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STATUTORY RULES OF NORTHERN IRELAND

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**2001 No. 43**

**Countryside Management Regulations (Northern Ireland) 2001**

**Citation and commencement**

1. These Regulations may be cited as the Countryside Management Regulations (Northern Ireland) 2001 and shall come into operation on 20th March 2001.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(1)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

“activities” means the activities referred to in regulation 3(4);

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, the use of land as grazing land, meadowland, osier land, reed beds, market gardens and nursery grounds;

“agri-environment scheme” means an arrangement which is—

- (a) regulated by statutory provision providing for the payment of aid to persons who give an undertaking or enter an agreement in relation to land to which that statutory provision relates; and
- (b) approved by the Commission of the European Communities under Article 44.2 of the Council Regulation as part of a rural development plan drawn up pursuant to Article 41 of that Regulation;

“aid” means payments under the agri-environment measure referred to in Chapter VI of Title II of the Council Regulation which are provided for in the rural development plan relating to Northern Ireland approved by Commission Decision (C2000) 3638 of 4th December 2000;

“applicant” means an applicant under these Regulations and in regulations 10 and 11 includes a person whose application for grant has been accepted and a person who takes on an undertaking on a change of occupation as provided in regulation 9;

“application for grant” means an application under these Regulations and includes an application made under regulation 6(1);

“Commission Regulation 3887/92” means Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes<sup>(2)</sup>;

“Commission Regulation 1750/1999” means Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)<sup>(3)</sup>;

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(1) 1954 c. 33 (N.I.)

(2) O.J. No. L391, 31.12.92, p. 36 as last amended by Commission Regulation (EC) No. 2801/1999 (O.J. No. L340, 31.12.1999, p. 29)

(3) O.J. No. L214, 13.8.1999, p. 31

“the Council Regulation” means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(4);

“the Department” means the Department of Agriculture and Rural Development;

“environmentally sensitive area” means an area designated as an environmentally sensitive area under Article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(5);

“eligible land” means land which is outside an environmentally sensitive area and which is used for agriculture;

“parkland” means an enclosed area of land at least 3 hectares in extent with a minimum of two mature trees per hectare;

“parkland management plan” means a management plan agreed with the Department designed to restore parkland through a programme of tree planting and restoration of landscape features;

“relevant period” means a period of not less than 5 years or, in the case of an undertaking under these Regulations which is in substitution for an undertaking given under any of the Regulations mentioned in regulation 6(1), a period which together with the expired period of the undertaking under those Regulations forms a continuous period of not less than 5 years;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“tenant” means a person who occupies land under a contract or tenancy for a fixed term of years the unexpired portion of which at the commencement of the relevant period is equal to or greater than that period;

“undertaking” means an undertaking mentioned in regulation 3(2).

(3) Words and phrases used in Schedules 1 to 6 and not defined in paragraph (2) shall be construed in accordance with Schedule 6.

### **Grants for purposes conducive to conservation**

3.—(1) Subject to the provisions of these Regulations, the Department may make payment of a grant in respect of an undertaking to which these Regulations apply to an applicant who—

- (a) is the owner or tenant of the eligible land to which such undertaking relates and is in lawful occupation of that land; and
- (b) has made an application for grant which has been accepted by the Department.

(2) These Regulations apply to an undertaking in writing by the applicant, for the relevant period—

- (a) to follow, in relation to the whole of the eligible land to which the undertaking relates, the general environmental conditions set out in Schedule 1;
- (b) to carry out, in so far as is appropriate in relation to that land, the activities referred to in paragraph (4)(a); and
- (c) to carry out at least one of the activities referred to in paragraph (4)(b).

(3) An undertaking mentioned in paragraph (2) may also include an undertaking by the applicant to carry out or, as the case may be, to carry out and maintain any of the activities referred to in paragraph (4)(c) and (d).

(4) The activities mentioned in paragraph (2) or (3) are—

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(4) O.J. No. L160, 26.6.1999, p. 80

(5) S.I. 1987/458 (N.I. 3)

- (a) the management activities set out in column 1 of Schedule 2;
- (b) the management activities set out in column 1 of Schedule 3 (priority habitats) to be undertaken on a site which forms part of the eligible land to which the undertaking relates;
- (c) the management activities set out in column 1 of Schedule 4 (optional habitats) to be undertaken on a site which forms part of the eligible land to which the undertaking relates;
- (d) the capital activities set out in column 1 of Schedule 5 to be undertaken and maintained on any part of the eligible land to which the undertaking relates.

### **Applications for grant**

4. An application for grant under these Regulations shall be made at such time and in such form, and shall include or be accompanied by such information as the Department may require.

### **Restrictions on acceptance of applications**

5.—(1) The Department shall not accept an application for grant in relation to any land which is situated in an environmentally sensitive area.

(2) The Department shall not accept an application for grant in relation to any eligible land which is occupied by a tenant unless it is satisfied that the tenant has notified the landlord of his intention to make the application.

(3) The Department shall not accept an application for grant for an area of less than 1 hectare.

(4) The Department shall refuse to accept an application for grant in relation to any eligible land where—

- (a) it is satisfied that the use of any land in accordance with the proposals contained in the application would frustrate the purposes of any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community;
- (b) it is satisfied that the payment of grant under these Regulations would duplicate any assistance previously given out of money provided by or under any statutory provision or by the European Community;
- (c) the applicant is prohibited from giving the undertaking under these Regulations by application of a penalty consequent upon Article 48.2 of Commission Regulation 1750/1999 (which requires member States to determine a system of penalties for breaches of the obligations entered into and of regulatory provisions applicable to the case); or
- (d) the applicant is excluded from all aid under Chapter VI of Title II of the Council Regulation by virtue of Article 48.3 of Commission Regulation 1750/1999 (which requires a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of the Council Regulation) and the grant in respect of the proposed undertaking would include such aid.

(5) The Department shall not accept an application for grant without first having agreed with the applicant the date of commencement of the undertaking which shall in no circumstances be earlier than the date on which the application was accepted.

### **Transformation of undertakings**

6.—(1) A beneficiary under the Habitat Improvement Regulations (Northern Ireland) 1995(6) or the Moorland (Livestock Extensification) Regulations (Northern Ireland) 1995(7) may apply to

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(6) S.R. 1995 No. 134, as amended by S.R. 1996 No. 608, S.R. 1997 No. 351 and S.R. 1999 No. 208

(7) S.R. 1995 No. 239, as amended by S.R. 1996 No. 505, S.R. 1996 No. 607 and S.R. 1999 No. 208

substitute for the unexpired period of an undertaking under any of those Regulations an undertaking to which these Regulations apply.

(2) The Department may accept an application under paragraph (1) only where it is satisfied that the conditions set out in Article 20 (transformation of undertakings) of Commission Regulation 1750/1999 are met.

### **Amounts of grant and claims**

7.—(1) Subject to the provisions of this regulation the grant payable under regulation 3(1) shall be calculated with reference to the activities to be undertaken and in relation to each such activity shall be at a rate not exceeding the maximum payment rate specified in column 2 of Schedule 2, 3, 4 or 5 corresponding to that activity.

(2) The grant payable under regulation 3(1) in respect of the activities set out in Schedule 2 shall not exceed £1,500 per annum for each applicant.

(3) Subject to paragraph (4) the grant payable under regulation 3(1) in respect of the activities set out in Schedule 5 shall not exceed £1,500 per annum for each applicant.

(4) For the purposes of paragraph (3) the activities set out in the following paragraphs of Schedule 5 shall be disregarded—

- (a) paragraph 3(d),
- (b) paragraph 3(e) and (f) provided the activities undertaken form part of a parkland management plan;
- (c) paragraph 4;
- (d) paragraph 9;
- (e) paragraph 10(c) and (d) provided the activities undertaken are associated with fencing of habitats;
- (f) paragraph 11.

(5) Subject to the provisions of these Regulations the Department shall make payments of grant annually in arrears.

(6) A claim for grant under regulation 3(1) shall be made at such time and in such form and shall contain such information as the Department may require.

(7) The provisions of these Regulations are, in so far as grant claimed includes aid under the Council Regulation, subject to Article 37.3 of the Council Regulation and Article 31 of Commission Regulation 1750/1999 (combination of aids).

### **Financial limits**

8.—(1) If, in view of the total number of applications already accepted, the Department is at any time of the opinion that the financial resources which are available for payment of grant under these Regulations during any period are insufficient to satisfy any payment during that period which would result from the acceptance of any further application, it may suspend further consideration of any application received at the date of its decision but not yet accepted, or any application it may receive after the date of its decision, until such time as may subsequently be specified by it.

(2) Notice of a suspension by the Department under paragraph (1), or of the termination of any such suspension, shall be published in the Belfast Gazette.

### **Change of occupation**

9.—(1) Where during the period of an undertaking, there is a change of occupation of all or any part of the land to which that undertaking relates the former occupier (or, if he has died, his personal

representatives) shall within 3 months notify the Department in writing of the change of occupation, and shall supply to the Department such information relating to that change in such form and within such period as the Department may determine.

(2) A new occupier of all or any part of the land who wishes to take on the undertaking shall furnish the Department with such information in such form and within such period following the change of occupation as the Department may determine.

(3) A new occupier of all the land may take on the undertaking where the Department is satisfied that—

- (a) the former occupier had complied with the undertaking to the date of the change of occupation; and
- (b) the new occupier is the lawful occupier of the land and has since the date of change of occupation complied with the undertaking.

(4) A new occupier of any part of the land or, as the case may be, the former occupier of all the land may take on the undertaking insofar as it extends to that part of the land which he occupies, or as the case may be, continues to occupy where the Department is satisfied that—

- (a) such new occupier or, as the case may be, such former occupier of all the land, is the lawful occupier of the part of the land which he occupies and has since the date of change of occupation complied or, as the case may be, continued to comply with the undertaking insofar as it extends to the part of the land which he occupies; and
- (b) it is reasonable for the occupier to do so having regard to the activities included in the undertaking and the part of the land which is occupied by the new occupier or, as the case may be, continues to be occupied by the former occupier of all the land.

(5) Where occupation of the land is divided the Department shall determine—

- (a) the extent to which the activities included in the undertaking relate to any part of the land occupied by a new occupier or, as the case may be, the former occupier of all the land; and
- (b) the proportion, if any, of the grant which would be payable under paragraph (7) for the remainder of the period of the undertaking in respect of that part of the land.

(6) Where the Department is satisfied as specified in paragraph (3), it shall, subject to regulation 7, make payments of the grant for the remainder of the period of the undertaking to the new occupier of the land who has taken on the undertaking.

(7) Where the Department is satisfied as specified in paragraph (4) it shall, subject to regulation 7, make payments of such proportion of the grant, if any, as it has determined under paragraph (5) are due for the remainder of the period of the undertaking to the new occupier or, as the case may be, former occupier of all the land who has taken on the undertaking.

(8) Where within 3 months from the date of change of occupation the undertaking has not been taken on in accordance with paragraph (3) or, as the case may be, paragraph (4), the Department may—

- (a) withhold the whole or any part of any payment of grant under these Regulations due to the former occupier in respect of the undertaking; and
- (b) recover from the former occupier or his personal representatives the whole or any part of any payment of grant under these Regulations already made to him in respect of the undertaking.

(9) The provisions of this regulation are, insofar as the grant paid under these Regulations includes aid under the Council Regulation, subject to Article 29 (transfer of holding) and Article 30 (force majeure) of Commission Regulation 1750/1999.

### **Obligation to permit entry and inspection**

**10.**—(1) An applicant shall permit any person duly authorised by the Department, accompanied by such persons acting under his instructions as appear to that authorised person to be necessary for the purpose, at all reasonable hours and on production on demand of some duly authenticated document showing his authority, if so required, to enter upon the land to which an undertaking or, as the case may be, a proposed undertaking relates for the purpose of—

- (a) carrying out any inspection of such land or any document or record in the possession or under the control of the applicant relating to, or which the authorised person may reasonably suspect relates to, the application with a view to verifying the accuracy of any particulars given in the application, in a claim under regulation 7(6) or under regulation 9(1); and
- (b) ascertaining whether the undertaking given or taken on or, as the case may be, proposed to be given or taken on by him under these Regulations has been duly complied with.

(2) An applicant shall render all reasonable assistance to the authorised person in relation to the matters mentioned in paragraph (1), and in particular shall—

- (a) produce any document or record which may be required by the authorised person for inspection;
- (b) permit the authorised person to take copies or extracts from any such document or record;
- (c) where any such document or record is kept by means of a computer, produce it in a form in which it may easily be read and taken away; and
- (d) at the request of the authorised person, accompany him in making the inspection of any land and identify any area of land which relates to the application or to any change of occupation notified under regulation 9.

### **Withholding and recovery of grant**

**11.**—(1) Where any person, with a view to obtaining the payment of grant 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 payments of grant payable thereunder to that person or to such other person and may, subject to the provisions of Article 48 of Commission Regulation 1750/1999, recover the whole or any part of any sums already paid by way of grant thereunder to that person or such other person.

(2) Where an applicant—

- (a) has failed to do something which he undertook to do if the grant was made, or
- (b) is in breach of any conditions subject to which the grant was made,

the Department may withhold the whole or any part of any grant payable to that applicant under these Regulations and may recover the whole or any part of any grant already paid to him.

(3) Where the Department withholds or recovers grant under paragraph (2), it may also, insofar as it is consequent upon Article 48.2 of Commission Regulation 1750/1999 (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 the applicant to pay to the Department a sum equal to no more than 10% of the grant paid or payable to the applicant under these Regulations.

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

(5) Where under paragraph (4) the Department treats the undertaking given by the applicant as terminated, it may also by notice in writing to the applicant prohibit him from providing a new undertaking or entering a new agreement under an agri-environment scheme for such period from the

date of termination as is specified in the notice which period shall not exceed the period beginning with the date of termination and ending with the last day of the calendar year following that in which the termination occurs.

(6) Any dispute between the Department and an applicant in relation to a matter arising under these Regulations shall be referred to and determined by a single arbitrator to be agreed between the parties or in default of such agreement to be appointed by the Chairman for the time being of the Northern Ireland Branch of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration Act 1996<sup>(8)</sup> or any statutory modification or re-enactment thereof for the time being in force.

### **Recovery of interest**

**12.**—(1) Where a grant is paid under these Regulations by the Department and, by virtue of Article 14 of Commission Regulation 3887/92 (as applied by Article 48.1, second sub-paragraph of Commission Regulation 1750/1999), a reimbursement of all or part of the payment with interest is required, 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 14.3 of Commission Regulation 3887/92.

(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 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**

**13.** 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, Commission Regulation 3887/92 or Commission Regulation 1750/1999 insofar as it relates to land to which an undertaking relates, the amount so falling to be paid shall be recoverable as a civil debt.

### **Revocation and saving**

**14.**—(1) Subject to paragraph (2), the Countryside Management Regulations (Northern Ireland) 1999<sup>(9)</sup> are hereby revoked.

(2) Any application for grant made under and in accordance with the Countryside Management Regulations (Northern Ireland) 1999 shall be treated as if it was an application for grant made under and in accordance with these Regulations.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 5th February 2001.

L.S.

*Liam McKibben*  
A senior officer of the  
Department of Agriculture and Rural  
Development

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<sup>(8)</sup> 1996 c. 23

<sup>(9)</sup> S.R. 1999 No. 208

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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The Department of Finance and Personnel hereby consents to the foregoing Regulations.  
Sealed with the Official Seal of the Department of Finance and Personnel on 5th February 2001.

L.S.

*David Sterling*  
A senior officer of the  
Department of Finance and Personnel