

SUBSIDIARY LEGISLATION 146.03**PAYING AGENCY REGULATIONS**

12th March, 2004

LEGAL NOTICE 126 of 2004, as amended by Legal Notices 195 of 2005, 294 of 2007, 508 of 2010, 182 of 2011, 18 of 2012, 445 of 2013, 296 of 2014 and 14 of 2024.

1. The title of these regulations is the Paying Agency Regulations. Citation.

2. In these regulations, unless the context otherwise requires - Interpretation.
"the Act" means the Agricultural and Fisheries Industries (Financial Assistance) Act; Amended by:
"Agency" or "Paying Agency" means the Agriculture and Rural Payments Agency within the Ministry responsible for agriculture; L.N. 294 of 2007;
L.N. 508 of 2010;
L.N. 18 of 2012;
L.N. 296 of 2014;
L.N. 14 of 2024.
Cap. 146.

"aid scheme" means a scheme under which a person may apply for financial aid;

"authorised officer" means any public officer assigned to carry out the duties with the Paying Agency;

"competent authority" means the Ministry responsible for European Union funds;

"EAFRD" means the European Agricultural Fund for Rural Development;

"EAGF" means the European Agricultural Guarantee Fund;

"farmer" means a person performing or seeking to perform agricultural work or managing that work on a portion of agricultural land;

"fund" or "funds" means either the EAGF, the EAFRD or National Funds;

"Head" or "Head of the Paying Agency" means the person responsible for the running of the Paying Agency;

"Manual of Procedure" means a set of rules and guidelines regulating the various operations and procedures to be followed by the Paying Agency, in accordance with EU laws;

"National Funds" means funds provided by the Government of Malta.

3. (1) There is hereby established a Paying Agency, which shall have the function set out in these regulations, in accordance with Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 and Establishment of the Paying Agency.
Amended by:
L.N. 294 of 2007;
L.N. 508 of 2010;
L.N. 296 of 2014;
L.N. 14 of 2024.

Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, as in force from time to time.

(2) The Paying Agency shall at all times perform its functions in accordance with the criteria laid down in Annex I of Commission Delegated Regulation (EU) 2022/127 of 7 December 2021 supplementing Regulation (EU) 2021/2116 of the European Parliament and of the Council with rules on paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro, and subject to it being accredited by the competent authority in accordance with those criteria:

Provided that the Paying Agency shall suspend the exercise of its functions if said accreditation is withdrawn or not in force.

(3) *Repealed by Legal Notice 14 of 2024.*

(4) The Paying Agency shall adopt and implement Manual of Procedures developed in respect of the various aspects of its operation as defined in subregulation (3).

(5) (a) The person responsible for the running of the Paying Agency shall be the Head of the Paying Agency.

(b) The Head of the Paying Agency shall be responsible for the disbursement of EU funds dedicated for the Common Agricultural Policy and for the day to day administration of the Paying Agency.

(c) The Head shall be assisted by such authorised officers as may be assigned to the Paying Agency.

(6) The Paying Agency may issue guidance notes or rules, or other forms of documents in relation to any aid, measure, scheme or payments administered by it, as may be indicated in the same documents.

(7) Any document issued by the Paying Agency in accordance with sub-regulation (6) and the contents thereof shall be binding upon all parties in accordance with the law.

3A. (1) Officers of the Paying Agency may request any information from the applicants, beneficiaries of aid, registered farmers or in the process to be registered with the Paying Agency, and as related to or necessary for:

(a) ascertaining the identity of any person, the titles or claims thereof made in relation to land registered or in the process of being registered in their favour with the Paying Agency;

(b) determining compliance with obligations arising *ex lege* or contractually with the Paying Agency or for which the Paying Agency has any responsibility related to supervision, verification, control or enforcement;

(c) determining and applying any administrative penalties, or for ascertaining any payments due to the Paying

Information
obligations.
Added by:
L.N. 14 of 2024.

Agency or any other debit in favour of the Paying Agency; and

- (d) investigating any contestation related to farmers registered or in the process of being registered with the Paying Agency.

(2) If the Paying Agency is satisfied that a person is the owner or emphyteuta of an agricultural land, or has been so identified by a farmer registered with the Paying Agency, it may disclose to that person all information in its records and in relation to that land and to any other person registered or having shown an interest in that agricultural land:

Provided that the Head may prescribe the relevant procedures and requisites to give effect to any right in accordance with this sub-regulation:

Provided further that without prejudice to this sub-regulation, the officers of the Paying Agency shall not effect any disclosure of information without an order to do so by a judicial authority or without an express obligation to do so in accordance with the law.

3B. The Paying Agency and its officers and employees and, or other persons acting in its interest shall not be held liable for anything done or omitted to be done in the discharge or purported discharge of any function related to the responsibilities of the Paying Agency, unless the act or omission is proven to have been done or omitted to be done, as the case may be, in bad faith.

Limitation of liability.
Added by:
L.N. 14 of 2024.

4. (Deleted by Legal Notice 294 of 2007).

Functions of the certifying body.

5. (Deleted by Legal Notice 508 of 2010).

Paying Agency may delegate authorisation function, etc.
Amended by:
L.N. 294 of 2007.

6. (Deleted by Legal Notice 294 of 2007).

Internal audit service.

7. (Deleted by Legal Notice 508 of 2010).

Authorisation of payments.
Substituted by:
L.N. 294 of 2007.

8. The Paying Agency shall implement the schemes in terms of procedures adopted in accordance with all applicable provisions of the Common Agricultural Policy in accordance with the Treaty as defined in the European Union Act and other schemes as established by the Minister responsible for agriculture.

Implement-tion procedure.
Cap. 460.
Substituted by:
L.N. 294 of 2007;
L.N. 508 of 2010;
L.N. 296 of 2014;
L.N. 14 of 2024.

9. (Deleted by Legal Notice 508 of 2010).

Protection of computer systems.
Substituted by:
L.N. 294 of 2007.

10. (Deleted by Legal Notice 294 of 2007).

Advance payments.

Collection of debts.

11. *(Deleted by Legal Notice 294 of 2007).*

Paying Agency to deal with application expeditiously.

12. *(Deleted by Legal Notice 508 of 2010).*

Settlement of disputes.

*Amended by:
L.N. 195 of 2005.
Substituted by:
L.N. 294 of 2007
L.N. 508 of 2010;
L.N. 182 of 2011;
L.N. 296 of 2014.
Amended by:
L.N. 14 of 2024.
Cap. 387.*

13. (1) Any dispute against a decision by the Paying Agency on payment claims shall be settled by arbitration and shall be referred to arbitration as provided in the Fourth Schedule to the Arbitration Act within twenty days from the date when a person has been informed by the Paying Agency of its decision or from the publication of its decision accordingly, and no person may bring any action against the Paying Agency after the expiry of that time:

Provided that the provisions of this regulation shall not apply to any claim brought forward by the Paying Agency against any applicant, beneficiary or any other person:

Provided further that the Paying Agency may set up internal committees made up of its own officers to receive submissions by applicants or beneficiaries on claims brought forward against them by the Paying Agency and solely for the purpose of providing recommendations to the Head on whether it is advisable for the Paying Agency to reconsider any claim it had so made:

Provided further that such committees shall be regulated by such terms of references as may be prescribed by the Head and that any decision as to the subject matter of any submissions made to those committees and their proceedings, is to be taken by the Head and shall be so presumed to be taken by the Head for all purposes of the law.

(2) Where a dispute on a registration with the Paying Agency concerns the determination of which farmer contesting a registration of agricultural land is legally entitled to engage in agricultural activity thereon, such dispute shall be resolved through arbitration between the contestants alone:

Provided that any arbitration award given shall be without prejudice to any other lawful impediment against any registration with the Paying Agency, or the processing of any other application submitted to the Paying Agency in accordance with any applicable law.

(3) If, in respect of the same portion of land, more than one farmer applies at the Paying Agency for the grant of some kind of assistance, the Paying Agency shall give neither farmer any assistance until the matter has been definitively resolved as stipulated in sub-regulation (2):

Provided that the provisions of this sub-regulation shall not apply in the event that the parties submit a joint declaration stating who is working the field or is otherwise entitled to the grant under such terms, provisions and, or conditions applicable to:

Provided further that no party may ask to receive previous aids and may take no action for damages against the Paying Agency

if the Paying Agency acts under the provisions of this sub-regulation.

(4) In the case of an arbitration in accordance with sub-regulation (2), the Paying Agency shall be notified of the decision of the arbitrator once it is confirmed as a final and binding decision or if an appeal has been filed:

Provided that the Paying Agency shall also be provided with a copy of all the acts of the proceedings when requested by it:

Provided further that no obligation as may be applicable to arbitration proceedings for the purposes of restricting any disclosure shall apply or be deemed to be violated by whoever effects the required disclosure:

Provided further that for the purposes of any notification or disclosure it shall suffice if the relevant copies of the documents are sent to the Head in electronic format and certified as true copies of the original by a public officer of the competent body.

(5) In any dispute which may arise and which, in accordance with this regulation, should be referred to arbitration, the provisions of the Arbitration Act or of any rules made thereunder, relating to mandatory arbitration, shall apply.

14. These regulations shall apply to arbitrations instituted after the coming into force of these regulations; pending arbitrations shall continue to be governed by the regulations as in effect before the coming into force of these regulations:

Transitory
provision.
Added by:
L.N. 296 of 2014.

Provided that, with regards to pending arbitrations, no party may ask to receive previous aid or take any action for damages against the Paying Agency in cases where the Paying Agency decides not to give assistance to a farmer for the reasons listed in regulation 13(3).