1954 No. 671

The Hill Farming (Cottages) (Northern Ireland) Regulations, 1954

Made - - - -	*20th May*, 1954
Laid before Parliament	*25th May*, 1954
Coming into Operation	*26th May*, 1954

The Minister of Agriculture and Fisheries, in exercise of the powers conferred upon him by Section 10 of the Hill Farming Act, 1946(a), as amended by Section 1 of the Hill Farming Act, 1954(b), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, Commencement and Extent

1. These regulations, which may be cited as the Hill Farming (Cottages) (Northern Ireland) Regulations, 1954, shall come into operation on the 26th day of May, 1954, and shall apply to Northern Ireland.

Interpretation

2.—(1) In these regulations—

"agriculture" includes dairy-farming and poultry-farming and the use of land as grazing, meadow or pasture land, or orchard or osier land, or woodland, or for market gardens or nursery grounds;

"agricultural population" means persons whose employment or latest employment is or was employment in agriculture or in an industry mainly dependent upon agriculture, and includes also the dependants of such persons as aforesaid;

"the Minister" means the Minister of Agriculture and Fisheries;

"owner" in relation to a cottage means the person who is for the time being receiving the rack-rent of the cottage or who, if the cottage were let at a rack-rent, would receive the rack-rent of the cottage:

Provided that, if in any case the person who, by virtue of the foregoing definition, would be the owner of a cottage is a person himself liable to pay a rack-rent in respect of the cottage or of any property comprising the cottage to a superior landlord, that superior landlord and not the person aforesaid shall be deemed to be the owner of the cottage for the purposes of these regulations;

"rack-rent" has the same meaning as in the Public Health Act, 1875(c).

(2) The Interpretation Act, 1889(d), as applied to Northern Ireland by the Interpretation Act, 1921(e), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Conditions applied to cottages

3. Where an improvement grant has been made by the Minister, whether before or after the commencement of these regulations, in respect of cost of work done for the erection, improvement or reconditioning of a cottage, the following conditions with respect to the occupation and maintenance thereof shall, subject to the provisions of these regulations, apply to the cottage (1) in a case where the grant was made after the commencement of these regulations, for a period of twenty years from the date on which the cottage

(a) 9 & 10 Geo. 6. c. 73. (b) 2 & 3 Eliz. 2. c. 23. (c) 38 & 39 Vict. c. 55.
(d) 52 & 53 Vict. c. 63. (e) 12 Geo. 5. c. 4. (N.I.)

first became fit for occupation after the completion of the work, or (2) in a case where the grant was made and had not been recovered or repaid before such commencement, for such part of the period aforesaid as falls after the commencement of these regulations, that is to say—

(*a*) the cottage shall not be occupied otherwise than by—

(i) the owner thereof;

(ii) a member of the agricultural population;

(iii) a person to whom the cottage is let on a contract of tenancy with the consent of the Minister; or

(iv) a person permitted to occupy the cottage in satisfaction of the condition specified in the next following paragraph:

(*b*) in the case of a cottage which is for the time being occupied in pursuance of a contract of service by a person who is not a tenant of the cottage, the following condition (being a condition corresponding to that set out in subsection (4) of Section 2 of the Housing Act, 1952(a)), that is to say, that if the contract is determined—

(i) by less than four weeks' notice given by the employer;

(ii) by dismissal of the employee without notice; or

(iii) by the death of either party

the employer or his personal representative shall permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy (otherwise than as tenant) the cottage free of charge from the determination of the contract until the expiration of a period of four weeks beginning with the date on which the notice is given or, if the contract is determined otherwise than by notice, with the date on which it is determined;

(*c*) the cottage shall not be occupied by the owner thereof unless it is occupied in connection with a farm and he is the person primarily engaged in carrying on or directing agricultural operations on that farm;

Provided that the condition specified in this paragraph shall not apply to a cottage in a case where the improvement grant made in respect thereof was made under an improvement scheme approved before the commencement of these regulations;

(*d*) the cottage shall be so maintained as to be in all respects fit for human habitation;

(*e*) the owner of the cottage shall from time to time, on being required so to do by the Minister, certify that the conditions specified in the foregoing paragraphs are being observed with respect to the cottage.

Recovery and withholding of improvement grants

4.—(1) In the event of a breach of any of the conditions specified in the last preceding regulation at a time when they are applied to a cottage by these regulations the appropriate proportion of all sums paid by the Minister (whether before or after the breach) on account of the improvement grant made in respect of cost of work done for the erection, improvement or reconditioning of that cottage together, in the case of each such sum, with interest on that proportion thereof as from the date of payment of the sum at the specified rate shall, on being demanded by the Minister, forthwith become payable to him by the owner for the time being of the cottage and the Minister shall withhold any sums which, apart from the breach, would be payable on account of the grant:

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 53.

Provided that—

(*a*) if it appears to the Minister that the breach is capable of being remedied, he may direct that the operation of the foregoing provisions of this regulation shall, in relation to the breach, be suspended for such period as he may allow and, if the breach is remedied within that period to the satisfaction of the Minister, he may direct that the said provisions shall not have effect in relation to the breach;

(*b*) if it appears to the Minister that the breach was not due to any act, default or connivance of the owner of the cottage, he may direct that the said provisions shall not have effect in relation to the breach.

(2) In this regulation the expression "the appropriate proportion" in relation to a sum, means a part thereof proportionate to the extent to which the period of twenty years specified in regulation 3 hereof remains unexpired at the date of the occurrence of the breach of conditions; and the expression "specified rate", in relation to interest on a sum paid on account of an improvement grant, means, in a case where the grant was made under an improvement scheme approved before the 1st day of August, 1950, the rate of three per centum per annum and, in any other case, the rate of three and one half per centum per annum.

(3) Upon satisfaction of a liability of an owner of a cottage to make a payment under the foregoing provisions of this regulation, the conditions applied to the cottage by these regulations shall cease to apply.

Voluntary repayment of improvement grants

5. The conditions applied to a cottage by these regulations shall cease to apply to that cottage on payment by the owner thereof to the Minister, at any time during the period for which those conditions are so applied, of the like amount as would become payable to him under the last preceding regulation in the event of a breach at that time of any of those conditions.

Grants to lessees

6. In any case where, after the commencement of these regulations, sums on account of an improvement grant in respect of a cottage have been paid to a person not being the owner of the cottage, and such person holds the cottage or any property comprising the cottage under a lease, then so long as that lease subsists any reference in the provisions of the last three preceding regulations to the owner of the cottage shall be construed as a reference to that person or his successors in title.

For the purpose of this regulation "lease" includes an underlease or other tenancy.

Revocation

7. The Hill Farming (Cottages) (Northern Ireland) Regulations, 1948(**a**), and the Hill Farming (Cottages) (Northern Ireland) Amendment Regulations, 1950(**b**), are hereby revoked without prejudice, however, to their operation in relation to a breach, occurring before the commencement of these regulations, of any of the conditions applied to a cottage by the regulations so revoked; provided that if the improvement grant in respect of that cottage is recovered under those regulations, after the commencement of these regulations, the conditions applied to the cottage by these regulations shall cease to apply.

In witness whereof the Official Seal of the Minister of Agriculture and Fisheries is hereunto affixed this 20th day of May, nineteen hundred and fifty-four.

(L.S.) *Tom Dugdale.*

(**a**) S.I. 1948/1605 (Rev. I, p. 624: 1948 I, p. 111). (**b**) S.I. 1950/1174 (1950 I, p. 123).

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations consolidate with amendments the Hill Farming (Cottages) (Northern Ireland) Regulations, 1948, and the Hill Farming (Cottages) (Northern Ireland) Amendment Regulations, 1950. The principal changes are:—

(1) The conditions applicable to the occupation of a grant-aided cottage no longer require that it shall be occupied only by the owner or a tenant. As an alternative, it may now be occupied by a member of the agricultural population otherwise than under a tenancy.

(2) If the cottage is occupied (otherwise than by a tenant) in pursuance of a contract of service, another new condition requires the employer to afford a minimum period of free occupation to the employee (or his dependants) in certain circumstances.

(3) If the grant was made under an improvement scheme approved after the commencement of these regulations, the owner may not occupy the cottage unless he occupies it in connection with a farm and himself carries on the farming there.

(4) The penalty for breaking a condition is reduced from the full amount of the improvement grant to a portion thereof proportionate to the unexpired portion of the period of twenty years for which the conditions are applicable.

(5) Provision is made for excusing a breach of condition where the breach is capable of being remedied or was not due to the act, default or connivance of the owner.

(6) If an improvement grant is made after the commencement of these regulations to a person who is not the owner of the cottage but is the lessee, then, so long as the lease subsists, he instead of the owner is liable on a breach of conditions.

All these changes (except the third) are made by virtue of the Hill Farming Act, 1954, which amends the provisions of Section 10 of the Hill Farming Act, 1946, under which the regulations are made.

The regulations come into operation on the 26th May, 1954, being the date on which the Hill Farming Act, 1954, comes into operation.

1954 No. 672 (S. 72)

The Hill Farming (Cottages) (Scotland) Regulations, 1954

Made - - - -	*20th May*, 1954
Laid before Parliament	*25th May*, 1954
Coming into Operation	*26th May*, 1954

In exercise of the powers conferred on me by section 10 of the Hill Farming Act, 1946(**a**), as amended by section 1 of the Hill Farming Act, 1954(**b**), of the powers conferred on me by section 2 of the last mentioned Act, and of all other powers enabling me in that behalf, I hereby make the following regulations:—

(**a**) 9 & 10 Geo. 6. c. 73. (**b**) 2 & 3 Eliz. 2. c. 23.