
STATUTORY INSTRUMENTS

1997 No. 2969

AGRICULTURE

The Arable Area Payments (Amendment) Regulations 1997

Made - - - - *16th December 1997*
Laid before Parliament *17th December 1997*
Coming into force - - *15th January 1998*

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 1997, shall extend to Great Britain and shall come into force on 15th January 1998.

Interpretation

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

(2) In regulations 4 to 12 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. The principal Regulations shall be amended in accordance with regulations 4 to 12 below.

4. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “Commission Regulation 334/93”⁽⁴⁾ the following definitions shall be inserted—

(1) S.I. 1972/1811.

(2) 1972 c. 68.

(3) S.I. 1996/3142.

(4) OJ No. L38, 16.2.93, p.12, repealed by Commission Regulation (EC) No. 1586/97 (OJ No. L215, 7.8.97, p.3), but continues to apply in respect of contracts concluded before the entry into force of Commission Regulation 1586/97.

““Commission Regulation 1586/97” means Commission Regulation (EC) No. 1586/97 laying down detailed implementing rules for the use of set-aside land for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption;(5)

“Commission Regulation 334/93 or Commission 1586/97, as the case may be” means—

- (i) in relation to contracts entered into before 10th August 1997, Commission Regulation 334/97; and
- (ii) in relation to contracts entered into on or after 10th August 1997, Commission Regulation 1586/97;”;
- (ii) after the words “Commission Regulation 334/93” in the definitions of “land set aside for non-food purposes”, “set aside” and “specified raw materials”, there shall be inserted the words “or Commission Regulation 1586/97, as the case may be”;
- (iii) for the definition “organic waste” there shall be substituted the following definition—

““organic waste” means—

- (a) in relation to the application of organic waste to environmental transferred set-aside land, waste material produced by any work carried out for the maintenance of a tree, hedge, stream or ditch; and
- (b) in relation to the application of organic waste to any other set-aside land, waste material produced by or from animals or plants as a by-product of agricultural production, including animal bedding;”;
- (iv) in the definition of “set-aside requirement”, after the words “Article 2(5)” there shall be inserted the word “of”;
- (v) the definition of “shallow cultivate” shall be deleted; and
- (b) in paragraph (3), for the words “these Regulations”, where they appear for the second time, there shall be substituted the words “the Arable Area Payments (Amendment) Regulations 1997”.

5. In regulation 9 (requirements in relation to set-aside land), in paragraph (5)(a), the words “to him” shall be deleted.

6. In regulation 11 (requirements in relation to rapeseed)—

- (a) in paragraph (6), before the words “For the purposes” there shall be inserted the words “Subject to paragraphs (7A) and (7B),”;
- (b) in paragraph (7), before the words “As provided for” there shall be inserted the words “Subject to paragraphs (7A) and (7B),”;
- (c) after paragraph (7), there shall be inserted the following paragraphs:

“(7A) Paragraphs (6)(a) and (7)(a) above shall not apply where, before the flowering of the later sown crop, the farmer destroys that part of it which has been sown within 50 metres of the previously sown crop.

(7B) Paragraphs (6)(b) and (7)(b) above shall not apply where either the previously sown crop or the later sown crop has flowered and, before the flowering of the other of those two crops, the farmer destroys—

- (a) such part of the later sown crop as has been sown within 50 metres of the previously sown crop; or

- (b) such part of the previously sown crop as is growing within 50 metres of the later sown crop.”.

7. In regulation 12 (delivery notifications for non-food raw materials), in paragraphs (1) and (2), for the words “15th November” in each case there shall be substituted the words “9th February”, and after the words “scheme year” in each case there shall be inserted the words “following the scheme year”.

8. In relation to contracts concluded on or after 10th August 1997 pursuant to Articles 3 and 4 of Commission Regulation 1586/97, regulations 11, 12 and 14 shall apply with the following additional modifications—

- (a) in regulation 11(7), for the words “Article 4 of Commission Regulation 334/93” there shall be substituted the words “Article 13 of Commission Regulation 1586/97”;
- (b) in regulation 12—
 - (i) in paragraph (1), for the words “Article 7(3) of Commission Regulation 334/93” there shall be substituted the words “Article 5(4) of Commission Regulation 1586/97”; and
 - (ii) in paragraph (2), for the words “sub-paragraph (a) of Article 8(4) of Commission Regulation 334/93” there shall be substituted the words “Article 6(4) of Commission Regulation 1586/97”;
- (c) in regulation 14 (keeping and retention of records by a collector and by a processor), in paragraph (3)(a), for the words “Commission Regulation 334/93” there shall be substituted the words “Commission Regulation 1586/97”.

9. In Schedule 1 (derogations from requirement to have farmed for two years land set aside)—

- (a) in Part I (derogations in respect of land in England or Wales), in paragraph 1(f)(ii), the words “from year to year” shall be deleted; and
- (b) in Part II (derogations in respect of land in Scotland), in paragraph 1(f)(ii), the words “from year to year” shall be deleted.

10. In Schedule 2 (management requirements in relation to set-aside land)—

- (a) in Part A (management options for set-aside land), in paragraph 1(1)(b), for the word “condition” there shall be substituted the word “conditions”;
- (b) in Part B (general management conditions applying to all set-aside land)—
 - (i) in paragraph 11, for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) In relation to set-aside land situated in Scotland, where a farmer has applied a non-selective herbicide to that set-aside land during the current set-aside period but not earlier than 1st May and not later than 14th July during that period, he shall not subsequently cut any green cover on that set-aside land before 15th July prior to the end of that period.”;
 - (ii) in paragraph 13(3) and (4), for “11(4)(a)” there shall be substituted “15(5)(a)”;
 - (iii) in paragraph 14(a), after the words “organic farmer” there shall be inserted the words “, at any time on or after 1st July prior to the end of the current set-aside period, and;”, and sub-paragraphs (i) and (ii) shall be deleted; and
 - (iv) in paragraph 18(2), there shall be inserted at the beginning the words “Throughout the set-aside period”, and for the words “if that organic waste”, to the end of the sub-paragraph, there shall be substituted the following—

“provided that the organic waste—

- (a) was produced on land which he farms as a single unit with the set-aside land;
 - (b) is applied only where there is an existing green cover on the set-aside land; and
 - (c) is applied in amounts which will not destroy that green cover.”;
- (c) in Part C (special conditions applying to guaranteed set-aside land), in paragraph 23(1), after the words “period shall”, there shall be inserted the word “be”; and
- (d) in Part D (exception relating to environmental transferred set-aside land), for paragraph 25(1) there shall be substituted—

“**25.**—(1) Throughout the set-aside period, a farmer may apply organic waste to an agricultural parcel of environmental transferred set-aside land where—

- (a) that waste was created as a result of the maintenance of a tree, hedge, stream or ditch on or immediately adjoining that agricultural parcel;
- (b) there is an existing green cover on that parcel; and
- (c) the amount of organic waste to be applied will not destroy the green cover.”

11. In Schedule 3 (requirements in relation to land set aside for the provision of specified raw materials), in paragraph 2(b)(ii), for the words “the Water (Prevention of Pollution) (Code of Practice) (Scotland) Order 1992”, there shall be substituted “the Water (Prevention of Pollution) (Code of Practice) (Scotland) Order 1997”**(6)**.

12. Paragraph 3(1) of Schedule 3 shall apply in relation to contracts concluded on or after 10th August 1997 with the modification that, for the words “Article 6(1) of Commission Regulation 334/93, pursuant to Article 7(2)”, there shall be substituted the words “Article 4(1) and (2) of Commission Regulation 1586/97, pursuant to Article 5(2)”.

15th December 1997

Donoghue
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

16th December 1997

Sewel
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend, with effect from 15th January 1998, the Arable Area Payments Regulations 1996 (S.I.1996/3142) (“the principal Regulations”). The principal Regulations make provision for the implementation of Council Regulation 1765/92, which establishes a support system for producers of certain arable crops, and the Commission Regulations made under it. The Commission Regulations in question are Commission Regulation 334/93, Commission Regulation 762/94, Commission Regulation 658/96 and Commission Regulation 1586/97, the last of which is implemented in Great Britain by these Regulations. The principal amendments are as follows.

Amendments are made to regulation 11(6) and (7) of the principal Regulations modifying the conditions relating to planting distances in relation to rapeseed (regulation 6). The planting distances are specified in the principal Regulations to give effect to the quality policy adopted pursuant to Article 4(2) of Commission Regulation EC/658/96 (OJ L91, 12.4.96, p. 14).

The date by which a farmer is required to make the declaration for non-food crops which he is required to make by Article 7(3) of Commission Regulation EEC/334/93 or, as the case may be, Article 5(4) of Commission Regulation EC/1586/97, is amended. Before the coming into force of these Regulations, this date was the 15th November in the scheme year in respect of which set-aside compensatory payments have been claimed. As from the coming into force of these Regulations, the relevant date is the 9th February in the scheme year following that scheme year (regulation 7). The date by which a collector or first processor of non-food crops is required to provide the information referred to in regulation 12(2) of the principal Regulations is also amended from the 15th November in the scheme year in respect of which set-aside compensatory payments have been claimed to the 9th February in the scheme year following that scheme year (regulation 7).

These Regulations also amend regulation 11, 12 and 14 of the principal Regulations in implementation of Commission Regulation EC/1586/97 (regulation 8). The latter Regulation repeals Commission Regulation EC/334/93 except insofar as it continues to apply to contracts concluded before the entry into force of Commission Regulation EC/1586/97 (10th August 1997).

A number of modifications have been made to Schedule 2 of the principal Regulations (management requirements in relation to set-aside land), by inserting new conditions in Parts B and D which relate to the type, amount and origin of organic waste which may be applied to set-aside land, and the period during which these conditions are to apply (regulation 10). The management requirements specified in Schedule 2 to the principal Regulations were imposed pursuant to Article 3(3) of Commission Regulation EC/762/94 (OJ L90, 7.4.94, p. 8) which requires Member States to take appropriate measures in relation to set-aside land.

No regulatory appraisal has been prepared in relation to these Regulations.