

TERMS AND CONDITIONS

TARGETED AGRICULTURAL MODERNISATION SCHEME (TAMS) SOW HOUSING WELFARE SCHEME

Introduced by

The

Minister for Agriculture, Food and the Marine

IN IMPLEMENTATION OF

Council Regulation (EC) No. 1698/2005 and Commission Regulation (EC) No. 65/2011

This Scheme is provided for in the 2007-2013 Rural Development Programme of Ireland
The European Agricultural Fund for Rural Development: Europe investing in rural areas

Revised 20th December 2011

SOW HOUSING WELFARE SCHEME

1. General

- (i) This Scheme is being implemented pursuant to Council Regulation (EC) No. 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).
- (ii) The objective of the Scheme is to facilitate compliance with EU animal welfare standards for pigs. Applicants for grant-aid must be in a position to meet all the conditions outlined in Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (Codified version) confined for rearing and fattening, and the conditions of Council Directive 98/58/EC concerning the protection of animals kept for farming purposes. Grant-aid will not be available under this Scheme in respect of any unit of work grant-aided under the National Development Plan 2000-2006 or under any other scheme provided for under the 2007-2013 Rural Development Programme.
- (iii) The Scheme will operate in all areas of the State.
- (iv) The Scheme will be operated by the Department of Agriculture, Food and the Marine.
- (v) The Scheme will come into operation as and from 20 December 2011 and will be closed for valid applications on 30 June 2012. Applications received during periods to be determined by the Minister will be assessed in accordance with the criteria laid down in paragraph 4. Where a valid application does not receive approval in the course of the first assessment which is carried out by the Minister after the receipt of the valid application, the application may be carried forward to any subsequent assessment(s).
- (vi) Aid will not be given for works commenced or equipment purchased before written approval has been conveyed to a farmer.
- (vii) The Department will not accept an application as valid unless documentary evidence of a grant of full planning permission or a declaration of exemption for the proposed works issued by the relevant Local Authority accompanies the application. Notification of a decision to grant planning permission will not be sufficient for this purpose. Where an EIS is required as part of the planning application process, a copy of the EIS shall be submitted with the application.
- (viii) All structures including conversions and extensions of existing structures under the Scheme shall be constructed in full compliance with the relevant Minimum Specification(s) issued at the date of approval by the Department.
- (ix) Grant-aid will not be paid in respect of new equipment unless ownership thereof has been transferred to the applicant prior to payment of the grant.
- (x) Grant-aid will not be paid for replacement of buildings damaged by fire, flooding or other accidental damage.
- (xi) Grant-aid will not be paid for (a) second-hand materials or equipment, or (b) work carried out by contractors who do not comply with the tax clearance requirements laid down in paragraph 27 of the Scheme.
- (xii) In order to submit a valid payment claim, applicants must furnish a Certificate of Participation in a Teagasc Pig Welfare Workshop in accordance with paragraph 5 of the Scheme. All work must be completed and a valid payment claim (including the Certificate of Participation in a Teagasc Pig Welfare Workshop) received by the Department by 31 December 2012.
- (xiii) Applications for aid should be sent to the Sow Welfare Section, Department of Agriculture, Food and the Marine, On-Farm Investment Schemes Division, Johnstown Castle Estate, Co. Wexford. Applications will not be accepted unless accompanied by the SWS Checklist and all necessary documentation listed on it. All fully completed applications will be acknowledged by the Department. If an applicant does not receive an acknowledgment within 2 weeks, he/she should contact Wexford. The Department strongly

recommends that applications for grant-aid be sent to the Department by registered post or other form of tracked mailing system. Where application forms or any other correspondence pertaining to this Scheme are sent by applicants or their agricultural advisors/agricultural consultants/agricultural engineers to the Department by any other means, it shall be entirely at the applicant's own risk. Certificates of posting will not be accepted as proof of posting in such cases. Where application forms are delivered by hand to the Department, a Departmental receipt must be obtained for the application concerned at the time of delivery. This receipt is the only document that will be accepted as proof of lodgement of an application form by hand.

- (xiv) All payments under the Scheme will only be made by electronic fund transfer to bank/building society/credit union accounts held within the State. Applicants will, therefore, be obliged to provide relevant bank/building society/credit union details to ensure that all payments under the Scheme can be made by such means by the Department.

2. Definitions

For the purpose of this Scheme: -

“the 2002 Order” means the Diseases of Animals Act 1966 (National Pig Identification and Tracing System) Order 2002 (S.I. No. 341 of 2002);

“agricultural advisor/agricultural consultant/agricultural engineer” means a person holding a primary degree or higher qualification in agricultural science or agricultural engineering. Where an agricultural advisor/agricultural consultant/agricultural engineer intends to avail of the Scheme, the application shall be completed by an independent agricultural advisor/agricultural consultant/agricultural engineer and not by the applicant;

“approved” means approved by a designated officer of the Department;

“body corporate” means a separate legal entity with a Certificate of Incorporation and a Memorandum and Articles of Association;

“business associate/partner” means, in respect of an agricultural advisor/agricultural consultant/agricultural engineer, a director of the same company or a person working for the same organisation in the same location as the said agricultural advisor/agricultural consultant/agricultural engineer;

“the Council Directives” means Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (Codified version) and Council Directive 98/58/EC concerning the protection of animals kept for farming purposes;

“the Department” means the Department of Agriculture, Food and the Marine;

“family member” means spouse, parent, brother, sister, son, daughter, grandchild or favourite nephew/niece;

“farm partnership” means a formal written agreement between two or more persons to farm together and to share the profit or loss generated each year;

“farmer” means a person, a group of persons, joint-owners, a partnership or a body corporate who is/are engaged in farming on a holding and who has/have –

- (i) a Pig Herd Registration Number or Numbers in respect of one or more sites registered by the Minister under the 2002 Order, and
- (ii) a Personal Public Service Number(s) or Company Incorporation Number;

“farming” means the production of pigs;

“holding” means all buildings/land used for the production of pigs, whether owned, taken on lease, rented or otherwise held or controlled by the farmer. All such sites shall be considered to be one holding for the purpose of the Scheme;

“lease” means a demise for a term of years absolute in possession. The lease must have 5 years to run from the

date of issue of the letter of approval to commence work and must be stamped by the Revenue Commissioners except in the case of a lease to a spouse. Where a lease expires within five years of the intended date of issue of such letter of approval, such approval shall not issue until written evidence of an extension of the lease concerned is lodged with the Department. In no case, however, shall approval issue after 31 December 2012;

“the Minister” means the Minister for Agriculture, Food and the Marine;

“owned lands” means lands held in one of the following categories:

- registered as sole owner, tenant-in-common or joint owner on the Property Registration Authority folio or on the deed of conveyance/indenture memorialised in the Property Registration Authority,
- a deed of transfer/deed of assent awaiting registration in the Property Registration Authority with accompanying dealing number,
- a beneficial occupier who, being a family member of the registered owner, is in possession and undisputed occupation of a holding and in receipt of rents and profits for at least 5 years;

“production units” means a standard for establishing the extent of farming activity on a holding and shall be calculated in accordance with the provisions of paragraph 11 of the Scheme;

“valid application” means a fully completed application, including all required documentation.

3. Eligible Persons

The Scheme is open to farmers:-

- (i) who own or have leasehold title to the site on which it is proposed to carry out the development;
- (ii) who are engaged in the breeding of pigs and have a minimum of 60 production units from sow production at the time of application in accordance with paragraph 11 of the Scheme;
- (iii) who, at the time of application, have a pig herd registration number or numbers in respect of one or more sites registered by the Minister under the 2002 Order;
- (iv) who meet the requirements as to reliability with reference to any previous EU co-financed operations undertaken since 2000 within the meaning of Article 24 (2) (e) of Commission Regulation (EC) 65/2011; and
- (v) who agree to provide relevant bank/building society/credit union details to ensure that all payments made by the Department are paid by means of electronic fund transfer.

Note to condition (i): In the case of groups of persons, a partnership or a body corporate, the group of persons, partnership or body corporate must have either full ownership, joint ownership or leasehold title to the site of the proposed development, i.e. if the application is in the name of a company, and one of the company owners/directors owns the site, there must still be a valid lease between the company and the site owner.

It is not sufficient for one of the persons, partners or corporate body owners/directors to have the relevant title.

4. Assessment of applications for aid

Applications for aid will be assessed in accordance with the following criteria in order of priority:-

- (i) the percentage of sow places on the holding that will meet the requirements of the Council Directives, especially the provisions of paragraphs 1(b), 2, 4, 5 6, 8 and 9 of Article 3 of Council Directive 2008/120/EC, following completion of the proposed investment;
- (ii) priority to those applications where the proposed investments will maintain the production capacity on the holdings concerned with deduction of marks being made in respect of those applications proposing to increase or reduce such capacity;

- (iii) the cost of the project proposed by the applicant (as set out in paragraph 8 of the application form). For this purpose applicants will be given preference where the proposed costs are lower than the Department's Reference Costs;
- (iv) priority to sites of proposed investments which are in less favoured areas.

Copies of the marking system which shall be used by the Department for this purpose are available on request from On-Farm Investment Schemes Division, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford.

5. Agricultural Training

All applicants must furnish a Certificate of Participation in a Teagasc Pig Welfare Workshop with their payment claim.

Applicants will also fulfil this requirement if an employee/manager/operator at the holding has obtained the Certificate. In such cases, evidence of employment (P60 or equivalent, or written confirmation that the person concerned is/was involved in the day-to-day running of the pig enterprise) on a date which shall not precede the date of issue of Department approval to proceed with the investment work concerned, must be submitted.

6. Financial Aids Payable under the Scheme

The maximum amount of investment eligible for grant-aid per holding under the Scheme is €300,000. Where an application for grant-aid is comprised of more than one investment item, approval may be granted in respect of a lesser number of items than that specified in the application form.

Grant-aid will be calculated on the basis of the lowest of the following amounts:

- (i) the Department's Reference Costs applicable at the date of approval,
- (ii) the total of the invoices marked 'paid'/receipts, net of VAT, together with costs of own contributions in terms of labour and machinery, deemed to be eligible by the Department, and
- (iii) the cost of the project proposed by the applicant.

Where there are no Reference Costs applicable, grant-aid will be calculated on the basis of the lesser of (ii) and (iii) above.

Grant-aid will only be paid on approved and eligible expenditure. If the monetary amount of claim submitted by the applicant exceeds the amount eligible for grant-aid by more than 3%, then a monetary penalty of the difference between the two amounts shall be deducted from the amount eligible for grant-aid.

The rates of grant-aid payable under the Scheme as a percentage of approved Reference Costs/receipts/costs proposed by the applicant, are as follows –

Type of Investment	Grant Rate
New loose housing for dry sows and gilts	40%
Conversion of existing housing to loose housing for dry sows and gilts	40%

The maximum grant payable under the Scheme is €120,000 per holding. The minimum amount of investment, which is eligible for aid under this Scheme, is €10,000 per holding. Where it is proposed to carry out the investments on leased lands/premises, Form SWS 2 must be completed.

The applicant must give a written undertaking that he/she has not sought or received, directly or indirectly, other national or EU funding for investments and/or actions qualifying for aid under this Scheme.

7. Requirement for Receipts in respect of Work Carried Out by Persons other than the Applicant

Receipts for approved works and purchases must be provided before the final inspection by the Department's Officer and must be accompanied by completed Form SWS 20. Items invoiced, delivered or purchased or payments made before the date of approval are not eligible for grant-aid. If it is indicated that work commenced prior to the issue of written approval, grant-aid will not be paid as per paragraph 1 (vi) above.

All receipts must be original, must be on headed paper and must at least include the name, address and VAT number of the supplier/contractor (if registered). In addition, the receipt must indicate:-

- (a) The name and address of the applicant,
- (b) The invoice number and date, where applicable,
- (c) The details of purchase in an itemised form specifically referencing serial number, where applicable,
- (d) Actual cost of each item excluding VAT,
- (e) The total VAT paid,
- (f) The amount of discount, if any.

Alternatively, an original invoice which is (i) marked paid and signed and dated by an employee/agent of the supplier/contractor, and (ii) contains the details set out at (a)-(f) above, is also acceptable.

Where the invoice/receipt is not denominated in Euro, evidence of the exchange rate used for the purposes of payment must also be provided.

The receipts/invoices submitted must be in the name of the applicant, or in the case of partnerships a) the partnership name or b) at least one individual in the partnership. If a partnership is formed after the lodgement of an application, receipts/invoices must be in the original applicant's name.

Receipts/invoices will only be returned by the Department to an applicant after payment has issued to him/her in respect of the work concerned.

Where receipts are required in respect of eligible investments, such receipts must show the serial number(s) of the equipment concerned.

The Department reserves the right to request alternative evidence with regard to any invoice/receipt submitted with a payment claim.

The receipts/invoices submitted must only include items relevant to the works that received approval. If the monetary amount of claim submitted by the applicant exceeds the amount eligible for grant-aid by more than 3%, then a monetary penalty of the difference between the two amounts shall be deducted from the amount eligible for grant-aid.

8. Work Carried Out or Machinery Supplied by Applicant or Family Member

Where some or all of the works are carried out by the applicant or a family member, the hours worked and the date(s) on which they were worked must be set out on Form SWS 20. Where own machinery is used, the hours worked and the date(s) on which they were worked must be similarly shown on Form SWS 20 together with the hourly rate charged. In all cases, the work must be carried out in full compliance with the Department's technical specifications in order to be eligible for grant-aid. Payment shall only be made by the Department where the hours claimed and rates charged are deemed appropriate.

9. Investments Eligible for Grant-Aid

The following investments are eligible for a grant rate of 40% up to a maximum eligible investment ceiling of €300,000:-

(i) New Structures/Investments

New Dry Sow Housing	Slatted Floor House
	Bedded Solid Floor House
	Scraped Solid Floor House
	All Fully Fitted Out Including -
	Tank/s under slatted house
	Individual Sow Pens
	Lying area
	Boar Pens
	Service Pens
	Gilt Pens
	Sick Pens

(ii) Conversions/Upgrades

Conversion of Existing Animal Housing to Dry Sow Housing, where conversion meets the relevant Minimum Specifications following completion	Upgrade existing animal housing including removal of old and replacement by new -
	Solid Floors
	Slats
	Penning
	Feeders
	Drinkers
	Ventilation System
	Electrics
	Insulation
	Gutters & Down Pipes
	Lying area
	Boar Pens
	Service Pens
	Gilt Pens
	Sick Pens

All structures, including conversions and extensions of existing structures, under the Scheme shall be constructed in full compliance with the relevant Minimum Specification(s) issued at the date of approval by the Department and, in particular, must comply with the Council Directives, especially the provisions of paragraphs 1(b), 2, 4, 5 6, 8 and 9 of Article 3 of Council Directive 2008/120/EC.

(iii) Slurry Storage Capacity

Applicants must at all times comply, in particular, with the storage requirements of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2009 (S.I. No. 101 of 2009).

(iv) Maximum Aided Investment for Concrete

Concrete equivalent to 16m wide apron along one gable side of unit/house.

(v) Conversions of Existing Structures

Conversion of existing structures may be eligible for grant-aid provided the estimated costs of conversion to the relevant Specification do not exceed 70% of the cost of an equivalent new structure. Where conversion is the only feasible solution because of (e.g.) space constraints, a conversion cost must not exceed the cost of a new structure.

(vi) Certification of Materials used in the Construction of Developments

Materials used in the construction of developments must, where specified, be accompanied by relevant certificates, e.g. concrete quality certificate and a structural steel protective coating certificate.

All electrical work must comply with National Rules on Electrical Installation, an E.T.C.I. Certificate and a Supplementary Agricultural Certificate will be required.

Every sheet of cladding material used must have an identifiable stamp approved by the Department (Specification S. 102).

10. Completion of Works

All works must be completed and a valid claim for payment received by the Department by 31 December 2012. Requests for an extension to this deadline will not be considered whether on grounds of *force majeure* or any other reason. The conditions regarding postage as set out in paragraph 1 (xiii) above will be applicable in this case.

11. Calculation of Production Units

The table below sets out how production units on the farm are calculated:

<i>Pig Production</i>	
<i>Sow Breeding Only</i>	<i>0.8 unit per sow</i>
<i>Sow Breeding and Finishing</i>	<i>1.1 unit per sow</i>

12. Planning Permission

Planning permission or a declaration of exemption is required for all dry sow housing.

For units requiring an Environmental Impact Statement (EIS) a copy of the statement shall be submitted with the application for grant-aid. It is the responsibility of the applicant and his/her agricultural advisor/agricultural consultant/agricultural engineer to determine when an EIS is required.

Where any changes are made to the size or location of the building, then either revised planning permission must be obtained or a revised declaration of exemption.

Where changes are made to the proposals covered by planning permission or a declaration of exemption, then either revised planning permission or a revised declaration of exemption shall be obtained before grant-aid may be paid. Where such changes affect the production capacity of the holding, the Minister may require the application to be re-assessed in accordance with the provisions of paragraph 4 prior to approval of the proposed changes.

Clearance for any proposed changes must be requested, in writing, from the Department before the modifications are made. The modifications shall not be made until written clearance is received from the Department. Where modifications are made without prior approval, then a penalty of 25% shall apply in accordance with paragraph 20.

13. Submission of Drawings with Application

- (a) Where planning permission or a declaration of exemption has been obtained, a full set of those drawings on which permission or exemption was obtained shall be submitted with the application for grant-aid, and signed by the agricultural advisor/agricultural consultant/agricultural engineer to be as such. Alternatively, a full set of such drawings stamped by the Local Authority will be accepted. The plans shall show all significant dimensions: the internal width; internal length; width of each animal area; and width of feed passage. Underground tanks associated with any building shall be clearly shown, and dimensioned. A simple section of the building shall also be provided showing the eave height and apex height.
- (b) A farm building layout plan to a scale of 1:500 showing the position of the proposed investments shall be provided.

14. Maximum Tolerances in the Dimensions of Completed Structures

Buildings and structures must be constructed according to the dimensions given in the application (which must be in compliance with EU and National Legislation), and be sited as shown on the plans presented with the application. However, the following tolerances may be allowed:

- (a) If for reasons of safety, or for difficulties of construction, it is necessary to re-site the building structure, this may be done without further consultation if the completed structure is offset in any direction by not more than one metre. If the new site is offset by more than one metre, this must be cleared in writing with the Local Office of the Department before construction commences.
- (b) The final dimensions (length or width) of each structure must be within 1000mm of the dimensions given in the application, or of modified dimensions that have been agreed in writing with the Local Office of the Department before construction commences.
- (c) The final length of a slurry/effluent tank must not be below 500mm of the agreed dimensions. However, if it is necessary to increase dimensions to allow for the installation of an external access point, or to accommodate a specific length of slat, then such an increase is allowed.
- (d) The depth or width of any slurry store shall not be below 100mm of the approved dimension, or 500mm above it.

Note: Nothing in this paragraph shall:

- (i) absolve the applicant/agricultural advisor/agricultural consultant/agricultural engineer from the responsibility to obtain revised planning permission where this is relevant; or
- (ii) permit the maximum level of investment eligible for grant-aid set out in the letter of approval for the structures and buildings concerned to be exceeded.

If it is necessary to make changes greater than those permitted under the tolerances, then approval shall be sought in writing, before the changes are made, from the relevant Local Office of the Department. A penalty of 25% may be applied if the tolerances are exceeded without prior written consent from the Department in accordance with paragraph 20. The tolerances will be applied to the approved dimensions or the approved revised dimensions.

15. Justification for Granting Aid

Aid for investment will at all times be subject to the condition that, in the opinion of the Minister, the investment is justified.

16. Usage of Buildings/Facilities

The applicant shall be required to use the buildings/facilities/equipment for the purpose for which grant-aided for a minimum of 5 years after the date of issue of the letter of approval to commence works. Failure to do so will result in all of the grant-aid being recouped.

17. Appeals to the Agriculture Appeals Office

Where a decision rejecting or otherwise affecting an applicant's entitlement under the Scheme is taken, the applicant has, by virtue of the Agriculture Appeals Act, 2001, the right to appeal that decision to the Agriculture Appeals Office. The appeal must be made, in writing, within three months of the date of the decision. The appeal must include the facts and contentions upon which the applicant intends to rely together with such documentary evidence that the applicant wishes to submit in support of his/her appeal.

18. Commencement of Work

Applicants must inform the Department immediately prior to commencement of work, by returning a completed

Card A to the relevant local AES office which issued the approval. Card A will be issued along with the approval documentation. Penalties will apply for non-compliance - see paragraph 20 below. All work must be completed and a valid payment claim received by the Department by 31 December 2012.

19. Compliance Inspection

The Department reserves the right to carry out inspections at any time on approved works. Where it is found that works are not being carried out in accordance with the Department's specifications, disallowance of grant-aid of up to 100% will apply - see paragraph 20 below.

20. Penalties

The following penalties will apply for non-compliance with the terms and conditions of the Scheme:-

Offence	Penalty
False or misleading information in application form, payment claim and/or any accompanying documentation	No aid payable or 100% recoupment of grant-aid paid.
The use of building/facilities/equipment for purposes other than those intended for a period of 5 years after date of letter of approval	100% recoupment of grant-aid paid.
Failure to inform Department within two weeks of commencement of works (Card A which is issued with approval documents)	5% reduction in grant-aid.
Alterations to approved structures without the Department's prior approval	25% reduction in grant-aid if the tolerances given in paragraph 14 are exceeded.
Over-claim of eligible expenditure by 3% or more	Subtraction of over-claim from eligible amount payable
Structures not in accordance with Department's Specifications (where the deficiency cannot be remedied):	
1. Deficiencies that affect structural integrity or safety	100% of grant-aid payable
2. Roof and cladding sheets: not stamped or not in accordance with Specification S.102	100% of grant-aid payable
3. Treatment of structural steel not in accordance with Specifications.	10% of grant-aid payable
4. Deficiencies that do not affect structural integrity or safety.	10% of grant-aid payable
Structures not in accordance with Department's Specifications (where deficiency is not remedied by second inspection but has been subsequently remedied)	10% reduction in grant-aid.

If the monetary amount of claim submitted by the applicant exceeds the amount eligible for grant-aid by more than 3%, then a monetary penalty of the difference between the two amounts shall be deducted from the amount eligible for grant-aid (see Article 30 of Commission Regulation (EC) 65/2011). The inclusion of ineligible items in the invoices marked "paid"/receipts will therefore result in the imposition of this penalty. For this purpose, an ineligible item is regarded as any item which is not included in the letter of approval issued by the Department.

Where monetary penalties are not paid within the period specified, the Department will take whatever action is necessary for their recovery.

In cases where penalties are applied, participants will have 21 working days from the date of formal notification of the penalty by the Agricultural Environment and Structures (AES) Division to request a review of that decision,

setting out in writing the grounds on which they are requesting a review. The applicant will be notified of the outcome of the review in writing.

Where an applicant is found to have intentionally made a false declaration in respect of any application for grant-aid under this Scheme, including in regard to any payment claim or any accompanying documentation relating thereto, the applicant shall be excluded from receiving support under the same measure during the calendar year in question and the following calendar year. For this purpose, “measure” has the meaning ascribed to it by Council Regulation (EC) 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

21. Force Majeure or Exceptional Circumstances

The following categories of *force majeure* or exceptional circumstances may, in particular, be recognised by the Department so that the partial or full reimbursement of aid received by the beneficiary may not be required:-

- death of the beneficiary;
- long-term professional incapacity of the beneficiary;
- expropriation of a large part of the holding if that could not have been anticipated at the time of application to enter the Scheme;
- a severe natural disaster seriously affecting land on the holding;
- the accidental destruction of livestock or buildings on the holding;
- an epizootic disease affecting all or part of the beneficiary’s livestock.

Cases of *force majeure* or exceptional circumstances shall be notified in writing by the beneficiary or his/her agricultural advisor/agricultural consultant/agricultural engineer, together with relevant evidence, to the relevant local AES office of the Department within 10 working days from the date on which the beneficiary, or his/her agricultural advisor/agricultural consultant/agricultural engineer, is in a position to do so. Requests for extensions to the deadline for completion of works or the lodgement of a valid payment claim under the Scheme (paragraph 10) will not be granted whether on grounds of *force majeure* or for any other reason.

22. Withdrawal of Approval

The approval of aid may be withdrawn if the applicant fails to abide by the terms of the Scheme or in the event of any material change in the circumstances of the applicant or of the farm business or in any other respect that would be in conflict with the terms or conditions of the Scheme. In such event –

- (i) all or such portion of aid given or to be given shall be reimbursed or withheld; and
- (ii) no grant-aid will be payable in respect of any works completed to date.

If work has not been completed within the approved timescale, the approval will be automatically withdrawn.

23. Existing Applications under previous Department Schemes

Farmers who have been approved to carry out works under the Farm Improvement/Pig Welfare/Sow Housing Schemes, may not cancel their approval for grant-aid thereunder and apply for grant-aid for the same works under this Scheme.

24. Procedures

The Minister shall lay down the procedures to be followed in the operation of this Scheme and reserves the right to alter these procedures from time to time.

25. Environmental Impact of Proposed Works

Where the carrying out of works is liable to cause any pollution of water sources or to damage the environment in any way, the applicant must take all reasonable steps to prevent this happening. Grant-aid will not be paid where proposed works cause damage to a structure or area of historical or archaeological importance.

26. Particular Responsibilities of Applicant

(i) Soundness of Structure

The approval or payment of aid under the Scheme does not imply the acceptance by the Department of any responsibility as regards the soundness of construction or adequacy for its purposes of any investment, that is the subject of such approval or payment. Neither does approval or payment of aid under the Scheme represent a guarantee by the Department of the quality or suitability for its purposes of any product used in the investment.

(ii) Legal Provisions, Consents, etc.

All works shall be carried out in accordance with the provisions of all relevant statutes, regulations and Bye-laws, and the onus of obtaining all consents, permissions, etc. including consent to entry on or interference with land, other property or right of any other person or persons rests with the applicant.

(iii) Safety during Building or Conversion

Certain construction dangers may be encountered in the course of building or conversion work. Neither the Minister nor any official of the Department will be in any way liable for any damage, loss or injury to persons, animals or property in the event of any occurrence relating to the development and the applicant shall fully indemnify the Minister or any official of the Department in relation to any such damage, loss or injury howsoever occurring during the development works. If any or all of the work is undertaken by a farmer, he/she should seek competent advice and undertake all temporary work required to ensure the stability of excavations, superstructure, stanchion foundations and wall foundations, also to divert any drains, springs or surface water away from the works and to guard against possible wind damage.

If the work is being undertaken by a contractor, the farmer should ensure that any contractor or sub-contractor understands the risks involved in the development and is prepared to guard against them and further that the contractor or sub-contractor has adequate employers and public liability insurance cover in place in the event of any injury, loss, damage or other mishap occurring. A farmer should obtain a suitable written indemnity from any contractor or sub-contractor in relation to any damage or injury or other loss that might occur during the development works and in this regard seek professional insurance advice from an insurance broker or insurance company.

In addition, farm buildings should not be erected underneath or near an overhead power supply.

Children should not be allowed to play or spend time in the vicinity of any building work.

Applicants are advised of the need to acquaint themselves with the provisions of the Safety, Health and Welfare at Work Act 2005 and the regulations made there under. A general guide to this Act, prepared by the Health and Safety Authority, is included in the Annex below. Copies of the AF 1 form referred to in that Annex are available from the Health and Safety Authority or from the Department's website under "Farm Buildings".

27. Contractor's Tax Clearance Requirement

In conformity with the general practice of the Government, the payment of financial aid as provided for in this Scheme is subject to the condition that, where an applicant employs a contractor to carry out some or all of the investment included in this Scheme, such contractor must have a current C2 certificate or a tax clearance certificate from the Office of the Revenue Commissioners where the total receipts from that contractor exceed €635.

Evidence of tax compliance must be submitted at the time of lodgement of the completed Form SWS 20 which must be completed in full, i.e. including the declaration in regard to contractors used. Evidence must be provided of tax compliance on a date which shall not precede the date of issue of Department approval to proceed with the

investment works concerned. Where such evidence is not provided, the work carried out by the contractor shall be ineligible for grant-aid.

28. Tax Clearance of Applicant

Evidence that an applicant's tax affairs are in order before payment of an approved grant will be required. In the case of grant payments of less than €10,000, applicants will be required to indicate the tax district dealing with their tax affairs and also to declare that to the best of their knowledge that their tax affairs are in order. For grant payments of €10,000 or more, applicants will be required to furnish a valid Tax Clearance Certificate from the Revenue Commissioners before payment of grant-aid is made.

29. Right of Entry

The Department reserves the right to arrange for the inspection at all reasonable times of any land, premises, plant, equipment, livestock and records of participants or applicants for participation in this Scheme. Refusal to allow right of entry will result in withholding or recovery of grant-aid.

30. Recovery of Interest in Respect of Undue Payments

Where the Minister is required to recover a payment under the Scheme which has been unduly made, interest shall be due on such recoveries in accordance with the provisions of the European Communities (Recovery of Undue Amounts) Regulations 2003 (S.I. No. 463 of 2003), as amended.

31. Documents to be furnished with application under the Scheme

1. Application Form
2. In respect of proposed new/converted structures -
 - (i) Grant of full and final planning permission including conditions or declaration of exemption
 - (ii) Farmyard Layout Plan (1: 500 Scale)
 - (iii) Copies of the drawings on which planning permission or declaration of exemption was obtained - See paragraph 13(a).
3. Copy of Environmental Impact Statement (EIS), where appropriate.
4. Where development is taking place on leased lands/premises, Form SWS 2 and copy of lease.

32. Procedure for Application for Aid

Applications for aid should be made to the Sow Welfare Section, On-Farm Investment Schemes Division, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford accompanied by the Check List and the documentation set out at paragraph 31 above. Applications not fully completed and accompanied by all documentation will be returned to applicants. The applicant will be requested to rectify the deficiencies outlined and if this is done satisfactorily within 21 working days of that request, the application will be reinstated and processing will recommence. The closing date for receipt of valid applications shall be 30 June 2012. In accordance with paragraph 1(vii) above, applications which do not have documentary evidence of the grant of full planning permission or a letter confirming exemption from planning permission from the relevant local authority by this date shall be ineligible for grant-aid.

Applications which are deemed ineligible will be rejected and returned to applicants.

Note:

The application form must be signed by all parties in the following cases:

- where the pig herd registration number or numbers is/are registered in joint names,
- in the case of partnerships.

In the case of a body corporate, the company secretary must sign the application form.

33. Funding Limit on Scheme

The funding for the Scheme is limited and all applications are subject to the operation of selection criteria. The financial allocation to the Scheme shall not exceed €13 million under any circumstances.

34. Review of Procedure and Grant Aid

The Minister reserves the right to alter the terms and conditions of the Scheme and/or alter the grant aid at any time.

35. Responsibility of Agricultural Advisor/Agricultural Consultant/Agricultural Engineer

The applicant and his/her agricultural advisor/agricultural consultant/agricultural engineer must complete the checklist and certify that all the required documentation has been included and conforms to the requirements of the Scheme. It is the responsibility of the agricultural advisor/agricultural consultant/agricultural engineer to ensure the accuracy of the documentation validated by him/her in relation to the application. The Department shall not accept any responsibility for errors or omissions contained therein. Accordingly, intending participants should only engage the services of appropriately indemnified/insured individuals or companies. Agricultural advisors/agricultural consultants/agricultural engineers may be requested to submit evidence of a primary degree or higher qualification in agricultural science or agricultural engineering. Failure to submit such evidence, when requested, will invalidate all applications signed-off by the agricultural advisor/agricultural consultant/agricultural engineer.

36. Investments Eligible for Grant-Aid

All structures including conversions and extensions of existing structures under the Scheme shall be constructed in full compliance with the relevant Minimum Specification(s) issued at the date of approval by the Department.

37. Information and Data Protection

The Minister may from time to time disclose information relating to participants in the Schemes to other Government Departments, agencies, public authorities and/or bodies for the purpose of implementing national and European legislation.

All applicants under the Scheme should note that they are bound by the provisions of Article 58(3) of, and paragraph 2.1 of Annex VI to, Commission Regulation No. 1974/2006, which provides, inter alia, for the publication of a list of Scheme beneficiaries and the amount of public contributions allocated.



Guide for Clients involved in Construction Projects

INFORMATION SHEET

This guidance explains in practical terms what you must do if you are a Client commissioning construction work in order to fulfill your legal duties.

1. What is a Client?

A 'Client' is any person engaged in trade, business or other undertaking who commissions or procures the carrying out of a construction project for the purpose of such trade, business or undertaking. A **Project** includes the preparation design, planning and the construction activities. '**Construction**' is broadly defined and includes; maintenance, repair, redecoration, fitting out, alteration, structural cleaning as well as civil engineering and engineering construction work.

2. Am I a Client?

You are a Client if you

- ▲ Are a pub owner and carry out repair or maintenance work to your premises
- ▲ Build a cattle shed or a milking parlour
- ▲ Build a house for sale, letting or guest keeping
- ▲ Extend on to your private dwelling for the purposes of carrying out business trade or other undertaking
- ▲ Extend a supermarket or
- ▲ Commission, decommission, dismantle or repair building services (mechanical, electrical etc) which are normally fixed to a structure.

You are not considered to be a Client if you

- ▲ Build or extend your private dwelling for family use only.

What Regulations apply to me?

You as a Client have duties under the Safety Health and Welfare at Work Construction Regulations 2006 which apply to most construction projects. They apply whether you are doing the work yourself or having somebody do it for you. They apply to small and large projects. Where the project is for the purpose of trade, business or other undertaking, the Client duties apply.

3. What must I do as a Client?

1. Appoint, in writing, a competent Project Supervisor for the Design Process (PSDP) before design work starts
2. Appoint, in writing, a competent Project Supervisor for the Construction Stage (PSCS) before construction begins
3. Be satisfied that each designer and contractor appointed has adequate training, knowledge, experience and resources for the work to be performed
4. Co-operate with the Project Supervisor and supply necessary information
5. Retain and make available the Safety File for the completed structure
6. Provide a copy of the safety and health plan prepared by the PSDP to

- every person tendering for the project
7. Notify the Authority of the appointment of the PSDP where construction is likely to take more than 500 person days or 30 working days (see form AF1)
 8. Allow a reasonable amount of time for project completion

4. When must I appoint Project Supervisors?

You must appoint in writing a competent Project Supervisors for the Design Process (PSDP) before design work starts and a competent Project Supervisor for the Construction Stage (PSCS) before construction work starts, in order to co-ordinate the design and construction. They must acknowledge in writing that they accept the appointment. There can only be one PSCS for one project at a given time.

You do not have to appoint Project Supervisors if the work is routine maintenance work such as cleaning, decorating and repair and

- ▲here is only one contractor involved;
- ▲he project does not last longer than 30 days or 500 person days:
- ▲he work does not involve a *particular risk* e.g. Working in deep trenches and excavations, falling from a height where there is an aggravated risk of injury, use of chemical or biological substances, including work involving asbestos, work with ionizing radiation (usually x-ray examination of structural joints etc.), work near high voltage power lines, work over or near water, work in confined, unventilated spaces, work carried out by drivers using an air supply system, work in a compressed air atmosphere, work involving the assembly or dismantling of heavy prefabricated components.

5. Who can act as a project Supervisor and how do I know if they are Competent?

When making the appointments of Project Supervisors, you must satisfy yourself that those appointed are competent to carry out the duties under the Regulations.

You as a Client will need to make reasonable enquiries to check that the person or company to be appointed as the PSDP or PSCS is able to fulfil the responsibilities of the position. A designer or a contractor may be appointed so long as they are competent. The extent of these enquiries will depend on the scale, complexity, the hazards of the project and any particular risks and may include, but not limited to, enquiring about the following:

- ▲Membership of professional bodies;
- ▲nowledge of design and construction, particularly in relation to the nature of the project;
- ▲afety and Health qualifications, training (e.g. degree, diploma, certificate, continual professional development);
- ▲afety and Health experience on similar projects. (e.g. knowledge of preparing a Safety File);
- ▲ufficient staff with qualifications, training and experience, both within the company and from other sources, relevant to the project;
- ▲vidence of a functioning safety management system;
- ▲vidence of Regulatory Compliance.

6. What must the Project Supervisors do?

The Project Supervisors Design Process must:

- ▲Identify hazards arising from the design or from the technical, organisational, planning, or time related aspects of the project;
- ▲Where possible, eliminate the hazards or reduce the risk;
- ▲Communicate necessary control measures, design assumptions, or remaining

- risks to the PSCS so they can be dealt with in the Safety and Health Plan;
- ▲ Ensure that the work of designers is co-ordinated to ensure safety;
- ▲ Organise co-operation between designers;
- ▲ Prepare a written safety and health plan for any project where construction will take more than 500 person days or 30 working days or there is a Particular Risk and deliver it to the client prior to tender;
- ▲ Prepare a safety file for the completed structure and give it to the client;
- ▲ Notify the Authority and client of non-compliance with any written directions issued;
- ▲ The PSDP may issue directions to designers or contractors or others.

The Project Supervisor Construction Stage must:

- ▲ Co-ordinate the implementation of the construction regulations by contractors;
- ▲ Organise co-operation between contractors and the provision of information;
- ▲ Co-ordinate the reporting of accidents to the Authority;
- ▲ Notify the Authority before construction commences where construction is likely to take more than 500 person days or 30 working days;
- ▲ Provide information to the site safety representative;
- ▲ Co-ordinate the checking of safe working procedures;
- ▲ Co-ordinate measures to restrict entry on to the site;
- ▲ Co-ordinate the provision and maintenance of welfare facilities;
- ▲ Co-ordinate arrangements to ensure that craft, general construction workers, and security workers have a Safety Awareness card, e.g. Safe Pass and a Construction Skills card where required;
- ▲ Co-ordinate the appointment of a site safety representative;
- ▲ Appoint a safety adviser where there are more than 100 on site;
- ▲ Provide all necessary safety file information to the PSDP;
- ▲ Monitor the compliance of contractors and others and take corrective action where necessary;
- ▲ Notify the Authority and the client of non-compliance with any written directions issued;
- ▲ The PSCS may issue directions to designers or contractors.

7. What must I do as a Client with the Safety and Health Plan?

The client must make sure that every person being considered or tendering for the role of Project Supervisor for the Construction Stage gets a copy of the safety and health plan. Its purpose is to “flag-up”, at an early stage, any safety and health issues specific to that project.

8. What is the Safety File?

The Safety File is a key document intended for the safety of end users of the structure or those who will extend or maintain the structure in future. The PSDP must prepare and pass the Safety File to the Client at completion, you as the Client must make the Safety File available, if necessary, e.g. to subsequent designers or contractors engaged in maintenance or renovation of the structure, or pass it on to any new owner of the built structure.

If you as a client sell or otherwise dispose of your interest in the structure, then you must pass on the Safety File to the new owner. Where you dispose of his or her interest in part of a structure or development then you must pass on the relevant section of the Safety File for the relevant part. This might happen in the case of the selling of an office floor of a building, or the selling of a house or a

number of houses in a new estate. The person receiving the Safety File must keep it available for inspection.

Where can I get further information?

Further information including the Guidelines to the Safety Health and Welfare at Work (Construction) Regulations are available at www.hsa.ie

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