

STATUTORY RULES OF NORTHERN IRELAND

2015 No. 191

AGRICULTURE

The Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015

Made - - - - *27th March 2015*

Coming into operation *30th April 2015*

The Department of Agriculture and Rural Development is a Department designated ^{M1} for the purposes of section 2(2) of the European Communities Act 1972 ^{M2} in relation to the Common Agricultural Policy of the European Union and in relation to matters relating to the promotion of rural development.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred on it by section 2(2) of that Act.

Marginal Citations

M1 [S.I.2000/2812](#) to which there are amendments not relevant to the subject matter of these Regulations and [S.I.2000/3238](#).

M2 [1972 c.68](#).

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Common Agricultural Policy Basic Payment and Support Scheme Regulations (Northern Ireland) 2015 and shall come into operation on 30th April 2015.

(2) The Interpretation Act (Northern Ireland) 1954 ^{M3} shall apply to this Order as it applies to an Act of the Assembly.

Marginal Citations

M3 [1954 c.33 \(NI\)](#).

Interpretation

2.—(1) In these Regulations—

“the Direct Payments Delegated Regulation” means Commission Delegated Regulation (EU) No.639/2014 supplementing the Direct Payments Regulation ^{M4};

“the Direct Payments Implementing Regulation” means Commission Implementing Regulation (EU) No.641/2014 laying down rules for the application of the Direct Payments Regulation ^{M5};

“the Direct Payments Regulation” means Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy ^{M6};

“the European Regulations” means—

- (a) the Direct Payments Regulation;
- (b) the Direct Payments Delegated Regulation;
- (c) the Direct Payments Implementing Regulation; and
- (d) the Horizontal Implementing Regulation;

“the Horizontal Implementing Regulation” means Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance ^{M7};

“Bank Holiday” means a day specified in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971 ^{M8};

“working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(2) Terms used in these Regulations that are also used in any of the European Regulations have the meaning they bear in those Regulations.

[^{F1}(3) In these Regulations, any reference to “the European Regulations” is a reference to those Regulations as amended from time to time.]

F1 Reg. 2(3) inserted (6.3.2019) by [The Agriculture \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/11\)](#), regs. 1(1), **6(2)**

Marginal Citations

M4 O.J. No. L 181, 20.6.2014, p.1.

M5 O.J. No. L 181, 20.6.2014, p. 74.

M6 O.J. No. L 347, 20.12.2013, p. 608, as amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No. L 347, 20.12.2013, p. 865).

M7 O.J. No. L 227, 31.7.2014, p.69.

M8 1971, c.80.

PART 1

Basic Payment Scheme

Regions

3.—(1) For the purposes of Article 23(1) of the Direct Payments Regulation, Northern Ireland will be a single region.

Payment entitlements

4.—(1) For the purposes of Article 8(1) of the Direct Payments Implementing Regulation, the period within which the transferor of payment entitlements must notify the Department of the transfer is—

- (a) on or before 2nd May 2016, if 2016 is the first calendar year in which the transferee may include those entitlements in the transferee's application for direct payments; or
- (b) otherwise from 3rd May of the preceding calendar year to 2nd May (both those dates included) of the first calendar year where the first calendar year is 2017 or a subsequent year in which the transferee may include those entitlements in the transferee's application for direct payments.

(2) If, for the purposes of paragraph (1), 2nd May is not a working day, the deadline for notification is the next working day.

[^{F2}(3) For the purposes of Article 22(1) of the Horizontal Implementing Regulation, to the extent that Article relates to direct payments ^{F3}..., applications for the allocation of payment entitlements must be submitted on or before 15th May of the relevant calendar year.]

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| <p>F2 Reg. 4(3) substituted (24.2.2020) by The Common Agricultural Policy (Direct Payments to Farmers) (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/22), regs. 1(1), 2(2)(a)</p> <p>F3 Words in reg. 4(3) omitted (23.2.2021) by virtue of The Direct Payments to Farmers (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021/40), regs. 1(1), 4</p> |
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Allocation of Payment Entitlements

5. Article 21(3) of the Direct Payments Regulation shall not be applied.

6. Article 24(1)(c) of the Direct Payments Regulation shall be applied with the exception of the last sentence of that paragraph.

7. The limitations referred to in Article 24(3) of the Direct Payments Regulation shall not be applied.

8. In accordance with Article 25(4) of the Direct Payments Regulation payment entitlements with an initial unit value lower than 100% of the regional unit value in 2019 shall for claim year 2019 have their unit value increased by 71.4% of the difference between their initial unit value and 100% of the regional unit value in 2019.

9. The decrease referred to in Article 25(7) of the Direct Payments Regulation shall be applied in a linear fashion each year.

10. The initial unit value of payment entitlements as referred to in Article 26 of the Direct Payments Regulation shall be calculated in accordance with paragraph 3 of that Article.

Active farmers

^{F4}11.

F4 Reg. 11 revoked (25.6.2018) by [The Common Agricultural Policy Basic Payment and Support Schemes \(Revocation\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/122\)](#), regs. 1, **3**

Minimum eligible area of holding

12. For the purposes of Article 10(1)^{F5}... of the Direct Payments Regulation, no direct payments may be granted to a farmer where the eligible area of the holding for which the payments are claimed or due to be granted in accordance with Article 10(1)^{F6}... is less than three hectares.

F5 Words in reg. 12 omitted (24.2.2020) by virtue of [The Common Agricultural Policy \(Direct Payments to Farmers\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/22\)](#), regs. 1(1), **2(3)(a)**

F6 Word in reg. 12 omitted (24.2.2020) by virtue of [The Common Agricultural Policy \(Direct Payments to Farmers\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/22\)](#), regs. 1(1), **2(3)(b)**

13. For the purposes of Article 24(9) of the Direct Payments Regulation, the minimum size per holding in respect of which a farmer may apply for an allocation of payment entitlements shall be 3 hectares.

Date on which eligible land must be at farmer's disposal

14. In relation to any year in which the farmer makes a declaration in respect of parcels pursuant to Article 33(1) of the Direct Payments Regulation, the date on which those parcels must be at the farmer's disposal is 15th May.

Reductions

15. For the purposes of Article 11(1) of the Direct Payments Regulation, where the direct payments to be granted to a farmer pursuant to Chapter 1 of Title III of that Regulation for a given calendar year exceed [^{F7}£190 000], the sum in excess of that amount must be reduced by 100%.

F7 Sum in reg. 15 substituted (25.2.2021) by [The Direct Payments to Farmers \(Simplifications\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/42\)](#), regs. 1(1), **16**

Short rotation coppice

16. For the purposes of Article 4(1)(k)^{F8}... of the Direct Payments Regulation—

- (a) the list of planted tree species is—
- (i) Alder (*Alnus* spp);
 - (ii) Birch (*Betula* spp);
 - (iii) Hazel (*Corylus avellana*);
 - (iv) Ash (*Fraxinus excelsior*);
 - (v) Lime (*Tilia cordata*);
 - (vi) Sweet chestnut (*Castanea sativa*);
 - (vii) Sycamore (*Acer pseudoplatanus*);

- (viii) Willow (*Salix* spp); and
- (ix) Poplar (*Populus* spp);
- (b) the maximum harvest cycle is 5 years.

F8 Words in [reg. 16](#) omitted (24.2.2020) by virtue of [The Common Agricultural Policy \(Direct Payments to Farmers\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/22\)](#), regs. 1(1), **2(4)**

PART 2

Young farmer scheme

Young farmer

17.—(1) The payment for young farmers as referred to in Annex I of the Direct Payments Regulation shall be calculated in accordance with Article 50(8) of that Regulation.

(2) For the purposes of Article 50(9) of the Direct Payments Regulation, a single maximum limit of 90 hectares is applicable to the number of payment entitlements activated by the farmer.

PART 3

Greening

Calculation of greening payment

^{F9}18.

F9 [Reg. 18](#) omitted (25.2.2021) by virtue of [The Direct Payments to Farmers \(Simplifications\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/42\)](#), regs. 1(1), **9(2)**

Crop diversification

^{F10}19.

F10 [Reg. 19](#) omitted (25.2.2021) by virtue of [The Direct Payments to Farmers \(Simplifications\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/42\)](#), regs. 1(1), **9(3)**

Environmentally sensitive permanent grassland

20.—^{F11}(1) Permanent grasslands in areas to which the Conservation Directives apply are designated as permanent grasslands which are environmentally sensitive for the purposes of and in the areas referred to in the first subparagraph of Article 45(1) of the Direct Payments Regulation as it had effect immediately before exit day.]

(2) In paragraph (1)—
“the Conservation Directives” means—

- (a) Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora ^{M9}[^{F12}as amended from time to time] ; and
- (b) Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds ^{M10}[^{F12}as amended from time to time] ;

F11 [Reg. 20\(1\)](#) substituted (24.2.2020) by [The Common Agricultural Policy \(Direct Payments to Farmers\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/22\)](#), regs. 1(1), **2(5)**

F12 Words in [reg. 20\(2\)](#) inserted (6.3.2019) by [The Agriculture \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/11\)](#), regs. 1(1), **6(3)**

Marginal Citations

M9 O.J. No. L 206, 22.7.1992 p.7

M10 O.J. No. L 20, 26.1.2010, p.7. This instrument codifies, with minor amendments, Council Directive 1979/409/EEC as amended.

Ecological focus areas

^{F13}**21.**

F13 [Reg. 21](#) omitted (25.2.2021) by virtue of [The Direct Payments to Farmers \(Simplifications\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/42\)](#), regs. 1(1), **9(4)**

Revocations and savings

22.—(1) The Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2010 ^{M11} are revoked.

(2) Notwithstanding paragraph (1), the Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2010 as in force immediately before 2015 continue to apply in respect of aid applications relating to 2014 and earlier claim years.

Marginal Citations

M11 S.R. 2010 No. 161

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 27th March 2015.

L.S.
Department of Agriculture and Rural
Development

David Small
A senior officer of the

F14 SCHEDULE 1

Regulation 21(3)

Ecological focus areas: Nitrogen-fixing crops for the purposes of Article 45(10) of the Direct Payments Delegated Regulation

F14 Sch. omitted (25.2.2021) by virtue of [The Direct Payments to Farmers \(Simplifications\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/42\)](#), regs. 1(1), **9(5)**

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in Northern Ireland for the administration of Regulation (EU) No.1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ No. L347, 20.12.2013, p. 608) (“the Direct Payments Regulation”) and the three other associated Regulations referred to in the regulation 2(1).

Regulation 3 provides for one region in Northern Ireland for the purposes of the basic payment scheme. Regulation 4 makes provision for the period within which a transferor must notify the Department of a transfer of payment entitlements and the deadline for submitting applications for the allocation of payment entitlements from the regional reserve.

Regulations 5, 6, 7, 8, 9 and 10 detail how the European Direct Payments Regulation will be implemented in Northern Ireland, including those Articles which will not apply here.

Regulation 11 provides detail for tests to rebut the presumption that certain businesses are not entitled to receive direct payments.

Regulations 12 and 13 define the minimum eligible area for allocating entitlements and claiming payments under the Basic Payment Scheme as 3 hectares.

Regulation 14 fixes the date on which parcels used as the basis for a claim under the basic payment scheme must be at the disposal of farmers.

Regulation 15 provides for the reduction by 100% of the part (if any) of any basic payment granted to a farmer which exceeds EUR 150,000.

Regulation 16 designates the short rotation coppice trees eligible under the basic payment scheme and sets the maximum harvest cycle. Regulation 17 provides for the basis on which an increase

Changes to legislation: *There are currently no known outstanding effects for the The Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015. (See end of Document for details)*

in direct payments to qualifying farmers aged 40 or less and participating in the young farmer scheme must be calculated.

Regulation 18 sets out how greening payments will be calculated.

Regulation 19 sets out the period to be taken into account for the purposes of determining whether crop diversification requirements have been met. Regulation 20 provides for the designation of permanent grasslands which are environmentally sensitive.

Regulation 21 sets out the areas which are to be ecological focus areas (“EFAs”) and details as to the scope of the EFAs relating to landscape features and areas with nitrogen-fixing crops.

Regulation 22 revokes the Regulations which provide in Northern Ireland for the administration of the European Single Payment and Support Scheme but with a saving provision for the continued application for the Common Agricultural Policy Single Payment and Support Scheme Regulations 2010 in respect of aid applications relating to claim years before 2015.

Changes to legislation:

There are currently no known outstanding effects for the The Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015.