In accordance with section 53(3) of the Climate Change Act (Northern Ireland) 2022 a draft of these Regulations has been laid for approval and resolution by the Assembly

STATUTORY RULES OF NORTHERN IRELAND

2027 No. 0000

AGRICULTURE

The Just Transition Fund for Agriculture Regulations (Northern Ireland) 2027

Laid before the Assembly in draft

Made - - - - XXXX 2027

Coming into operation XXXX 2027

The Department of Agriculture, Environment and Rural Affairs makes these Regulations in exercise of the powers conferred by section 31 of the Climate Change Act (Northern Ireland) 2022 ("the Act")(**a**).

Before laying draft Regulations before the Assembly under section 56(2) of the Act, the Department of Agriculture, Environment and Rural Affairs requested advice from the Committee on Climate Change about the proposal to make these Regulations and took the Committee's advice into account.

Citation and commencement

1.These Regulations may be cited as The Just Transition Fund for Agriculture Regulations (Northern Ireland) 2027 and shall come into operation on XXXX 2027.

Interpretation

2.—(1) In these Regulations–

"agent" means a person acting on the Department's behalf, other than an authorised person, who is appointed in writing by the Department for the purposes of these Regulations;

"applicant" means an eligible farm business or a person acting on behalf of one or more eligible farm businesses';

"application" means an application under regulation 5;

"approved operation" means an operation approved by the Department or its agent under regulation 6;

"authorised person" means a person authorised by the Department, either generally or specifically, to act on its behalf in relation to the enforcement of these Regulations;

"beneficiary" means a successful applicant in receipt of funding under these Regulations;

(**a**) 2022 c. 31(N.I.)

Policy Under Development

"eligible farm business" means a farm business registered with a Category 1 DAERA farm business ID that has applied and had an operation approved by the Department using the criteria in regulation 6;

"fund" means the Just Transition Fund for Agriculture under section 31(1) of the Act;

"fund payment" means any payment made by the Department under regulation 3;

"the Department" means the Department of Agriculture, Environment and Rural Affairs;

"operation" means an investment, plan, commitment, project or action which is the subject of an application to the fund.

(2) The Interpretation Act (Northern Ireland) 1954(**a**) shall apply to these Regulations as it applies to an Act of the Assembly.

(3) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

Assistance for Just Transition Fund for Agriculture support

3. The Department may pay financial assistance to a beneficiary towards expenditure incurred or to be incurred by them in connection with any approved operation.

Payment

4.—(1) The Department may make a fund payment as a lump sum or by instalments.

(2) Fund payments may be made–

(a) at such time or times as the Department thinks fit; and

(b) subject to such conditions as the Department may determine.

Applications for an approval of operations

5.—(1) An application for the approval of an operation must be made to the Department or, in such circumstances as the Department may determine and publish in writing, to its agent.

(2) Such an application must be made in such form and contain such information as the Department or its agent, may require.

Approval of operations

6.—(1) The Department or its agent may, on application made to it, approve any operation for the purposes of regulation 3 and may do so–

(a) in whole or in part; or

(b) unconditionally or subject to such conditions as it may determine.

(2) The Department or its agent may vary any approval given by it.

(3) The variation of an approval under paragraph (2) may include–

(a) the variation of any condition to which the approval is subject;

(b) the addition of new conditions; or

(c) the removal of any existing conditions.

(4) Before the Department or its agent decides to vary an approval under paragraph (2) it must–

(a) give the beneficiary notice in writing of its proposed decision with a statement of its reasons;

(**a**) 1954 c. 33(N.I.)

Policy Under Development

(b) give the beneficiary an opportunity to make written representations within such time as the Department or, as the case may be, the agent considers reasonable; and

(c) consider any such representations.

(5) An approval or variation under this regulation must be in writing.

(6) No payment shall be made under these Regulations for which just transition principle climate change funding for the same measure has been paid or applied for in respect of the same land or farm business from another source of funding which is public in whole or in part.

Claim for fund payment

7. A claim for a fund payment must be made at such time and in such form and be accompanied by such information as the Department or its agent may require.

Provision of information

8.—(1) A beneficiary must supply the Department or its agent with such information about an approved operation as the Department or its agent may require.

(2) Where the Department or its agent requires such information, the beneficiary must supply the Department or its agent with the information within such period as the Department or its agent may determine.

Powers of entry

9.—(1) An authorised person may exercise any of the powers specified in this regulation for the purposes of enforcing these Regulations.

(2) An authorised person may at all reasonable times, on producing, if so required, some duly authenticated document showing their authority, enter any land or premises, other than premises used solely for the purposes of a dwelling house–

(a) to which an application or approved operation relates; or

(b) on which they have reasonable grounds to believe that documents or equipment relating to an application or approved operation are being kept.

(3) An authorised person entering any land or premises by virtue of this regulation may be accompanied by such other persons as the authorised person considers necessary for any purpose mentioned in paragraph (1).

(4) An authorised person who enters any unoccupied premises must as far as is reasonably practicable, leave them as effectively secured as they were before entry.

Powers of an authorised person

10.—(1) An authorised person who has entered any land or premises under regulation 9 may–

(a) inspect the land, premises, buildings and any document, record or equipment thereon which they reasonably believe relates to an application, approved operation or claim;

(b) require the applicant or beneficiary, or any employee or agent of such applicant or beneficiary, to produce, or secure the production of, any document or record or supply any additional information in their possession or under their control relating to the application, approved operation or claim;

(c) where any document, record or information referred to in sub-paragraph (b) is kept by means of a computer, have access to and inspect any computer and any associated apparatus or material which is or has been used in connection with that document, record or information;

(d) require copies of, or extracts from, any document, record or information relating to the application, approved operation or claim to be produced;

Policy Under Development

(e) remove and retain for a reasonable period any document, record or information relating to the application, approved operation or claim which they have reason to believe may be required as evidence in proceedings under these Regulations and, where any such document, record or information is kept by means of a computer, require it to be produced in a form in which it may be taken away and in which it is visible and legible;

(f) if necessary for the purposes of enforcing these Regulations–

(i) inspect and count livestock on the land and premises; and

(ii) require the applicant or beneficiary, or any employee, servant or agent of such beneficiary, to arrange for the collection, penning and securing of such livestock.

(g) require an applicant or beneficiary, or employee, servant or agent of such applicant or beneficiary, to give an authorised person all reasonable assistance in relation to the matters mentioned in this regulation.

(2) Paragraph (1) applies in relation to a person referred to in regulation 9(3) when such a person is acting under the instructions of an authorised person, as if such person were an authorised person.

Record-keeping

11.—(1) Save as provided in paragraphs (2) and (3), a beneficiary must retain any invoice, account or other document relating to an approved operation for such a period as the Department or its agent may determine, and in any case for a minimum period of five years from the date on which the claim is submitted to the Department.

(2) If the beneficiary transfers the original of any such document to another person in the normal course of business, they must instead keep a copy of that document for that period.

(3) Paragraph (1) does not apply in relation to any document removed by any person lawfully authorised to remove it.

Transfers of assets purchased with a fund payment

12.—(1) Any assets purchased using a fund payment must be retained by the beneficiary for a minimum period of five years from the date on which the claim is submitted to the Department and may not be sold, leased, destroyed or otherwise temporarily or permanently disposed of unless by prior written agreement with the Department or its agent.

(2) Where an asset is not duly retained by the beneficiary, a penalty may be applied under regulation 14, except where the asset is temporarily deployed on another farm.

Determinisations relating to operations

13.—(1) The Department or its agent may determine that, in relation to any claim or application made to it, or an operation approved by it—

(a) the beneficiary has furnished false or misleading information to it;

(b) the beneficiary is in breach of any of the conditions of a fund payment;

(c) the beneficiary is in breach of any of the conditions of an approval under regulation 6;

(d) the beneficiary is in breach of any requirement to which that beneficiary is subject under these Regulations;

(e) the whole or any part of the sum paid or payable in relation to an operation duplicates assistance provided, or to be provided, out of monies made available by—

(i) any statutory provision;

(ii) a body exercising public functions;

(f) there has been a material change in the nature, scale, costs or timing of the approved operation; or

(g) the approved operation has been or is being delayed or is unlikely to be completed.

Policy Under Development

(2) Before the Department or its agent makes a determination under paragraph (1), it must—

(a) give the beneficiary a written explanation of the reasons for proposing—

(i) to make the determination; or

(ii) to impose a penalty under regulation 14(1)(c)(i) or (ii);

(b) afford that beneficiary the opportunity of making written representations within such period as the Department or its agent considers reasonable; and

(c) consider any such representations in deciding whether to make any determination.

Powers of recovery etc. in relation to fund payments

14.—(1) Where the Department or its agent makes a determination under regulation 13(1), the Department may—

(a) withhold of the whole or part of any fund payment payable to the beneficiary to which the determination relates; and

(b) recover on demand of the whole part or part of any such fund payment already paid to the beneficiary.

(c) impose a penalty as follows—

(i) the minimum penalty shall be the sending of a warning letter by or on behalf of the Department;

(ii) the maximum penalty shall not exceed 100% of all fund payments made or due to be made in relation to an approved operation to which the determination relates.

(2) Where the Department takes any step specified in paragraph (1) in relation to an approved operation, the Department may also suspend or terminate that approval.

(3) Where an approved operation has been terminated under paragraph (2), the Department may also prohibit the beneficiary from making any new application for a fund payment for a period of two years from the date of the termination.

(4) The powers conferred by this regulation are exercisable by a notice in writing served by the Department or its agent.

Recovery of payment

15. In any case where an amount falls to be paid to the Department by virtue of these Regulations, the amount falling to be paid is recoverable as a civil debt.

Recovery of interest

16.—(1) Where the Department exercises the power to recover a sum falling within regulation 14(1)(b), it may also recover, on demand, interest on that sum.

(2) The rate of interest applicable on any day is one percentage point above the Bank of England base rate.

(3) In this regulation, "Bank of England base rate" means—

(a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or

(b) if an order under section 19 (reserve powers) of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.

(4) For the purposes of this regulation, interest will be calculated for the period elapsing between the payment deadline for the beneficiary indicated in the notice under regulation 14, which may not be set at more than 60 days, and the date of either repayment or deduction.

Policy Under Development

(5) In any proceedings relating to this regulation, a certificate of the Department stating the Bank of England base rate applicable during the period specified in the certificate shall be sufficient evidence of the rate applicable in the specified period unless the contrary is proved.

Set-off

17. The amount of—

(a) any sum payable by the Department under these Regulations; or

(b) any sum otherwise payable to the beneficiary by the Department

may be set off against the amount of any sum recoverable by the Department under regulation 15 or 16.

Review of decisions

18.—(1) Where the Department or its agent rejects an application under these Regulations, in whole or in part, an applicant may apply to the Department for a review of the decision.

(2) An applicant must apply to the Department in writing for a review no later than one month beginning with 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 or its agent in respect of which the applicant seeks a review and the date of that decision; and

(c) full particulars of the ground upon which the review of the decision is sought.

(3) Where an applicant seeks a review under this regulation 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 its 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.

Undertakings

19. A beneficiary may be required by the Department to give such undertakings as the Department considers appropriate in relation to any fund payment or any approved operation.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on XXXX 2027

Richard Johnston
A senior officer of the Department of Agriculture, Environment and Rural Affairs

Policy Under Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of financial assistance from the Just Transition Fund for Agriculture towards expenditure incurred, or to be incurred, by eligible farm businesses in connection with operations approved by the Department of Agriculture, Environment and Rural Affairs or its agent in line with the Just Transition Fund for Agriculture policy framework.

The Regulations—

provide that the Department may make payments in respect of eligible expenditure incurred or to be incurred by a beneficiary (regulation 3);

provide that the Department may set the form that such payments may take (regulation 4);

provide that the Department may set the form that applications must take (regulation 5);

provide that the Department may approve or reject any application made under the fund; may attach conditions to any approval, and may vary any approval previously granted (regulation 6);

provide that the Department may set the form that claims for payment must take (regulation 7);

provide that the Department may request any such information it requires in relation to an approved operation and that a beneficiary must supply same within set timeframes (regulation 8);

specify the powers of authorised persons and those accompanying them to enter any land or premises connected with the fund, except dwelling-houses (regulation 9);

specify the powers of authorised persons to conduct checks and inspections (regulation 10);

specify that beneficiaries must retain any records pertaining to, and any items purchased under, the fund for a minimum period of five years (regulations 11 & 12);

provide that the Department may determine that an applicant or beneficiary is in breach of the terms and conditions of the fund (regulation 13);

provide that where such a determination is made, that the Department may seek to recover any payments previously made as a civil debt, and/or withhold future payments, and/or may prohibit future applications under the fund from the applicant for two years (regulations 14 & 15). They may also seek interest on these payments (regulation 16) or seek to set-off the amounts owed by the beneficiary under the fund from other sums payable by the Department to the beneficiary (regulation 17); and

provide for the review of a decision to reject an application (regulation 18).

Policy Under Development