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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 277**

**Environmentally Sensitive Areas (Enforcement)  
Regulations (Northern Ireland) 2005**

**Department's powers of recovery etc.**

3.—(1) Where any person, with a view to obtaining a payment for himself or any other person, makes any statement or furnishes any information which is false or misleading, the Department may withhold the whole or part of any payments payable to that person or to such other person and may, subject to the provisions of Article 72 of Commission Regulation 817/2004, recover the whole or part of any payments already paid to that person or to such other person.

(2) Subject to the provisions of Article 39 of Commission Regulation 817/2004 (force majeure) and Article 73 of Commission Regulation 817/2004 (which provides for recovery of wrongful payments with interest, a penalty system to be imposed in the event of breaches of the obligations entered into and exclusion for false declarations), and without prejudice to any rights the Department may have under an agreement, the Department may, where a farmer breaches any of the provisions of the agreement he has entered or any other requirement that applies to the making of any payments –

- (a) withhold the whole or any part of any payments due to the farmer;
- (b) recover the whole or any part of any payments already paid to him;
- (c) in so far as is consequent upon Article 73 of Commission Regulation 817/2004 (which required Member States to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect), require the farmer to pay to the Department a sum equal to no more than 10% of the payments paid or payable to him.

(3) Where the Department takes any step specified in paragraph (1) or (2) it may also terminate the agreement by notice in writing to the farmer.

(4) Where under paragraph (3) the Department treats the agreement as terminated, it may also by notice in writing to the farmer 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) Any question or dispute between the Department and a farmer in relation to a matter arising under the agreement shall be referred to and determined by arbitration 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(1) or any statutory modification or re-enactment thereof for the time being in force.