

L.N. 41 of 2008

**SUPPLIES AND SERVICES ACT
(CAP. 117)**

Farm Advisory Services (Amendment) Regulations, 2008

IN exercise of the powers conferred by article 3 of the Supplies and Services Act, the Minister for Rural Affairs and the Environment has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Farm Advisory Services (Amendment) Regulations, 2008.

(2) The objective is to assist farmers and livestock breeders by providing professional advice on statutory management requirements, good agricultural and environmental conditions, occupational safety standards and all associated European Community legislation for the improvement of the overall performance of their holding.

Objective of farm advisory services.

2. The primary objective shall be to provide support to farmers and livestock breeders for the use of advisory services for the improvement of the overall performance of their holding. Such minimum advisory service to farmers shall cover:

(a) the statutory management requirements and the good agricultural and environmental conditions provided for in Articles 4 and 5 and in Annexes III and IV to Regulation EC 1782/2003 (GAEC Measures for each EC Issue);

(b) occupational safety standards based on Community legislation;

(c) observance, by farmers and livestock breeders, of -

(i) good farming practices,

(ii) code of good agricultural practices,

(iii) health and safety standards,

(iv) awareness and above all compliance with all Directives falling under cross compliance,

(v) developments and obligations on current and future CAP payments and rural development measures;

(d) aid in the compilation of application forms and, or whole farm management plans of rural development measures.

3. Support for the use of advisory services shall be granted in order to help farmers, livestock breeders and forest holders to meet costs arising from the use of recognised services. Aim of advisory services.

4. (1) The Ministry for Rural Affairs and the Environment, hereinafter referred to as “the Ministry”, shall keep a Register of Farm Advisory entities, hereinafter referred to as “the Register”. The Ministry shall establish and make known the Directorate keeping the Register. The Directorate shall keep a Register of Farm Advisory entities, hereinafter referred to as “the Register”. The registrar within such Directorate keeping the register shall issue a certificate of registration in the Register, and shall also note therein all suspensions, cancellations and reinstatements of those certificates. The list of the registered entities shall be made public and shall be updated regularly with any changes therein. Register of farm advisory entities.

(2) Only farmers and livestock breeders who shall make use of services provided by a recognised farm advisory entity shall be eligible for funding support in accordance with regulation 2 and 3 hereof.

(3) The Directorate shall refuse to accept any farm advisory statements or an agricultural consultancy-related planning statement pertaining to funding support from an entity that is not registered in the Register.

5. There shall be a board, to be known as the “Farm Advisory Registration Board”, hereinafter referred to as “the Board”, which shall be appointed in accordance with the provisions of these regulations, and which shall, recommend the issue of certification for an entity to the registrar. Issue of certificates by Farm Advisory Registration Board.

6. (1) Decisions on applications for registration shall be taken by the Board composed of three persons, being a representative from the Department of Agriculture, a representative from the department responsible for the register and a representative from the Rural Development Department. The representative from the department responsible for the register shall be appointed as chairperson of the Board. All these members shall be appointed by the Permanent Secretary at the Ministry responsible for agriculture. The Board.

(2) The Board shall assess applications for recognition and for registration and shall prepare a list of entities that, in the opinion of the Registration Board, meet the requirements for registration and are

therefore to be issued with a certificate of registration. The Board shall also provide reasons for its decisions.

(3) The decision of the Board to accept or to refuse an application for registration in the Register shall be notified in writing to the applicant within 30 days from the decision.

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(4) Applicants who do not agree with the outcome of the registration process will have the right to appeal from such decision in writing to the Board of Disputes referred to in the Dispute Resolution Board Regulations, 2007 within fifteen days from the date of the communication of the decision; the result of the appeal shall be communicated within thirty days from the lodging of the appeal and the decision of such Board shall be final.

Board Inspections.

7. Entities shall undertake to allow access to members or persons authorized by the Board for the purpose of carrying out an inspection in order to verify the accuracy of any information provided or any declarations made to ensure compliance with these regulations.

Application for registration.

8. Application for registration shall be submitted to the Directorate in terms of a notice to be published in the Government Gazette.

Criteria for registration.

9. (1) In order to be registered as farm advisory entity, the entity shall have to demonstrate that it has a core of competent, experienced and qualified technical experts or consultants with an appropriate level of technical and economics-based training, and proven knowledge of CAP policies, cross compliance, as well as good farming practices, CoGAP, health and safety, rural development measures and applications, and agricultural production (livestock and crop husbandry). A single expert or consultant with the same requirements as above can also be considered. The technical support team to any expert and, or consultant, must also be registered. Such experts and consultants can also be supported by a team of technical administrative team. Any report issued by the entity selected would have to be signed by such experts and consultants not by a member of the support team. A curriculum vitae of the core experts is to be presented with the application by the entity for registration. The experts cannot be part of more than one Farm Advisory Service entity. Furthermore, applying entities must demonstrate that they are in a position to organize training courses in cross compliance, codes of good agricultural practices, health and safety and other technical or related issues to their staff and clients.

(2) The entity must undertake to organize training courses in all technical areas covered by regulation 2 hereof.

(3) The entity shall first apply for recognition and shall pay the appropriate recognition fee as outlined in the Schedule. This recognition fee is unrefundable. A schedule of the proposed client fees shall also be submitted to the Board for its approval as part of the recognition process.

(4) The Board may, after this preliminary assessment, invite the entity to submit a formal registration application, which must be accompanied by the appropriate fee as set out in the Schedule.

(5) The entity shall provide a declaration indicating that there is no conflict of interest with their clients. The entity shall be bound to ensure that the advisory officials who provide client advice shall not have the same evaluating status of applicants.

(6) All entity or client data, record or status changes shall be reported to the Registration Board within ten days. The report shall include the clients' visits and other correlated data.

10. The Board shall register an entity if it is satisfied that it meets the criteria established in regulation 9 (1), (2) and (3). Registration by the Board.

11. (1) Registered farm advisory entities shall be obliged to follow advice and recommendations given by the Rural Affairs and the Paying Agency Division; moreover, such entities are bound to ensure that correlated work shall not be rediverted to, or requested, from the Rural Affairs and Paying Agency Division. Obligations of the Registered Farm Advisory Services.

(2) Farm advisory entities shall take full responsibility of all the information provided and services rendered to their clients by their personnel, and must provide a signed declaration to this effect when submitting the relevant registration documentation.

(3) All entity or client data, record or status changes shall be reported to the Registration Board within ten working days.

(4) Insofar as public access to documents is concerned, private bodies and designated authorities shall not disclose personal or individual information which they obtain in their advisory activity to persons other than the farmer managing the holding concerned, except where any irregularity or infringement is found during their activity, which irregularity or infringement is covered by an obligation to inform a public authority, in particular in the case of criminal offences.

(5) The farm advisory service entity shall each year provide a copy of the status report of each client to the Directorate.

Certificate of
registration.

12. (1) The certificate of registration shall contain the following information:

- (a) the name of the entity or other means of identification;
- (b) the date when the certificate is issued;

(2) certificates issued to eligible farm advisory entities shall be valid for one year but will be renewed by the Board upon payment of the relevant renewal fee according to the Schedule, except where an entity has been found guilty of any of the offences referred to in regulation 11.

Cancellation of
certificates.

13. The Board may cancel any certificate granted under the provisions of these regulations when the holder of that certificate:

(a) is found guilty by a court of criminal jurisdiction of a crime, being a crime committed through imprudence, carelessness, unskilfulness in an art or profession, or non-observance of these regulations; or

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(b) is found guilty by a court of criminal jurisdiction of any offence under the provisions of the Supplies and Services Act, hereinafter referred to as “the Act”, or of any regulations made thereunder; or

(c) has, in the opinion of the Board, submitted substandard or deliberately misleading work in any farm advisory procedure; or

(d) was the recipient of a certificate issued under the provisions of these regulations based on information given by the applicant which is false or misleading; or

(e) fails to pay the yearly renewal fee.

Information on
certificates.

14. (1) Any entity which, for the purposes of obtaining the certificate for registration in the Register, gives any wrong information or otherwise acts in a deceitful or fraudulent manner, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euros (2,329.00 euros). Furthermore, that entity shall automatically become ineligible for current and future funding assistance under the European Agricultural Fund for Rural Development for a period of at least two years.

(2) The offences and fines mentioned in this regulation shall be without prejudice to any other offences and penalties in terms of the Act or of any other law.

15. For the purposes of these regulations the term “entity” includes any company, association, co-operative, trade union, partnership, or any other recognised legal form of two or more persons working together. Definition of entity.

16. Farm advisory entities shall undertake to comply with or accept any changes to the commitments, undertaken in accordance with these regulations, that may be necessary as a result of European Union legislation, in particular but not limited to Commission Regulations EC 1698/2005, 1974/2006 and 1975/2006 on the European Agricultural Fund for Rural Development. Changes to commitments.

17. The rules and procedures as well as the minimum requirements for an entity to be accepted as a registered farm advisory entity shall be published in the Gazette. Publication of rules and procedures

18. The Farm Advisory Services Regulations, 2007 are hereby being revoked. Revokes L.N. 66 of 2007.

SCHEDULE

(Regulations 9, 12)

SCHEDULE OF FEES FOR REGISTRATION FOR FARM ADVISORY SERVICES

The following fees shall apply for registration of Farm Advisory Entities:

DESCRIPTION OF FEE	Euro
Recognition Fee	20
Registration Fee	150
Yearly Renewal Fee	30