
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 191

AGRICULTURE

**The Agricultural Commodities (Coronavirus)
(Income Support) Scheme (Northern Ireland) 2020**

Made - - - - 2nd September 2020

Coming into operation 7th September 2020

The Minister of Agriculture, Environment and Rural Affairs⁽¹⁾ makes the following Scheme in exercise of the powers conferred by sections 1(1) and 2(1) of the Agriculture (Temporary Assistance) Act (Northern Ireland) 1954⁽²⁾ and with the approval of the Minister of Finance.

Citation and commencement

1. This Scheme may be cited as the Agricultural Commodities (Coronavirus)(Income Support) Scheme (Northern Ireland) 2020 and comes into operation on 7th September 2020.

Interpretation

2. In this Scheme—

“APHIS” means the Animal and Public Health Information System operated by the Department;

“applicant” except in relation to an application for review under Article 10 means a cattle, milk, potato or sheep producer who makes an application;

“application” means an application for an income support payment made in accordance with Article 3(4);

“business ID” means a number issued by the Department to a cattle, milk or sheep producer and which identifies that producer on APHIS;

“cattle producer” means a person with a business ID who raises cattle for sale as beef and/or beef products;

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“first purchaser” means a person other than a milk producer who purchases milk from a milk producer for processing;

(1) Formerly the Department of Agriculture for Northern Ireland; see [S.I. 1999/283 \(N.I. 1\)](#) Article 3(4) and [2016 c. 5 \(N.I.\)](#) section 1

(2) [1954 c. 31 \(N.I.\)](#); the Act was amended by Article 7 of [S.I. 1984/7 \(N.I. 2\)](#)

“income support payment” means a payment made under Article 4;

“milk producer” means a person with a business ID who produces milk from cattle for the purposes of sale to a first purchaser;

“potato producer” means a person with a business ID who produces potatoes for sale as potatoes or potato products;

“sheep producer” means a person with a business ID who raises sheep for sale as sheepmeat or sheepmeat products;

“slaughter” means slaughter or export for slaughter at a slaughterhouse as defined at point 1.16 of Annex I to Regulation (EC) No 853/2004(3) of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin and approved or conditionally approved under Article 4 of that Regulation.

Application for an Income Support Payment

3.—(1) The Department must publish, in such manner as it considers appropriate, a notice inviting applications for an income support payment.

(2) A notice under paragraph (1) must specify—

- (a) the conditions of an award of payment specified in Article 5, 6, 7, and 8;
- (b) the closing date for such applications; and
- (c) the information which the applicant is required to provide in support of the application.

(3) A notice under paragraph (1) may be amended by further notice published by the Department in the same manner.

(4) An application must be made in such form or manner and be delivered to such address as the Department specifies in the notice under paragraph (1) and must be received by the Department before the closing date specified in that notice.

(5) The Department may accept an application received after the closing date if it is satisfied that—

- (a) the particular circumstances of the applicant render it unreasonable to expect the application to have been received by the closing date; and
- (b) the date on which the application was received is as early as can reasonably be expected in those circumstances.

Eligibility for Payment

4.—(1) Where the Department has received an application in accordance with Article 3(4) and is satisfied the application complies with paragraph (2) the Department may, subject to Article 11, make an income support payment to the applicant for all or part of the period specified in either Article 5, 6, 7 or 8 as applicable.

(2) An application for an income support payment must—

- (a) comply with the conditions of either Article 5, 6, 7 or 8;
- (b) provide the information required in the notice published under Article 3(1) or such other information relating to the application as the Department may from time to time require.

(3) The Department must notify the applicant in writing of its decision to approve or reject an application and—

- (a) if an application is rejected in whole or in part, the reason for the rejection and the right of review under Article 10; and

(b) if an application is approved, the amount of the income support payment to be made.

(4) Where more than one person makes an application in respect of the same animal, milk or potatoes only one income support payment is payable subject to Article 6(5).

(5) The Department must reject an application if it is satisfied that the applicant does not meet the requirements of this Article.

Income support for milk producers

5.—(1) The Department may make an income support payment, calculated in accordance with paragraph (2), to a milk producer who, during the period specified in that paragraph, produced milk for sale and either—

- (a) provides consent in writing to the Department to use information provided by the first purchaser to calculate the amount of income support payment under paragraph (2), subject to confirmation by the milk producer that the information provided by the first purchaser is accurate; or
- (b) if the first purchaser fails to provide the Department with the information necessary to calculate the amount of the income support payment under paragraph (2), provides the Department with details of their business ID, quantity of milk (expressed in litres) sold to the first purchaser, and the name of that first purchaser.

(2) The amount of the income support payment is £0.0128 per litre of milk supplied to a first purchaser during the period beginning on 1st March 2020 and ending on 30th June 2020 (both dates inclusive), excluding any milk—

- (a) supplied on a fixed contract above £0.2668 per litre; or
- (b) not processed as it was certified by the first purchaser as unfit for human consumption.

Income support payments for cattle producers

6.—(1) The Department may make an income support payment in accordance with paragraph (2), (3) or (4) to each cattle producer who—

- (a) was recorded on the APHIS with a bovine herd number linked to that cattle producer's business ID;
- (b) provides consent in writing for the Department to use information belonging to the cattle producer and held on APHIS which is reasonable and necessary for the Department to calculate the amount of income support payment under paragraph (2), (3) or (4), subject to confirmation by the cattle producer that the information used is accurate; and
- (c) complies with the conditions of either paragraph (2), (3) or (4).

(2) A cattle producer who was linked by business ID to the last registered keeper of an animal on APHIS on 15th February 2020 is eligible to an income support payment of £33 per animal if sub-paragraph (a) and (b) apply, and may be eligible to an additional payment if either sub-paragraph (c), (d) or (e) apply—

- (a) the animal was aged from 8 month or over at the date of slaughter; and
- (b) that animal was slaughtered during the period beginning on 16th February 2020 and ending on 30th June 2020 (both dates inclusive);
- (c) £40 per animal aged 12 months and over at the date of slaughter, where the animal was slaughtered during the period beginning on 29th March 2020 and ending on 16th May 2020 (both dates inclusive), if the cattle producer was linked by business ID to the last registered keeper of the animal on APHIS on 28th March;

- (d) £40.00 per animal aged 12 months and over at the date of slaughter, where the animal was slaughtered during the period beginning on 17th May 2020 and ending on 30th June 2020 and that cattle producer was—
 - (i) linked by business ID to the last registered keeper on APHIS on 28th March 2020; and
 - (ii) was not linked by business ID to the last registered keeper on APHIS of that animal on 16th May 2020; or
- (e) £13.50 per animal aged from 8 months to less than 12 months of age at the date of slaughter, where the animal was slaughtered during the period beginning on 5th April 2020 and ending on 23rd May 2020 (both dates inclusive) if the cattle producer was linked by business ID to the last registered keeper of the animal on APHIS on 4th April 2020.
- (3) A cattle producer is eligible to an income support payment of £40.00 per animal where—
 - (a) that cattle producer was linked by business ID to the last registered keeper of an animal on APHIS on 28th March 2020;
 - (b) that cattle producer was not linked by business ID to the last registered keeper on APHIS on 15th February 2020;
 - (c) the animal was aged 12 months and over at the date of slaughter, and
 - (d) that animal was slaughtered during the period beginning on 29th March 2020 and ending on 16th May 2020 (both dates inclusive).
- (4) A cattle producer is eligible to an income support payment of £40.00 per animal where—
 - (a) that cattle producer was linked by business ID to the last registered keeper of an animal on APHIS on 28th March 2020;
 - (b) that cattle producer was not linked by business ID to the last registered keeper on APHIS on 15th February 2020 and on 16th May 2020;
 - (c) the animal was aged 12 months and over at the date of slaughter, and
 - (d) that animal was slaughtered during the period beginning on 17th May 2020 and ending on 30th June 2020 (both dates inclusive).
- (5) A cattle producer is eligible to a payment under paragraph (3) or (4) whether or not the cattle producer who was linked by business ID to the last registered keeper of that animal on APHIS on 15th February 2020 has made an application under paragraph (2).
- (6) An income support payment must not be made if—
 - (a) the animal slaughtered was certified on APHIS as unfit for human consumption; or
 - (b) compensation for the animal has been paid by the Department under Article 11 of the Tuberculosis Control Order (Northern Ireland) 1999(4).
- (7) In this Article “bovine herd number” means a number issued by the Department to record animal groupings within a business ID.

Income support payment for sheep producers

- 7.—(1) The Department may, subject to paragraph (2), make an income support payment of £6.88 per animal, to a sheep producer who—
- (a) was recorded on APHIS with an ovine flock number linked to that sheep producer’s business ID;

(4) S.R. 1999 No. 263 as amended by S.R. 2004 No. 363; S.R. 2005 No. 53 and S.R. 2012 No. 314

- (b) was linked by their business ID to the last registered keeper of that animal on APHIS on 21st March 2020 and the animal was slaughtered during the period beginning on 22nd March 2020 and ending on 18th April 2020 (both dates inclusive); and
- (c) provides consent in writing for the Department to use information belonging to the sheep producer and held on APHIS which is reasonable and necessary for the Department to calculate the amount of income support payment under paragraph (2), subject to confirmation by the applicant that the information used is accurate.

(2) In this Article “ovine flock number” means a number issued by the Department to record animal groupings within a business ID.

Income support payment for potato producers

8.—(1) The Department may make an income support payment, calculated in accordance with the formula specified in paragraph (2), to each potato producer who provides evidence of supplying similar amounts of eligible potatoes to a potato processing market for up to 3 years during the period 17th March to 31st July 2017-2019 (all dates inclusive) and evidence of either or both—

- (a) invoiced sales and proof of payment for eligible potatoes, during the period beginning on 17th March 2020 and ending on 31st July 2020 (both dates inclusive);
- (b) eligible potatoes which were unsold during the period beginning on 22nd July and ending on 31st July (both dates inclusive) verified by the Department on inspection.

(2) The amount of the income support payment is—

- (a) 80% of the loss of value calculated as £200 per tonne minus the price per tonne obtained for the potatoes subject to a maximum of £136 per tonne;
- (b) £136 per tonne for unsold potatoes to be used as stock feed.

(3) In this Article –

“eligible potatoes” means potatoes with a minimum size of 50mm grown in 2019 intended for the potato processing market;

“potato processing” means the preparation of convenience potato products which are primarily made by washing, peeling, size reduction and the removal of defective matter. Subsequent steps may involve a wide combination of heat treatments, cooling processes, dehydration steps, frying systems or freezing stages. The final product is then packaged and stored appropriately.

Level of financial assistance

9. An income support payment under the Scheme must not—

- (a) exceed €120,000; and
- (b) be payable in any case or to any extent except in compliance with the requirements of Commission Communication 2020/ C 91 I/01(5) on the Temporary Framework for State Aid measures to support the economy in the current COVID-19 outbreak.

Review of decision

10.—(1) Where the Department rejects an application under Article 4, a person may apply to the Department for a review of the decision in accordance with this Article if that person is—

- (a) a person whose application has been rejected in whole or in part; or

(5) OJC 91 I, 20.3.2020, p. 1 as amended by Further Communications from the Commission OJC 1121, 4.4.20, p. 1-9; OJC 164, 13.5.20, p. 3-15; and OJC 218, 2.7.2020, p. 3-8

- (b) any other person who believes they are eligible under Article 4 to an income support payment in respect of animals, milk or potatoes specified in the application that has been rejected in whole or in part.
- (2) A person must apply to the Department in writing for a review no later than one month from the date of the notification of the decision to be reviewed and specify—
 - (a) the name and address of the applicant;
 - (b) the decision of the Department in respect of which the applicant seeks a review and the date of that decision; and
 - (c) full particulars of the grounds upon which the review of the decision is sought.
- (3) Where an applicant seeks a review under this Article the Department must review the decision specified.
- (4) In reviewing a decision the Department may—
 - (a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision);
 - (b) invite the applicant to provide such further information relevant to the review as it considers appropriate; and
 - (c) give the applicant or his representative an opportunity to make representations orally or in writing.
- (5) Following a review of the decision the Department may—
 - (a) confirm the decision; or
 - (b) substitute for it a new decision.
- (6) As soon as reasonably practicable after reviewing the decision, the Department must notify the applicant in writing of its decision under paragraph (5) and the reasons for it.

Withholding and recovery of payment

- 11.—**(1) This Article applies where, having approved an application (either under Article 4 or following a successful review under Article 10) it appears to the Department that—
- (a) the applicant was not eligible to make the application;
 - (b) any condition notified to the applicant under Article 3 has not been complied with; or
 - (c) the applicant knowingly or recklessly provided materially false or misleading information or any document which is false in a material particular in relation to the application.
- (2) Where this Article applies, subject to paragraph (3), the Department may—
- (a) revoke the approval of the application;
 - (b) withhold any income support payment, or any part of it, to be made under Article 4(1); or
 - (c) where any income support payment has already been made under Article 4(1) and falls to be repaid to the Department that amount or any part of it is recoverable as a civil debt.
- (3) Before exercising the power under paragraph (2) the Department must—
- (a) give the applicant a written explanation of the reasons for the proposed action;
 - (b) afford the applicant the opportunity to make written representation with a reasonable time specified by the Department; and
 - (c) consider any such representations made.

Powers of authorised officers

12.—(1) An authorised officer may—

- (a) require an applicant or any employee, servant or agent of an applicant to provide any relevant record or documentation, or extracts therefrom, and to supply such additional information as is in that person’s possession or under control relating to an application under this Scheme;
- (b) have access to, and inspect and copy any relevant records or documents (in whatever form they are held) or remove such records or documents to enable them to be copied;
- (c) have access to, inspect and check the operation of, any computer and any associated apparatus which is or has been in use in connection with the relevant records or documents; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away; and
- (d) seize and retain any relevant record or document which he has reason to believe may be required as evidence in proceedings under the Scheme.

(2) In this Article “authorised officer” means a person authorised by the Department, either generally or specifically, to act in relation to the enforcement of the Scheme.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 2nd September 2020



Edwin Poots
Minister of Agriculture, Environment and Rural
Affairs

The Department of Finance hereby approves the foregoing Scheme
Sealed with the Official Seal of the Department of Finance on 2nd September 2020



Conor Murphy
Minister of Finance

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Scheme provides for financial assistance payments to be made by the Department of Agriculture, Environment and Rural Affairs to applicants who have suffered a financial loss as a consequence of a disturbance to the agricultural markets caused by the Covid-19 coronavirus pandemic.

The Scheme—

- (a) specifies the manner in which applications are to be made (Article 3);
- (b) specifies the eligibility criteria and rate of payment (Article 4, 5, 6, 7 and 8)
- (c) provides for the review of a decision to reject an application (Article 10)
- (d) provides for the Department to withhold payment in any case where false or misleading information has been provided or where a person fails to cooperate with an authorised officer and to recovery any undue payment (Article 11);
- (e) enables an authorised officer to have access to relevant records and documents (Article 12).

Under section 4(1) of the Agriculture (Temporary Assistance) Act (Northern Ireland) 1954, any person who, being required or authorised under or by virtue of this scheme to furnish any information, record or document, furnishes any information, record or document which, to his knowledge, is false in a material particular shall be guilty of an offence and shall, without prejudice to Article 10 of the [Perjury \(Northern Ireland\) Order 1979 \(S.I.\) 1979/No. 1714 \(N.I. 19\)](#), be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment not exceeding twelve months or to both such fine and such imprisonment.

Under Section 4(2) of that Act any person—

- (a) who acts in contravention of, or neglects or fails to comply with any provision contained in the Scheme; or
- (b) obstructs or impeded an authorised officer in the exercise of any power under this Scheme, shall be liable on summary conviction to a fine not exceeding level 3 of the standard scale.