

EXPLANATORY MEMORANDUM

The Areas of Natural Constraint Regulations (Northern Ireland) 2016

2016 No.15

1. Introduction

- 1.1. The Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations

- define the conditions of eligibility for an ANC allowance and the rates at which it is to be paid;
- provide for the exclusion of forage area in respect of claimants who had dairy cows on their holding in the minimum grazing period (1 April to 31 October 2015);
- set the maximum time (90 days) which beneficiaries have to notify the Department of a transfer of a holding;
- grant the Department power to withhold or recover payments and take certain other action in the event of a breach under these Regulations and in certain other circumstances;
- set out how interest to be charged on amount owed to the Department will be calculated;
- allow for payments owed to the Department by beneficiaries to be treated by the Department as debt;
- provide for debts owed to the Department to be deducted from future payments to that beneficiary;
- provide the powers of entry to land and premises for the purpose of enforcing these regulations to persons authorised by the Department;
- set out the powers of inspection of such authorised persons; and
- make it an offence to obstruct, fail to provide information without reasonable cause or furnish false or misleading information to a person acting to implement these Regulations and establishes the penalties which may be imposed.

3. Background

- 3.1. The Less Favoured Areas Compensatory Allowances (LFACA) Scheme was a long standing compensation measure to support those who farmed in naturally less favoured areas in Northern Ireland by way of an annual area based subsidy payment.
- 3.2. In June 2014, the DARD Minister made a series of significant announcements on CAP reform including announcing an Areas of Natural Constraint (ANC) Scheme in Pillar II (as a measure within the Rural Development Programme (RDP) 2014-2020) for the first two years of the current CAP period, with a review thereafter.
- 3.3. Article 31 of Regulation (EU) No 1305/2013 provides the legal framework to make payments between 2014 and 2020 to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005 during the 2007-2013 programming period. This provision gives the Department the authority to make payments on eligible hectares of forage land in the Severely Disadvantaged Area under the 2016 ANC Scheme. The Scheme is a measure in the Department's Rural Development Programme, which was agreed by the European Commission on 25 August 2015 (Commission Implementing Decision CCI: 2014UK06RDRP002).
- 3.4. Under the terms of Regulation (EU) No. 1305/2013 ANC payments under the Scheme must be degressive above a threshold level of claimed area per holding. The Areas of Natural Constraint Regulations (Northern Ireland) 2016 specify that for the first 200 hectares of eligible forage land claimed the payment rate will be £56.47 per hectare and for eligible forage land claimed over 200 hectares the rate will be £42.35 per hectare.

4. Consultation

- 4.1. There has been no consultation specific to these Regulations. However, a wide range of industry representatives were consulted during the development of the RDP Measure Sheet and the Scheme conditions including indicative payment rates. Industry representatives included Belfast Hills Partnership, Council for Nature Conservation and the Countryside, Dairy UK, Farmers for Action, Livestock & Meat Commission, Local Biodiversity Officers Forum, National Beef Association, National Sheep Association, National Trust, Northern Ireland Agricultural Consultants Association, Northern Ireland Agricultural Producers Association, the Northern Ireland Local Government Association, Northern Ireland Meat Exporters Association, Northern Ireland Environment Link, Organics NI, RSPB, Rural Community Network, Rural Development Council, SDA Group, the Ulster Farmers' Union and Ulster Wildlife.

5. Equality Impact

- 5.1. In accordance with DARD's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations

have been assessed and they have been screened out of a full equality impact assessment.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment has not been prepared for these Regulations as they have no impact in terms of costs on business, charities, social economy enterprises or voluntary bodies.

7. Financial Implications

- 7.1. DARD has budget for the 2016 Scheme payments.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Regulations provide a domestic legal framework for the implementation of Article 31 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development and specifically the payment of an ANC allowance on eligible hectares of forage land in the Severely Disadvantaged Area. The Regulations do not have any human rights implications, nor are they incompatible with EU law. They are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable

10. Parity or Replicatory Measure

- 10.1. Not applicable

11. Additional information

- 11.1. Not applicable

Rosemary Agnew at the Department of Agriculture and Rural Development, Tel: 028 9052 4074 or email: rosemary.agnew@dardni.gov.uk, can answer any queries regarding the Scheme.