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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 610**

**AGRICULTURE**

**Organic Farming Aid (Amendment)  
Regulations (Northern Ireland) 1996**

*Made* - - - - *23rd December 1996*

*Coming into operation* *1st January 1997*

The Department of Agriculture being a Department designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by that section and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Organic Farming Aid (Amendment) Regulations (Northern Ireland) 1996 shall come into operation on 1st January 1997.

(2) The Interpretation Act (Northern Ireland) 1954(3) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(3) In these Regulations, “the principal Regulations” means the Organic Farming Aid Regulations (Northern Ireland) 1995(4).

**Application**

2. These Regulations apply with effect from 1st January 1997 to undertakings given before that date under the principal Regulations but only in respect of actions taken and events occurring on or after that date and to undertakings given on or after that date.

**Amendment of the principal Regulations**

3. In regulation 2(2) (Interpretation) of the principal Regulations—

(a) in the definition of “beneficiary” for sub-paragraph (c) there shall be substituted—

“(c) set aside and which has been land within the meaning of sub-paragraph (a) or (b) or improved grassland for a period of at least 3 years before the date of application.”;

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(1) S.I.1972/1811

(2) 1972 c. 68; Section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.I. 1994/2795 (N.I. 15)

(3) 1954 c. 33 (N.I.)

(4) S.R. 1995 No. 116

- (b) after the definition of “beneficiary” there shall be inserted—
- “ “the Commission Regulation” means Commission Regulation (EC) No. 746/96(5) laying down detailed rules for the application of Council Regulation 2078/92;”;
- (c) for the definitions of “organic farming” and “organic standards” there shall be substituted—
- ““organic farming” means farming in accordance with UKROFS standards;”;
- (d) for the definition of “UKROFS” there shall be substituted—
- ““UKROFS standards” means the United Kingdom Register of Organic Food Standards production standards (as amended from time to time) for organic farming published by the Ministry of Agriculture, Fisheries and Food and known as the UKROFS Standards for Organic Food Production.”
4. In regulation 4 (Conditions of eligibility) of the principal Regulations for paragraph (1)(c) there shall be substituted—
- “(c) is not prohibited from giving the undertakings set out in regulation 5 by application of a penalty pursuant to Article 20(2) (reimbursement of aid and penalties) of the Commission Regulation; and
- (d) is not excluded from all aid under the Council Regulation 2078/92 by virtue of Article 20(3) of the Commission Regulation.”.
5. In regulation 6(1) (Application for aid) of the principal Regulations—
- (a) for sub-paragraph (a)(iii) and (iv) there shall be substituted—
- “(iii) the area of land, if any, which already meets UKROFS standards; and
- (iv) the area of land, if any, on which organic farming is to be introduced or which is in the course of conversion to organic farming”;
- (b) for sub-paragraph (d) and (e) there shall be substituted—
- “(d) where the applicant chooses to phase the conversion of his farm to organic farming, a written statement of the conversion plan; and
- (e) confirmation that his conversion proposals meet UKROFS standards.”
6. In regulation 8 (Change of occupation) of the principal Regulations—
- (a) after paragraph (3) there shall be inserted the following paragraph—
- “(3A) The Department shall not accept an undertaking referred to in paragraph (1) (b) unless it is satisfied that the new occupier is not prohibited from providing an undertaking pursuant to an agri-environment scheme by application of Article 10 of the Commission Regulation (which restricts duplication of aid payments), by application of a penalty consequent upon Article 20(2) of the Commission Regulation (which requires member states to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings) or by application of Article 20(3) of the Commission Regulation (which requires a person who, intentionally or by reason of gross negligence, makes a false declaration, to be excluded from all aid under the Council Regulation).”;
- (b) for paragraph (7) there shall be substituted—
- “(7) The foregoing provisions of this Regulation shall be subject to Article 11 of the Commission Regulation (which governs transfers of holdings) and Article 12 of the Commission Regulation (force majeure)”.

7. For regulation 9 (Amounts of aid and claims) of the principal Regulations there shall be substituted—

**“Amounts of aid and claims**

9.—(1) Subject to regulation 8(6), paragraphs (3) and (4) and regulation 11(1) and (2), the Department shall make payments annually in arrears and the amount of each payment shall be calculated in accordance with the Schedule.

(2) Payments shall be made in respect of a maximum of 300 hectares per holding.

(3) A claim for each annual payment under paragraph (1) shall be made at such time and in such form and shall contain such information as the Department may reasonably require.

(4) The provisions of this regulation are subject to Articles 14(2) and (3) (rules governing undertakings and payment procedures) of the Commission Regulation and, in the case of an undertaking under these Regulations given on or after 1st January 1997, Article 10 (combination of aids) of the Commission Regulation.”

8. For regulation 11 (Withholding and recovery of aid) there shall be substituted the following regulation—

**“Withholding and recovery of aid, termination and exclusion**

11.—(1) Where any person, with a view to obtaining the payment of aid under these Regulations to himself or any other person, makes any statement or furnishes any information which is false or misleading, the Department may withhold the whole or any part of any aid payable to that person or to such other person and may, subject to the provisions of Article 20 of the Commission Regulation (which provides for recovery of wrongful payments with interest, a penalty system and exclusion for false declarations), recover the whole or any part of any aid already paid to that person or to such other person.

(2) Where a beneficiary—

- (a) fails to comply with any of the undertakings set out in regulation 5;
- (b) fails without reasonable excuse to permit entry and inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 10; or
- (c) fails to comply with any other requirement of these Regulations,

the Department may withhold the whole or any part of any aid payable to that beneficiary and may recover the whole or any part of any aid already paid to him and may also, in so far as is permitted by Article 20(2) of the Commission Regulation (which requires member States to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings), require him to pay to the Department a sum equal to no more than 10% of the aid paid or payable to the beneficiary.

(3) Where the Department takes any step specified in paragraph (1) or (2) it may also treat as terminated the undertakings given by the beneficiary under these Regulations.

(4) Where under paragraph (3) the Department treats the undertakings given by the beneficiary as terminated, in connection with any step taken under paragraph (1) or (2) it may also insofar as is consequent upon Article 20(2) of the Commission Regulation, by notice in writing to the beneficiary prohibit him from providing a new undertaking or entering a new agreement under an agri-environment scheme for such period (not exceeding two years) from the date of that termination as is specified in the notice.

(5) The Department may treat the undertakings given by any beneficiary as terminated where the beneficiary receives or is entitled to receive any assistance out of moneys provided by or under any statutory provision or by the European Community and the Department is satisfied that such assistance would duplicate the payment of aid under these Regulations.

(6) Subject to Article 10 of the Commission Regulation (which applies to undertakings given after 1st January 1997 and, inter alia, prohibits duplication of aid for an undertaking) and Article 20(1) of the Commission Regulation (which requires wrongful payments to be reimbursed with interest), nothing in paragraph (5) entitles the Department to withhold any aid payable or to recover any aid already paid in respect of a period before the Department acted under that paragraph.

(7) Before taking any step specified in paragraph (2), (3) or (4) by reference to paragraph (2)(a) or any step specified in paragraph (5) the Department shall—

- (a) give to the beneficiary a written explanation of the reasons for the step proposed to be taken;
- (b) afford the beneficiary the opportunity of appearing before and being heard by a person appointed for that purpose by the Department; and
- (c) consider the report by the person so appointed and supply a copy of the report to the beneficiary”.

9. After regulation 11 (withholding and recovery of aid) there shall be added the following regulations—

**“Recovery of interest**

**11A.—**(1) Where a payment of aid is paid to a beneficiary by the Department and, by virtue of Article 20(1) of the Commission Regulation (which provides for recovery of wrongful payments with interest), the beneficiary is required to reimburse all or part of the payment with interest, the rate of interest shall be one percentage point above LIBOR on a day to day basis.

(2) For the purposes of this regulation, LIBOR means the sterling three month London interbank offered rate in force during the period specified in Article 20(1) of the Commission Regulation.

(3) In any proceedings relating to this regulation, a certificate of the Department stating the LIBOR applicable during a period specified in the certificate shall also be conclusive evidence of the rate applicable in the specified period if the certificate also states that the Bank of England notified the Department of that rate.

**Recovery of payments**

**11B.** In any case, where an amount falls to be paid to the Department by virtue of (or by virtue of action taken under) these Regulations or the Commission Regulation the amount so falling to be paid shall be recoverable as a civil debt”.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 23rd  
December 1996.

*Liam McKibben*  
Assistant Secretary

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations amend the Organic Farming Aid Regulations (Northern Ireland) 1995 (“the principal Regulations”) which implement in part Council Regulation (EEC) No. 2078/92 (“the Council Regulation”) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside.

These Regulations implement as respects Northern Ireland the Commission Regulation (EC) No. 746/96 (the “Commission Regulation”) laying down detailed rules for the application of the Council Regulation and in particular Articles 10 (combination of aids), Article 11 (transfer of holding), Article 12 (force majeure), and Article 20 (reimbursement of aid and penalties) of the Commission Regulation. In accordance with Article 23 of the Commission Regulation, the amendments apply to undertakings given under the principal Regulations prior to 1st January 1997 but only in respect of action taken and events occurring from that date.

The Regulations—

- (a) provide that entitlement to payment under the principal Regulations is subject to the provisions of Article 10 and Article 20(3) of Commission Regulation 746/96,
- (b) make provision to enable the Department to recover grant and impose penalties in accordance with Articles 11, 12 and 20 of Commission Regulation 746/96,
- (c) set a rate of interest where recovery of money is to include interest in accordance with Article 20(1) of Commission Regulation 746/96.

The Regulations form part of a package submitted to the Commission under Article 23 of Commission Regulation 746/96.

No Compliance Cost Assessment in relation to these Regulations has been prepared.