1995 No. 116

AGRICULTURE

Organic Farming Aid Regulations (Northern Ireland) 1995

Made	*22nd March 1995*
Coming into operation	*24th April 1995*

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Economic Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Organic Farming Aid Regulations (Northern Ireland) 1995 and shall come into operation on 24th April 1995.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these Regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these Regulations—

"application" means an application made in accordance with regulation 6 for aid under the scheme;

"arable land" means land—

(*a*) on which an arable crop is growing, or has been planted; or

(*b*) which is lying fallow as part of a normal crop rotation (including short term leys); or

(*c*) set-aside and which has been land within the meaning of paragraph (*a*) or (*b*) or improved grassland for a period of at least 3 years before the date of application;

"beneficiary" means—

(*a*) a person whose application has been accepted by the Department; or

(*b*) a person who occupies any farmland following a change of occupation thereof, who has given an undertaking to comply with

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(**a**) S.I. 1972/1811

(**b**) 1972 c. 68: section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253.

(**c**) 1954 c. 33 (N.I.)

the obligations relating to that production unit assumed by its previous occupier in relation to an application and whose undertaking has been accepted by the Department;

"Council Regulation 2092/91" means Council Regulation (EEC) No. 2092/91(**a**) on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs;

"Council Regulation 2078/92" means Council Regulation (EEC) No. 2078/92(**b**) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside;

"date of entry into the scheme" means the date on which an applicant proposes to assume obligations under the scheme in accordance with regulation 6(*c*);

"the Department" means the Department of Agriculture for Northern Ireland;

"holding" means all the production units farmed by an applicant or beneficiary;

"improved grassland" means either land used for grazing where over one-third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing, where there is not a significant presence of sensitive plant species indicative of native unimproved grassland;

"landlord" means, in relation to the tenant of a holding or part of a holding, any person who either solely or jointly owns or has a superior tenancy of that holding or part;

"organic farming" means farming in accordance with the standards set out by UKROFS;

"organic standard" means the standard attained by land on the converted land register of UKROFS;

"production unit" means land, other than common grazing, farmed by an applicant or beneficiary which would be accepted by UKROFS as viable for conversion to organic standards;

"rough grazing" means land containing semi-natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing;

"scheme" means the scheme to encourage organic farming methods as specified in Article 2(1)(*a*) of Council Regulation 2078/92;

"set-aside" means set-aside in accordance with the provisions of Council Regulation (EEC) No. 1765/92(**c**) establishing a support system for certain arable crops and Article 5 of Commission Regulation (EEC) No. 762/94(**d**) laying down detailed rules for the application of

(**a**) O.J. No. L198, 22.7.91, p. 1
(**b**) O.J. No. L215, 30.7.92, p. 85
(**c**) O.J. No. L181, 1.7.92, p. 12
(**d**) O.J. No. L90, 7.4.94, p. 8

Council Regulation (EEC) No. 1765/92 with regard to set-aside;

"specified period" means the period being not less than 5 years from the date of entry into the scheme and ending on the date of receipt by a beneficiary of the final payment of aid in respect of any land under the scheme;

"tenant" means a person who occupies a holding or part of a holding under a contract of tenancy for a fixed term of years of which at least five years remain unexpired at the commencement of the specified period;

"unimproved grassland" means land used for grazing or mowing which does not constitute improved pasture or rough grazing;

"UKROFS" means the United Kingdom Register of Organic Food Standards, having responsibility for administering the European Community Organic Farming Standards under Council Regulation No. 2092/91.

Aid for Organic Farming

3. Subject to the provisions of these Regulations, the Department may make payments of aid under the scheme to an applicant who—

(*a*) satisfies the conditions of eligibility specified in regulation 4;

(*b*) has given the undertakings set out in regulation 5;

(*c*) has made an application in accordance with regulation 6 which has been accepted by the Department; and

(*d*) complies with any requirements imposed by the Department under regulation 6.

Conditions of Eligibility

4.—(1) An applicant shall be eligible to make an application if at the date of application the applicant—

(*a*) is the lawful occupier of a production unit;

(*b*) is making an application in relation to a production unit which extends to not less than one hectare;

(*c*) has approval from UKROFS or a UKROFS approved body for his conversion plan.

(2) An application shall not be made in respect of any area of land already converted to organic standard on or after 10th August 1993.

Undertakings by Applicants

5. The applicant shall undertake—

(*a*) to convert the production unit to which the application relates to organic farming methods;

(*b*) to continue with organic farming on that production unit for the specified period;

(*c*) if, at the date of application, organic farming has already been introduced on land on the applicant's farm other than the production

unit to which the application relates, to continue with such farming on the other land for the specified period;

(*d*) to ensure that the organic farming of his farm conforms to UKROFS standards; and

(*e*) if the applicant has chosen to phase the introduction of the conversion to organic standard of the production unit to which the application relates, to do so over a period not exceeding 5 years from the date of entry into the scheme.

Application for Aid

6.—(1) An application for aid shall be made in writing, in such form as the Department may require and shall include—

(*a*) a map clearly showing—

(i) the boundaries of the applicant's holding together with any internal field boundaries; and

(ii) the area of arable land, improved grassland, rough grazing and unimproved grassland; and

(iii) the area of land, if any, which already meets the organic standard; and

(iv) the area of the production unit, if any, on which organic farming is to be introduced or which is on UKROFS's register of land in conversion;

(*b*) a written statement with details of the total area of the applicant's holding and of the areas of land referred to in sub-paragraphs (*a*)(ii), (iii) or (iv), as appropriate;

(*c*) the date on which he first proposes to assume obligations under the scheme;

(*d*) a written statement of the conversion plan if the applicant chooses to phase the conversion of his farm to organic standard; and

(*e*) confirmation of acceptance of the conversion plan by UKROFS or a UKROFS approved body.

(2) An applicant shall furnish to the Department such further information and evidence in relation to the application as the Department reasonably may require.

Restrictions on Acceptance of Applications

7.—(1) The Department shall not accept an application from an applicant who occupies the production unit to which the application relates as a tenant unless the Department is satisfied that such applicant has notified the landlord in writing of the making of such application.

(2) The Department may refuse to accept an application where it is satisfied that—

(*a*) the use of any land in accordance with the proposals contained in that application would frustrate the purposes of any assistance previously given or to be given out of money provided by the Parliament of the

United Kingdom or by the European Community;

(*b*) payment of aid under these Regulations in respect of any land on which an applicant proposes to carry on organic farming would duplicate any assistance previously given or to be given out of money provided by the Parliament of the United Kingdom or by the European Community.

Change of Occupation

8.—(1) Where there is a change of occupation, during the specified period, of the whole or any part of a beneficiary's production unit—

(*a*) the beneficiary (or, if he has died, his personal representatives or the occupier of the production unit) shall within 3 months notify the Department in writing of the change of occupation, and shall supply to the Department such information relating to that change of occupation in such form and within such period as the Department may reasonably determine;

(*b*) subject to the provisions of this regulation, the new occupier of the production unit or part may give an undertaking to the Department to comply, for the remainder of the specified period, with the obligations assumed by the beneficiary under an application relating to that production unit.

(2) Where there is a change of occupation of part of a production unit, the Department 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 original production unit, and

(*b*) the use to which that part is put.

(3) The Department shall not accept an undertaking from a new occupier of a production unit or part of a production unit to comply with obligations assumed by a beneficiary unless it is satisfied that that new occupier occupies the said production unit or part as an owner or tenant, or as the personal representatives of the beneficiary.

(4) A new occupier who gives an undertaking under this regulation to comply with the obligations assumed by the beneficiary shall supply to the Department such information in such form and within such period following the change of occupation as the Department may reasonably determine.

(5) Where the Department has accepted an undertaking from a new occupier to comply with the obligations undertaken by a beneficiary his undertaking to comply with the obligations undertaken by the original beneficary shall be deemed to take effect on the date of the acceptance by the Department of that undertaking.

(6) Where within 3 months from the date of change of occupation a new occupier has not given an undertaking to comply with the obligations assumed by the original beneficiary, the Department may—

(*a*) withhold the whole or any part of any payments of aid under the scheme due to the original beneficiary; and

(*b*) recover from that original beneficiary or his personal representatives the whole or any part of any payments of aid under the scheme already made to him.

(7) Paragraph (6) shall not apply where the change of occupation of a production unit or part of a production unit is the result of—

(*a*) the compulsory purchase of that production unit or part; or

(*b*) the death of the original beneficiary.

Amount of Aid and Claims

9.—(1) Subject to regulations 8(6), 9(3) and 11(1) and (2) payments shall be made annually in arrears and the amount of each payment shall be calculated in accordance with the Schedule.

(2) Payments will be made in respect of a maximum of 300 hectares per holding.

(3) The rate of payment specified in paragraph (1) may be varied by the Department from time to time.

(4) A claim for each annual payment under paragraph (1) shall be made at such time and in such form and shall contain such information as the Department may reasonably require.

Obligation to Permit Entry and Inspection

10.—(1) An applicant or beneficiary shall permit any person duly authorised by the Department accompanied by such other persons acting under his instructions as appear to that authorised person to be necessary for the purpose, at all reasonable hours and on production on demand of some duly authenticated document showing his authority, if so required, to enter any production unit for the purposes of—

(*a*) carrying out an inspection thereof or of any document or record in the possession or under the control of the applicant relating to, or which the authorised person reasonably suspects relates to, an application, with a view to verifying the accuracy of any particulars given in an application or claim under regulation 9(4) or in any undertaking made by a new occupier; and

(*b*) ascertaining whether the beneficiary has duly complied with any undertaking given by him under these regulations.

(2) An applicant or beneficiary shall render all reasonable assistance to an authorised person in relation to the matters mentioned in paragraph (1) and in particular shall—

(*a*) produce such document or record as may be required by the authorised person for inspection;

(*b*) permit the authorised person to take copies or extracts from any such document or record;

(*c*) where any such document or record is kept by means of a computer produce it in such form in which it may be easily read and taken away; and

(*d*) at the request of an authorised person, accompany him in making the inspection of any land and identify any area of land which is concerned in any application or in any undertaking given by a new occupier under regulation 8 to comply with the obligations undertaken by the original beneficiary.

Withholding and Recovery of Aid

11.—(1) Where any person with a view to obtaining the payment of aid under the scheme to himself or any other person, makes any statement or furnishes any information which is false or misleading in a material respect, the Department may withhold the whole or any part of any aid under the scheme payable to that person or to such other person, and may recover the whole or any part of any such aid already paid to that person or to such other person.

(2) Where a beneficiary—

(*a*) fails to comply without reasonable excuse with any of his obligations under these regulations; or

(*b*) fails without reasonable excuse to permit entry or inspection by an authorised person or a person accompanying him and acting under his instructions or to render all reasonable assistance to such authorised person as required by regulation 10,

the Department may withhold the whole or any part of any aid under the scheme payable to that beneficiary, and may recover the whole or any part of any such aid already paid to him.

(3) Before withholding or recovering any aid under regulation 8(6), or paragraphs (1) or (2), the Department shall—

(*a*) give to the beneficiary a written explanation of the reasons for the proposed withholding or recovery; and

(*b*) afford the beneficiary an opportunity of appearing before and being heard by a person appointed for that purpose by the Department; and

(*c*) consider the report by the person so appointed and supply a copy of the report to the beneficiary.

False Statement

12.—(1) Any person who, for the purposes of obtaining for himself or any other person any aid under the scheme, knowingly or recklessly makes a statement which is false or misleading in a material particular shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under paragraph (1) may be brought within a period of six months from the date on which evidence sufficient in the opinion of the Department to justify proceedings came to its knowledge.

(4) A certificate purporting to be signed for the purposes of paragraph 3 on behalf of the Department shall be conclusive evidence of the date on which

evidence sufficient to justify proceedings came to the knowledge of the Department.

Sealed with the Official Seal of the Department of Agriculture on 22nd March 1995.

(L.S.) *G. Lavery*
Assistant Secretary

SCHEDULE Regulation 9(1)

1. Where the production unit in respect of which aid is to be granted is comprised of arable land or improved grassland, the rate of such aid shall be calculated as follows:

(*a*) First year	£70 per hectare
(*b*) Second year	£70 per hectare
(*c*) Third year	£50 per hectare
(*d*) Fourth year	£35 per hectare
(*e*) Fifth year	£25 per hectare

2. Where the production unit in respect of which aid is to be granted is comprised of rough grazing or unimproved grassland, the rate of such aid shall be calculated as follows:

(*a*) First year	£10 per hectare
(*b*) Second year	£10 per hectare
(*c*) Third year	£ 7 per hectare
(*d*) Fourth year	£ 5 per hectare
(*e*) Fifth year	£ 5 per hectare

3. In addition to the aid calculated as described in paragraphs 1 and 2 an additional amount calculated at the rate of £30 per hectare shall be payable in respect of the first 5 hectares to applicants eligible for aid under the scheme for one hectare or more.

4. Applicants with land on the UKROFS register of land in conversion may choose to join the scheme at the second year providing that the land will not be eligible for entry in the UKROFS register of converted land for at least 12 months.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision for the payment of aid to farmers who undertake to introduce organic farming methods, pursuant to Article 2(1)(*a*) of Council Regulation (EEC) No. 2078/92 (O.J. No. L215, 30.7.92, p. 85) ("the Council Regulation"). Such aid is part of the zonal programme submitted by the United Kingdom to the European Commission relating to Northern Ireland pursuant to Article 3 of the Council Regulations.

The Regulations—

(*a*) enable the Department to make payments of aid to applicants satisfying the conditions of, and applying in accordance with the Regulations (regulation 3);

(*b*) specify the conditions of eligibility to be satisfied by applicants for aid (regulation 4);

(*c*) set out the undertakings to be given by applicants for aid (regulation 5);

(*d*) specify the requirements in relation to applications for aid and the documents to accompany such applications (regulation 6);

(*e*) specify restrictions on the acceptance of applications by the Department (regulation 7);

(*f*) make provision for payment of aid to a new occupant where there has been a change in the occupation of a production unit or part due to the death of a beneficiary or otherwise (regulation 8);

(*g*) specify the period and method of payment of aid (regulation 9);

(*h*) confer on authorised persons powers of entry for the purposes of the Regulations and require that reasonable assistance be given to them for the exercise of these powers (regulation 10);

(*i*) specify circumstances when the Department may withhold aid or recover payments already made (regulation 11); and

(*j*) create offences and prescribe penalties (regulation 12).

Copies of the United Kingdom Organic Farming Standards referred to in the Regulations may be obtained from the United Kingdom Register of Organic Food Standards (the body responsible for administering EC Organic Farming Standards under Council Regulation (EEC) No. 2092/91) at Room 320C, Nobel House, 17 Smith Square, London SW1P 3JR.