
WELSH STATUTORY INSTRUMENTS

2001 No. 424

The Organic Farming Scheme (Wales) Regulations 2001

Change of occupation

12.—(1) Where during the specified period there is a change of occupation of the whole or any part of a beneficiary's organic unit by reason of the devolution of that organic unit or part on the death of the beneficiary or otherwise—

- (a) the beneficiary (or, if deceased, the personal representatives) shall within 28 days of such change notify the National Assembly in writing of the change of occupation, and shall supply to the National Assembly the information relating to the change of occupation in the form and within the period the National Assembly reasonably may direct; and
- (b) subject to the provisions of this regulation, the new occupier of that organic unit or part may give an undertaking in writing to the National Assembly to comply, with effect from the date on which that new occupier entered into occupation of the organic unit or part (as the case may be) and for the remainder of the specified period, with the obligations assumed by the beneficiary under that beneficiary's application relating to the land comprised in that organic unit, in so far as they apply in relation to the land transferred to the new occupier.

(2) Where the change of occupation referred to in paragraph (1) is consequent on the beneficiary's death, the power conferred on the National Assembly by regulation 16(2) shall not apply in relation to the beneficiary's estate, in respect of the beneficiary's failure to comply with any undertaking by reason of that death.

(3) Subject to paragraph (4), where the change of occupation referred to in paragraph (1) is not consequent on the beneficiary's death, the powers that are conferred on the National Assembly by regulation 16(2) in respect of the beneficiary's obligations of reimbursement under Article 29 of the Commission Regulation (which governs transfers of holdings), or in respect of any failure by the beneficiary to comply with any undertaking, and which are in either case exercisable as a consequence of the beneficiary ceasing to be in occupation of the organic unit or part of the organic unit (as the case may be), shall not apply, provided that—

- (a) within three months of the date on which the beneficiary ceased to be in occupation of the land in question, a new occupier gives an undertaking under paragraph (1)(b) in relation to that land; and
- (b) where the new occupier occupies part only of the beneficiary's organic unit, the beneficiary satisfies the conditions of eligibility in regulation 5(1)(a), (b) and (c), as they would apply in relation to that part of the organic unit of which the beneficiary remains in occupation, if an application had been made by him or her in relation to that part.

(4) Provisos (a) and (b) to paragraph (3) shall not apply in relation to any land transferred if, in respect of the whole of the land transferred, the conversion period has been completed and all payments due under these Regulations have been made.

(5) Where there is a change of occupation of part of an organic unit, the National Assembly shall determine the extent to which the obligations assumed by the beneficiary relate to that part, having regard to—

- (a) the area of land comprised in that part and in the remainder of the organic unit, and

(b) the use to which that part is put;

and an undertaking given under paragraph (1)(b) in respect of part of the organic unit shall apply in relation to that part to the extent so determined.

(6) The National Assembly shall not accept an undertaking under paragraph (1)(b) unless it is satisfied that—

- (a) the land to which the undertaking relates (“the relevant land”) forms the whole or part of an organic unit comprising the whole or part of the holding of the new occupier or a holding vested in that new occupier as personal representative;
- (b) the new occupier is in lawful occupation of the relevant land as owner or tenant or is in lawful possession of that land as the personal representative of the beneficiary;
- (c) the conditions of eligibility specified in regulation 5(1)(a), (b)(ii) and (d) would be satisfied if the undertaking were an application in respect of the relevant land to which the undertaking relates; and
- (d) the new occupier has given the undertaking mentioned in paragraph (7) in any case where, before entering into occupation of the organic unit in question, the new occupier has introduced organic farming on any part of his holding.

(7) The undertaking referred to in paragraph (6)(d) is that the new occupier shall continue to farm the part of the holding referred to in that paragraph in accordance with organic farming methods for the remainder of the specified period which is applicable in relation to the land to which the undertakings of the previous occupier of the organic unit in question related.

(8) A new occupier who gives an undertaking to comply with the obligations assumed by the beneficiary shall, within such period following the change of occupation as the National Assembly reasonably may direct, supply to the National Assembly such evidence and such supplementary information in such form as the National Assembly reasonably may direct to be supplied.

(9) Where the National Assembly has accepted an undertaking from a new occupier to comply with the obligations of a beneficiary—

- (a) that undertaking shall be deemed to take effect on the date that the new occupier entered into occupation of the holding, or part of the holding, as the case may be; and
- (b) with effect from that date, the previous occupier shall cease to be a beneficiary, and shall cease to be bound by the obligations assumed by virtue of the undertaking, in so far as they apply in relation to the holding or (as the case may be) that part of the holding occupied by the new occupier.

(10) Nothing in paragraph (9)(b) shall affect any liability of a beneficiary which has accrued prior to the date on which the undertaking given by the new occupier takes effect.