³⁰, Commission Regulation (EU) No. 331/2011 of 6 April 2011³¹ and Commission Implementing Regulation (EU) No. 1126/2011 of 7 November 2011³².

Commission Regulation (EC) No. 1122/2009 of 30 November 2009³³ as amended by Commission Regulation (EU) No. 146/2010 of 23 February 2010³⁴, Commission Regulation (EU) No. 173/2011 of 23 February 2011³⁵ and Commission Implementing Regulation (EU) No. 1368/2011 of 21 December 2011³⁶.

Commission Regulation (EC) 65/2011 of 27 January 2011³⁷ as amended by Commission Implementing Regulation (EU) No. 147/2012 of 20 February 2012³⁸.



GIVEN under my Official Seal,
4 April 2012.

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

²²O J No. L 30, 31.1.2009, p. 16

²³O.J. No. L 254, 26.9.2009, p.73

²⁴O.J. No. L 278, 23.10.2009, p.7

²⁵O.J. No. L 338, 19.12.2009, p.1

²⁶O.J. No. L 106, 28.4.2010, p.1

²⁷O.J. No. L 82, 30.3.2011, p.1

²⁸O.J. No. L 203, 6.8.2011, p.10

²⁹O.J. No. L 316, 2.12.2009, p.1

³⁰O.J. No. L 214, 14.8.2010, p.1

³¹O.J. No. L 93, 7.4.2011, p.16

³²O.J. No. L 289, 8.11.2011, p.24

³³O.J. No. L 316, 2.12.2009, p.65

³⁴O.J. No. L 47, 24.2.2010, p.1

³⁵O.J. No. L 49, 24.2.2011, p.16

³⁶O.J. No. L 341, 22.12.2011, p.33

³⁷O.J. No. L 25, 28.1.2011, p.8

³⁸O.J. No. L 48, 21.2.2012, p.7

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€3.05

