

**SUBSIDIARY LEGISLATION 146.03****PAYING AGENCY REGULATIONS**

12th March, 2004

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

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

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

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

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

"competent authority" means the Directorate for Policy Development and Programme Implementation within the Ministry for European Affairs and Implementation of the Electoral Manifesto;

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

"EAGF" means the European Agricultural Guarantee Fund;

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

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

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

3. (1) There is hereby established a Paying Agency, which shall have the function set out in these regulations, in accordance with Regulation (EU) No. 1306/2013 of the European Parliament and the Council. Establishment of the Paying Agency.  
Amended by:  
L.N. 294 of 2007;  
L.N. 508 of 2010;  
L.N. 296 of 2014.

(2) The Paying Agency shall not commence to perform its functions until it is accredited in accordance with to the criteria laid down in Annex I of Commission Regulation (EC) 885/2006 by the competent authority and notice of such accreditation had been published in the Gazette, nor shall the Paying Agency continue to perform its functions if its accreditation is withdrawn by the competent authority.

(3) The Paying Agency shall operate at all times in terms of the criteria laid down in Commission Regulation 883/2006 and Annex I of Regulation (EC) 885 / 2006, with regards to its:

- (a) Internal environment:
  - (i) Organisational structure;
  - (ii) Human Resource Standard;
  - (iii) Delegation;
- (b) Control activities:
  - (i) Procedures for authorising claims;
  - (ii) Procedures for payment;
  - (iii) Procedures for accounting;
  - (iv) Procedures for advances and securities;
  - (v) Procedures for debts;
  - (vi) Audit trail;
- (c) Information and Communication:
  - (i) Communication;
  - (ii) Information systems security;
- (d) Monitoring:
  - (i) Ongoing monitoring via internal control activities;
  - (ii) Separate evaluations via an internal audit service.

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

- (5) (a) The person responsible for the running of the Paying Agency shall be the Head of the Paying Agency.
- (b) The Head of the Paying Agency shall be responsible for the disbursement of EU funds dedicated for the Common Agricultural Policy and for the day to day administration of the Paying Agency.
- (c) The Head shall be assisted by such authorised officers as may be assigned to the Paying Agency.

Functions of the certifying body.

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

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

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

Internal audit service.

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

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

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

8. The Paying Agency shall implement the schemes in terms of procedures adopted in accordance with the provisions of the EU Council and Commission Regulations under the Common Agricultural Policy and other schemes as established by the Minister responsible for agriculture. Implementation procedure. Substituted by: L.N. 294 of 2007; L.N. 508 of 2010; L.N. 296 of 2014.
9. (Deleted by Legal Notice 508 of 2010). Protection of computer systems. Substituted by: L.N. 294 of 2007.
10. (Deleted by Legal Notice 294 of 2007). Advance payments.
11. (Deleted by Legal Notice 294 of 2007). Collection of debts.
12. (Deleted by Legal Notice 508 of 2010). Paying Agency to deal with application expeditiously.
13. (1) Any dispute arising from claims made to the Paying Agency shall be settled by arbitration and shall be referred to arbitration as provided in the Fourth Schedule to the Arbitration Act within twenty days from the date when a person has been informed by the Paying Agency of its decision or from the publication of its decision accordingly, and no person may bring any action against the Paying Agency after the expiry of that time. Settlement of disputes. Amended by: L.N. 195 of 2005. Substituted by: L.N. 294 of 2007; L.N. 508 of 2010; L.N. 182 of 2011; L.N. 296 of 2014. Cap. 387.
- (2) Where the dispute concerns the determination of the working farmer portion of agricultural land and, or has the management of a portion of agricultural land, such dispute shall be settled between the farmers themselves and shall be settled by arbitration.
- (3) If, in respect of the same portion of land, more than one farmer applies at the Paying Agency for the grant of some kind of assistance, the Paying Agency shall give neither farmer any assistance until the matter has been definitively resolved as stipulated in sub-regulation (2):
- Provided that the provisions of this sub-regulation shall not apply in the event that the parties submit a joint declaration stating who is working the field or is otherwise entitled to the grant under such terms, provisions and, or conditions applicable to:
- Provided further that no party may ask to receive previous aids and may take no action for damages against the Paying Agency if the Paying Agency acts under the provisions of this sub-regulation.
- (4) In the case of arbitration under sub-regulation (2), the Paying Agency shall be notified of the decision of the arbitrator.
- (5) In any dispute which may arise and which, in accordance with this regulation, should be referred to arbitration, the provisions of the Arbitration Act or of any rules made thereunder, relating to mandatory arbitration, shall apply.
14. These regulations shall apply to arbitrations instituted after the coming into force of these regulations; pending arbitrations shall continue to be governed by the regulations as in effect before Transitory provision. Added by: L.N. 296 of 2014.

the coming into force of these regulations:

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