

L.N. 14 of 2024

**AGRICULTURE AND FISHING INDUSTRIES
(FINANCIAL ASSISTANCE ACT)
(CAP. 146)**

Paying Agency (Amendment) Regulations, 2024

IN EXERCISE of the powers conferred by article 7 of the Agriculture and Fishing Industries (Financial Assistance) Act, the Minister responsible for agriculture with the concurrence of the Minister responsible for finance, has made the following regulations:-

1. The title of these regulations is the Paying Agency (Amendment) Regulations, 2024 and these regulations shall be read and construed as one with the Paying Agency Regulations hereinafter referred to as the "principal regulations". Citation.
S.L. 146.03.
2. Regulation 2 of the principal regulations shall be amended as follows: Amends
regulation 2 of
the principal
regulations.
 - (a) in the definition ""Agency" or "Paying Agency"" the words "for Sustainable Development, the Environment and Climate Change;" shall be substituted by the words "responsible for agriculture;"
 - (b) the definition "competent authority" shall be substituted by the following new definition:

" "competent authority" means the Ministry responsible for European Union funds;"
 - (c) immediately after the definition "EAGF" there shall be added the following new definition:

"farmer" means a person performing or seeking to perform agricultural work or managing that work on a portion of agricultural land;"
 - (d) immediately after the definition ""fund" or "funds"" there shall be added the following new definition:

""Head" or "Head of the Paying Agency" means the person responsible for the running of the Paying Agency;"
and
 - (e) in the definition "Manual of Procedure" the word

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"regulations" shall be substituted by the word "laws".

Amends
regulation 3 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof the words "Regulation (EU) No. 1306/2013 of the European Parliament and of the Council." shall be substituted by the words "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 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.";

(b) sub-regulation (2) thereof shall be substituted by the following new sub-regulation:

"(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.";

(c) sub-regulation (3) thereof shall be deleted; and

(d) immediately after sub-regulation (5) thereof there

shall be added the following new sub-regulations:

"(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."

4. Immediately after regulation 3 of the principal regulations there shall be added the following new regulations:

Adds new regulations to the principal regulations.

"Information obligations.

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 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:

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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.

Limitation of liability.

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."

Substitutes regulation 8 of the principal regulations.

5. Regulation 8 of the principal regulations shall be substituted by the following new regulation:

"Implement-
ation
procedure.

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."

Cap. 460.

Amends regulation 13 of the principal regulations.

6. Regulation 13 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be amended as follows:

(i) the words "Any dispute arising from claims made to the Paying Agency" shall be substituted by the words "Any dispute against a decision by the Paying Agency on payment claims"; and

(ii) the words "the expiry of that time." shall be substituted by the words "the expiry of that time:" and immediately after there shall be added the following new

provisos:

"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.";

(b) sub-regulation (2) thereof shall be substituted by the following new sub-regulation:

"(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."; and

(c) sub-regulation (4) thereof shall be substituted by the following new 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."
