
STATUTORY INSTRUMENTS

1998 No. 3169

AGRICULTURE

The Arable Area Payments (Amendment) Regulations 1998

Made - - - - *16th December 1998*
Laid before Parliament *21st December 1998*
Coming into force - - *15th January 1999*

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of subsection (2) of section 2 of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community, acting jointly in the exercise of the powers conferred on them by that subsection, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Arable Area Payments (Amendment) Regulations 1998, shall extend to Great Britain and shall come into force on 15th January 1999.

Interpretation

2.—(1) In these Regulations, the “principal Regulations” means the Arable Area Payments Regulations 1996⁽³⁾.

(2) In regulation 3(2) to (8) below, any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule in the principal Regulations so numbered.

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2 (interpretation), in paragraph (1)–

(a) after the definition of “authorised person” there shall be inserted the following definition–

(1) S.I. 1972/1811.

(2) 1972 c. 68.

(3) S.I. 1996/3142, amended by S.I. 1997/2969.

- ““certified seed” means seed certified, in accordance with Council Directive [66/402/EEC](#) on the marketing of cereal seed(4), as “basic seed”, “certified seed”, “certified seed, first generation” or “certified seed, second generation”;;”;
- (b) after the definition of “permitted agricultural production”, there shall be inserted the following definition–
- ““plant protection product” shall have the same meaning as in Council Directive [91/414/EEC](#) concerning the placing of plant protection products on the market(5);”;
- (c) in the definition of “set-aside period”, the words in brackets and the words “and, in the case of guaranteed set-aside land, means a scheme year” shall be deleted; and
- (d) the definition of “sharefarming agreement” shall be deleted.
- (3) In regulation 6 (exchanges of eligible and ineligible land)–
- (a) in paragraph (1), for the words “is obliged to exchange ineligible land for eligible land within his holding for agronomic, phytosanitary or environmental reasons, as provided for in Article 2(5) of Commission Regulation 658/96”, there shall be substituted the words “has sufficient grounds, for the purposes of Article 2(5) of Commission Regulation 658/96, for exchanging ineligible land for eligible land within his holding.”(6);
- (b) in paragraph (5), for the words “on reasonable grounds that the applicant is obliged to exchange the ineligible land for the eligible land for agronomic, phytosanitary or environmental reasons”, there shall be substituted the words “that the applicant has sufficient grounds for the purposes of Article 2(5) of Commission Regulation 658/96 for exchanging ineligible land for eligible land and that the exchange would not give rise to an increase in the total area of eligible arable land on the holding.”; and
- (c) in paragraph (6), for sub-paragraph (i) there shall be substituted–
- “(i) has, for a continuous period of twenty years ending on 22nd April 1995, been grassland, scrub or other non-arable habitat, and has not at any time during that period been cultivated, re-seeded, improved by the use of fertilisers, herbicides or lime or otherwise managed for arable production, unless–
- (i) the ineligible land that is the subject of the application is situated within an existing orchard planted after 22nd April 1965; or
- (ii) the Minister is satisfied on reasonable grounds that the purpose of the exchange is to allow the eligible land that is the subject of the application to be entered into an agri-environmental scheme and the exchange would result in an overall environmental benefit.”.
- (4) Regulation 7 shall be deleted.
- (5) After regulation 11, there shall be inserted the following regulation–

“Requirements in relation to durum wheat supplement

11A. Where, pursuant to Article 6 of Commission Regulation 658/96, a farmer claims the supplement to the compensatory payment referred to in Article 4(3) of Council Regulation No. 1765/92, he shall be entitled to such supplement if the seed used to produce the durum wheat in question is certified seed sown at a minimum sowing rate of 150 kg per hectare.”.

- (6) In regulation 13–

(4) OJ No. L125, 11.7.66, p. 2309, last amended by Council Directive (EC) No. 96/72, OJ No. L304, 27.11.96, p. 10.

(5) OJ No. L230, 19.8.91, p. 1, last amended by Council Directive (EC) No. 98/47, OJ No. L191, 7.7.98, p. 50.

(6) Commission Regulation (EC) No. 658/96 (OJ No. L91, 12.4.96, p. 46) was last amended by Commission Regulation (EC) No. 1589/98, OJ No. L208, 24.7.98, p. 9.

- (a) after paragraph (4), there shall be inserted the following paragraph—
 - “(4A) A farmer who makes a claim pursuant to regulation 11A of these Regulations shall retain all commercial documents relating to the certified seed in question and any document or record which identifies the parcels on which the certified seed is sown, from the time at which he makes such claim until the end of the fourth year following the year in which the claim is made.”;
 - (b) in paragraph 5, in sub-paragraph (b), after the words “sales note”, there shall be inserted the words “, contract in accordance with which the seed is sown”.
- (7) Schedule 1 (derogations from requirement to have farmed for two years land set aside) shall be deleted.
- (8) In Schedule 2 (management requirements in relation to set-aside land)—
- (a) in Part A (management options for set-aside land), for paragraph 1(5) there shall be substituted the following sub-paragraph—
 - “(5) For the purposes of this Schedule, the particular scheme year referred to in sub-paragraph (1) above means “the current scheme year”; “the current set-aside period” means the set-aside period during that scheme year; “the current green cover season” means the green cover season during that scheme year; and expressions such as “the previous scheme year” and “the following scheme year” shall be construed accordingly.”; and
 - (b) in Part B (general management conditions applying to all set-aside land)—
 - (i) for paragraph 19 (application of fungicides and insecticides to the set-aside land) and the heading thereto there shall be substituted the following paragraph and heading—

“Application of plant protection products, other than herbicides, to the set-aside land

19. A farmer shall not apply plant protection products other than herbicides to the set-aside land concerned except on or after 15th July in any scheme year and in preparation for sowing a crop.”; and
 - (ii) in paragraph 20 (application of herbicides to the set-aside land)—
 - (a) in sub-paragraph (1), for the words “sub-paragraph (2)” there shall be substituted “sub-paragraphs (2) and (3)”; and
 - (b) after sub-paragraph (2), there shall be inserted the following sub-paragraph—

“(3) Sub-paragraph (1) shall not apply in relation to the application of herbicides to the set-aside land in preparation for sowing a crop, provided that such application occurs on or after 15th July in the scheme year in question.”.
4. In the Index to the principal Regulations—
- (a) the entries relating to regulation 7 and Schedule 1 shall be deleted; and
 - (b) after the entry relating to regulation 11, there shall be inserted the following—

“11A. Requirements in relation to durum wheat supplement”.

16th December 1998

Elliot Morley
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

15th December 1998

Sewel
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend, with effect from 15th January 1999, the Arable Area Payments Regulations 1996 (S.I.1996/3142) (“the principal Regulations”), as amended by the Arable Area Payments (Amendment) Regulations 1997 (S.I. 1997/2969). The principal Regulations, as amended, implement Council Regulation 1765/92 (OJ No. L181, 1.7.92, p. 12), which establishes a support system for producers of certain arable crops, and Commission Regulations 334/93 (OJ No. L38, 16.2.93, p. 12), 762/94 (OJ No. L90, 7.4.94, p. 8), 658/96 (OJ No. L91, 12.4.96, p. 46) and 1586/97 (OJ No. L215, 7.8.97, p. 3).

These Regulations—

- (a) amend the rules relating to exchanges of eligible for ineligible land consequent on changes made to Article 2(5) of Commission Regulation 658/96 by Article 1 of Commission Regulation 1589/98 (regulation 3(3));
- (b) delete the provision permitting a farmer to claim set-aside compensatory payment on land which he had not farmed for the two years prior to the commencement of the set-aside period, consequent on Article 1 of Commission Regulation 1981/98, which repeals Article 3(4) of Commission Regulation 762/94 (regulation 3(4) and (7));
- (c) provide, in consequence of amendments to Commission Regulation 658/96 by Commission Regulation 760/98 (OJ No. L105, 4.4.98, p. 8), for conditions for the payment of a supplement in respect of compensatory payments for durum wheat (regulation 3(5)) and lay down record-keeping requirements in relation to the payment of the supplement (regulation 3(6));
- (d) permit the application of plant protection products other than herbicides on set-aside land after 15th July in any year, in preparation for the sowing of a crop for harvest the following year, and modify the restrictions on the application of herbicides to set-aside land where the herbicide is applied in preparation for growing a crop (regulation 3(8)(b)); and
- (e) make a number of additional, minor modifications.

No regulatory impact assessment has been prepared in respect of these Regulations.