STATUTORY INSTRUMENTS

2001 No. 432

AGRICULTURE, ENGLAND

The Organic Farming (England Rural Development Programme) Regulations 2001

Made - - - -	*14th February 2001*
Laid before Parliament	*22nd February 2001*
Coming into force	*19th March 2001*

The Minister of Agriculture, Fisheries and Food, being a Minister 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 Community, in exercise of the powers conferred on him by that section, and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Title, commencement and extent

1. These Regulations may be cited as the Organic Farming (England Rural Development Programme) Regulations 2001, shall apply to England and shall come into force on 19th March 2001.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"aid" means the payments made under the support scheme referred to in Chapter VI of Title II of Council Regulation 1257/1999 in respect of that part of the England Rural Development Programme which relates to support for organic farming;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming or livestock breeding and keeping and the use of land for grazing, meadow land, market gardens or nursery grounds but does not include the use of land—

(a) as osier land, or

(b) for woodlands, except where that use is ancillary to any other use of land for the purposes of agriculture;

"application" means—

(a) S.I. 1972/1811.
(b) 1972 c. 68.

(a) an application for aid in writing, made under these Regulations, and in such form as the Minister may reasonably direct, or

(b) except in regulations 3 to 6, an application within the meaning of the Organic Farming Regulations made after 29th July 1999, which was made in accordance with regulation 9 of those Regulations and which was accepted by the Minister before 1st January 2000,

in respect of one or more organic parcels comprising the whole or part of an organic unit which comprises the whole or part of the applicant's holding, and "applicant" and "apply" shall be construed accordingly;

"approved" means approved by an inspection authority;

"beneficiary" (except in regulation 10(2)) means—

(a) a person whose application has been accepted by the Minister, or

(b) a person who occupies an organic unit following a change of occupation of the holding, who has given an undertaking to comply with the obligations assumed by its previous occupier under these Regulations, in so far as they relate to land comprised in that organic unit, or the part of the organic unit occupied by him, and whose undertaking in such terms has been accepted by the Minister;

"certificate of registration" means a certificate issued by an inspection authority in respect of an organic parcel, which—

(a) specifies the conversion period which applies in relation to that organic parcel, or the date on which that conversion period begins, and

(b) is accompanied by a schedule giving details of the land comprised in the organic unit of which that organic parcel forms the whole or part,

and for this purpose a certificate so issued is issued "in respect of" an organic parcel if it relates to that organic parcel, whether or not it also relates to any other organic parcel;

"Commission" means the Commission of the European Communities;

"Commission Regulation" means Commission Regulation (EC) No. 1750/1999**(a)** laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999, as last amended by Commission Regulation (EC) No. 2075/2000**(b)**;

"conversion", in relation to an organic parcel, means the conversion of that organic parcel to being fully organic;

"conversion period", in relation to an organic parcel, means the period determined by the inspection authority as the period in which the conversion of that organic parcel is expected to be completed, being a period starting—

(a) in relation to the first organic parcel, not later than the date of receipt; and

(b) in relation to any other organic parcel, not later than the fifth anniversary of the date of receipt;

"Council Regulation 2092/91" means Council Regulation (EEC) No. 2092/91**(c)** on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs, as last amended by Commission Regulation (EC) No. 2020/2000**(d)**;

"Council Regulation 3508/92" means Council Regulation (EEC) No. 3508/92**(e)** of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes, as last amended by Council Regulation 1593/2000**(f)**;

"Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999**(g)** on support for rural development from the European Agricultural Guidance and Guarantee Fund;

(a) OJ No. L214, 13.8.1999, p.31.
(b) OJ No. L246, 30.9.2000, p.46.
(c) OJ No. L198, 22.7.91, p.1.
(d) OJ No. L241, 26.9.2000, p.39.
(e) OJ No. L355, 5.12.1992, p.1.
(f) OJ No. L182, 21.7.2000, p.4.
(g) OJ No. L160, 26.6.1999, p.80.

"date of receipt", in relation to an organic parcel, means the date on which the Minister received an application in accordance with regulation 3(2), or in accordance with regulation 9 of the Organic Farming Regulations, in respect of that organic parcel;

"England Rural Development Programme" means the England Rural Development Programme approved by the Commission under Article 44 of Council Regulation 1257/1999;

"first organic parcel" means, of all the organic parcels comprised in an application, the organic parcel the conversion period for which begins first;

"first year" means—

(a) in relation to an organic parcel—

(i) in a case where the conversion period in respect of the organic parcel has commenced no later than the date of receipt, the year beginning with the date of receipt; and

(ii) in any other case, the year beginning with the anniversary of the date of receipt which is the first such anniversary to occur during the conversion period relating to the organic parcel in question; and

(b) in relation to an organic unit, the first year in relation to the first organic parcel to which an application relates, being the first such application relating to land comprised in that organic unit;

and any reference to any successive year is a reference to the relevant successive year following in sequence from the first year;

"fully organic" in relation to an organic parcel or organic unit means that—

(a) the inspection authority is satisfied that the conversion of that organic parcel or organic unit is completed; and

(b) notification having been given under Article 8 of Council Regulation 2092/91, details of such organic parcel or organic unit have appeared in the list referred to in that Article;

"grazing year" means any period of twelve months beginning with the date of receipt or any anniversary of the date of receipt;

"holding" has the meaning specified in Article 1.3 of Council Regulation 3508/92;

"inspection authority", in relation to an organic unit or organic parcel, means—

(a) the authority designated by the Organic Products Regulations 2001**(a)** for the purposes of Article 9 of Council Regulation 2092/91, or

(b) a private inspection body approved by that authority in accordance with Article 9 of that Regulation (which concerns the inspection system to which organic farming is subject),

being the authority or private inspection body to whom the applicant has applied to carry out inspection functions in relation to that organic unit or organic parcel;

"land" means land which is used for agriculture;

"landlord" means, in relation to the tenant of a holding, any person who either solely or jointly owns, or has a superior tenancy of, that holding, and "immediate landlord" means the landlord from whose title (or, as the case may be, joint title) the tenant directly derives his title;

"last organic parcel", means of all the organic parcels which are the subject of an application, the organic parcel the conversion period for which begins last;

"livestock" means any animal kept for the production of food, wool or skins or for the breeding of any animal for any such purpose;

"livestock undergoing conversion" means livestock which are identified in an approved plan as being in the process of being converted into organic livestock, and which fully conform to those UKROFS standards which apply in relation to the organic farming of livestock undergoing conversion;

(a) S.I. 2001/430.

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

"organic farming" means farming by organic farming methods;

"organic farming methods" means methods of farming which comply with the provisions of Council Regulation 2092/91;

"Organic Farming Regulations" means the Organic Farming Regulations 1999**(a)**;

"organic livestock" means livestock that are identified in an approved plan as being livestock that fully conform to those UKROFS standards which apply in relation to the organic farming of livestock;

"organic parcel" means an area of land which comprises the whole or part of an organic unit and which is identified in an approved plan by reference to such system of field numbering as the Minister may direct;

"organic unit" means an area of land which comprises the whole or part of a holding, and which has been established as an organic unit in accordance with Annex III to Council Regulation 2092/91 (which concerns the delineation of the organic unit by any inspection authority in a report countersigned by the producer);

"owner" means the person who holds the fee simple of the holding, and "owns" shall be construed accordingly;

"plan" means a schedule in writing specifying, in relation to an organic unit—

(a) those parcels which have been registered by the inspection authority;

(b) those parcels which are to be registered in the future;

(c) the date on which such organic parcels have been or (as the case may be) are to be registered; and

(d) where the plan relates to land on which livestock are kept, the livestock that are undergoing conversion or are organic livestock;

"specified period", in relation to an application, means the period beginning with the date of receipt and ending on the expiry of the period of five years from the date on which the first payment becomes payable in respect of the last organic parcel which is the subject of that application;

"tenant" means a person whose right to occupation of a holding derives from—

(a) an agreement which has effect by virtue of section 2 of the Agricultural Holdings Act 1986**(b)** as an agreement for the letting of land on a tenancy from year to year;

(b) a tenancy agreement falling within section 1 of the Agricultural Tenancies Act 1995**(c)**; or

(c) a contract for a tenancy for a fixed term of years; and

"UKROFS standards" means the production standards for organic farming of the United Kingdom Register of Organic Food Standards published in February 2001 by the Ministry of Agriculture, Fisheries and Food and known as the UKROFS Standards for Organic Food Production.

(2) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation so numbered in these Regulations.

(3) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

Acceptance of applications for aid

3.—(1) The Minister may accept applications for aid in accordance with the provisions of this regulation.

(2) If, following the receipt of an application supported by such information and evidence as the Minister may reasonably direct to be supplied, it appears to the Minister that the applicant

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(a) S.I. 1999/590, amended by S.I. 1999/2735 and 2933.
(b) 1986 c. 5.
(c) 1995 c. 8.

satisfies the conditions of eligibility specified in regulation 4 in respect of all, some or any one of the organic parcels that are the subject of that application ("the eligible organic parcels"), the Minister may, subject to regulations 5 and 6, accept the application with respect to the eligible organic parcel or parcels and notify the applicant in writing of such acceptance and the date from which aid shall become payable in respect of the eligible organic parcel or parcels.

(3) An application may be withdrawn by a notice in writing given by the applicant at any time before the application is accepted by the Minister.

Conditions of eligibility

4.—(1) The conditions of eligibility referred to in regulation 3(2) are that—

(a) the application is made in respect of not less than one hectare of land;

(b) at the date of his application, the applicant is the owner or tenant of the land which is the subject of his application and in lawful occupation of that land;

(c) the organic parcel, or any organic unit comprising land to which the application relates, is not fully organic at the date of receipt and has not been fully organic at any time during the period beginning on 10th August 1993 and ending on the date of receipt; and

(d) the applicant gives the undertakings mentioned in paragraph (2) in support of his application.

(2) The undertakings referred to in paragraph (1)(d) are—

(a) before making a claim for payment of aid in respect of any organic parcel, to furnish to the Minister a certificate of registration in respect of that organic parcel;

(b) for the duration of the specified period—

(i) to retain a certificate of registration in respect of each organic parcel on which aid has been claimed;

(ii) to farm the land that is the subject of his application, and such part of the organic unit comprising that land as at any given time is being farmed by organic farming methods, in accordance with the proposals set out in his application and with UKROFS standards and the obligations set out in Schedule 1;

(iii) where, at the date of his application, the applicant has introduced organic farming on a part of his holding other than the part which is the subject of the application, to ensure that that other part conforms to UKROFS standards and continue with organic farming on that other part of his holding, in accordance with UKROFS standards;

(c) to complete the conversion of each organic parcel no later than the fifth anniversary of the date on which the conversion period in respect of the organic parcel in question begins; and

(d) during the specified period, to utilise the aid paid under regulation 7(1)(b) towards the costs of obtaining advice or training in relation to organic farming practices.

Restrictions on acceptance of applications

5.—(1) The Minister shall not accept an application unless—

(a) it is accompanied by a certificate of registration given by the inspection authority in respect of the first organic parcel; and

(b) it contains a declaration by the applicant that the inspection authority has approved a plan relating to the whole of the organic unit comprising the organic parcel to which the application relates.

(2) The Minister shall not accept an application unless it is made within six months of the date on which the first certificate of registration is issued, in respect of the first organic parcel, by an inspection authority.

(3) The Minister shall not accept an application from an applicant who occupies his holding as a tenant unless the applicant has satisfied the Minister that he has notified his immediate landlord in writing of the making of such application.

Financial limits

6.—(1) If, in view of the total number of applications already approved or received, the Minister is at any time of the opinion that the financial resources which are available for payment of aid under these Regulations during any period are insufficient to satisfy any payment during that period which would result from the approval of any further application, he may, in respect of any application received at the date of his decision but not yet accepted, or any application he may receive during the relevant period—

(a) suspend further consideration of any such application until such time as may subsequently be specified by him; or

(b) reject any such application without further consideration.

(2) Notice of—

(a) a decision—

(i) to suspend consideration of any applications under sub-paragraph (1)(a); or

(ii) to reject any applications without further consideration under sub-paragraph (1)(b), or

(b) of the termination of the period of any such suspension or of the relevant period,

shall be published in the London Gazette.

(3) In paragraphs (1) and (2), "the relevant period" means the period beginning with the day after the date of the Minister's decision referred to in paragraph (1), or any subsequent date specified by him in a notice under paragraph (2)(a), and ending with such date as may subsequently be specified by him in a notice under paragraph (2)(b).

Payments of aid

7.—(1) Subject to the provisions of regulation 9, payments of aid shall be made—

(a) in respect of an organic parcel, to any person who is a beneficiary in respect of that organic parcel, and

(b) in respect of an organic unit, to any person who is a beneficiary in respect of an organic parcel comprised in that organic unit,

provided that, in respect of any given year, the beneficiary has made a claim for payment in respect of that year in accordance with paragraph (3), and has supplied such further information and evidence in relation to that claim as the Minister reasonably may direct to be supplied.

(2) A claim for the payment of aid shall be made at such time as the Minister may reasonably direct.

(3) A claim for the payment of aid shall be in writing and in such form, and shall contain such information, as the Minister reasonably may direct.

(4) A payment made by the Minister to a beneficiary pursuant to these Regulations may be made at any time during the year in respect of which the payment in question is to be made.

Determination of periods for which aid is paid and amount of aid

8.—(1) Subject to the provisions of these Regulations, where a beneficiary is entitled to the payment of aid, the aid shall be paid in respect of the following periods—

(a) in respect of an organic parcel, five years beginning with the first year; and

(b) in respect of an organic unit, three years beginning with the date of receipt of the first application relating to land comprised in that organic unit.

(2) The amount of aid payable under regulation 7(1)(a) shall be determined in accordance with Part I of Schedule 2; the amount of aid payable under regulation 7(1)(b) shall be determined in accordance with Part II of Schedule 2.

Restrictions on payment of aid

9.—(1) Aid shall not be payable in relation to an application which has been accepted in respect of any period before the date of receipt.

(2) No payment of aid shall be made in respect of an organic parcel until the Minister has received a certificate of registration in respect of that organic parcel.

(3) Where an application in respect of an organic parcel is accepted before the date on which the conversion period in respect of that organic parcel begins, no payment of aid in respect of that organic parcel shall be made in respect of any period beginning before the anniversary of the date of receipt which is the first such anniversary to occur during that conversion period.

(4) Aid shall not be payable under regulation 7(1)(a) in respect of any organic parcel in respect of any period beginning more than five years after the date on which the first payment of aid became payable in respect of that organic parcel.

Obligations of beneficiary

10.—(1) A beneficiary shall comply with the terms of his undertakings under regulation 4(2), or (subject to paragraph (2)), in the case of a beneficiary whose application was accepted under the Organic Farming Regulations, with the terms of his undertakings under regulation 5(1)(d) of those Regulations.

(2) A person who is a beneficiary within the meaning of the Organic Farming Regulations, whether a person to whom those Regulations apply or a person to whom they applied immediately before the coming into force of these Regulations—

(a) shall be released from the undertaking referred to in regulation 5(2)(b)(iii) of those Regulations; and

(b) in respect of the remainder of the specified period, shall utilise the amount of any aid paid under regulation 3(1)(b) of those Regulations, and (so far as material) any aid paid under regulation 7(1)(b), towards the costs of obtaining advice or training in relation to organic farming practices.

Power to vary undertakings

11.—(1) Subject to paragraph (2), the Minister may in writing, at the request of the beneficiary, vary the terms of any undertaking given by the beneficiary under regulation 4(1)(d), and any such variation may be subject to such conditions as the Minister reasonably may determine and may be expressed to apply only for a specified period.

(2) The Minister shall not vary the terms of an undertaking unless he is satisfied that, having regard to any conditions proposed to be attached to the variation, the fulfilment of the purposes for which the undertaking was given will not be adversely affected by the variation.

Amendment of approved plan

12. No amendment to a plan approved by an inspection authority shall have effect unless such amendment has been approved by that inspection authority.

Obligation to keep records

13. A beneficiary shall keep for the duration of the specified period any correspondence or other records relating to any application or claim for payment made by him, and any records relating to his farming of any land in accordance with his obligations under these Regulations.

Amendment of the Organic Farming Regulations 1999

14.—(1) The Organic Farming Regulations shall cease to apply in relation to any persons whose applications were made after 29th July 1999**(a)**.

(a) Regulation 6A of the Organic Farming Regulations provided that the Minister may not accept any applications under those Regulations unless received before the date specified in paragraph (1) or (3), as the case may be, of that regulation (respectively, 1st December 1999 and 1st January 2000). By virtue of Article 3(2)(b) of Commission Regulation (EC) No. 2603/1999 (OJ No. L316, 10.12.1999, p.26), applications made after 29th July 1999 could, however, only be accepted on condition that the applicant's obligations were made subject to adjustment so as to bring them into conformity with the terms of the Commission's approval of the rural development programming document referred to in that article.

(2) In so far as the Organic Farming Regulations continue to apply, regulation 16(2) of those Regulations shall cease to apply in relation to any failure to comply with an undertaking referred to in regulation 5(2)(b)(iii) of those Regulations prior to the coming into force of these Regulations.

Elliot Morley
Parliamentary Secretary,
14th February 2001 Ministry of Agriculture, Fisheries and Food

SCHEDULE 1

regulation 4(2)(b)(ii)

OBLIGATIONS

1. Not to plough, reseed or improve, by use of drainage, manures or liming agents, heathland, grassland of conservation value, including species-rich grassland, or rough grazing.

2. To avoid localised heavy stocking in the nesting season on areas of semi-natural vegetation, including heathland, species-rich grassland and rough grazing.

3. Not to carry out field operations, such as harrowing and rolling, on species-rich grassland or rough grazing during the nesting season.

4. Not to cultivate within 1 metre of any boundary features, such as fences, hedges or walls.

5. To carry out hedge trimming in rotation, but not between 1st March and 31st August, and to maintain any stockproof boundaries using traditional methods and materials.

6. To carry out ditch maintenance in rotation, but not between 1st March and 31st August.

7. To maintain streams, ponds and wetland areas.

8. To retain any copses, farm woodlands or groups of trees.

9. To ensure that, in farming the land, no feature of historical or archaeological interest, including any area of ridge or furrow, is destroyed or damaged.

SCHEDULE 2

regulation 8(2)

CALCULATION OF AID

PART I

PAYMENT IN RESPECT OF AN ORGANIC PARCEL

1. AAPS-eligible land and land planted to permanent crops:

(a)	in the first year	£225 per hectare
(b)	in the second year	£135 per hectare
(c)	in the third year	£50 per hectare
(d)	in the fourth year	£20 per hectare
(e)	in the fifth year	£20 per hectare

2. Other improved land:

(a)	in the first year	£175 per hectare
(b)	in the second year	£105 per hectare
(c)	in the third year	£40 per hectare
(d)	in the fourth year	£15 per hectare
(e)	in the fifth year	£15 per hectare

3. Unimproved land:

(a)	in the first year	£25 per hectare
(b)	in the second year	£10 per hectare
(c)	in the third year	£5 per hectare
(d)	in the fourth year	£5 per hectare
(e)	in the fifth year	£5 per hectare

In this Part—

"AAPS-eligible land" means land which is "eligible land" within the meaning of the Arable Area Payments Regulations 1996**(a)**, other than managed land;

"heath" means an area of grass, shrubs or trees growing on acidic, sandy soil;

"managed land" means any land which, at the time that an application is made in respect of that land, is subject to an agreement by which the applicant has agreed to manage the land and not to apply over a period of five years more than the respective maximum quantities of inorganic fertilisers and of organic fertilisers;

"the maximum quantities", in relation to inorganic fertilisers, means, in the case of nitrogen, 75 kilograms per hectare, in the case of the phosphate fertiliser P_2O_5, 35 kilograms per hectare, and, in the case of the potassium fertiliser K_2O, 35 kilograms per hectare, and, in relation to organic fertilisers, means 25 tonnes per hectare;

"moorland" means land covered by semi-natural upland vegetation;

"other improved land" means any land other than AAPS-eligible land, land planted to permanent crops or unimproved land;

"permanent crops" means any crops which occupy the soil for a period of five years or more and yield crops over several years; and

"unimproved land" means—

(a) moorland and heath; and

(b) other land used for grazing—

(i) which in the five years preceding 6th April 1999 has received total applications of less than the respective maximum quantities of inorganic fertilisers and less than the maximum quantities of organic fertilisers, and which is not AAPS eligible land; or

(ii) which, at the time that an application is made, is managed land.

PART II

PAYMENT IN RESPECT OF THE ORGANIC UNIT AS A WHOLE

In the first year	£300 per organic unit
In the second year	£200 per organic unit
In the third year	£100 per organic unit

(a) 1996/3142, amended by S.I. 1997/2969, S.I. 1998/3169 and S.I. 1999/8.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, provide for the payment of aid to farmers who undertake to introduce organic farming methods and comply with certain environmental conditions. They implement Articles 22 to 24 and 43(2) of Council Regulation 1257/1999 (EC) No. 1257/1999 (OJ No. L160, 26.6.99, p.80) ("the rural development Regulation").

The Regulations—

(a) specify the conditions of eligibility to be satisfied by applicants for aid *(regulation 4)*, prescribe certain formal preconditions for the acceptance of applications for aid *(regulation 5)* and permit the Minister to reject or suspend consideration of applications for aid in the event that financial resources available for aid under the Regulations are insufficient *(regulation 6)*; and

(b) specify conditions for the payment of aid *(regulation 7)*, the rates of aid and periods for which aid is paid *(regulation 8)* and restrictions on the payment of aid *(regulation 9)*.

By virtue of Article 3.2(b) of Commission Regulation (EC) No. 2603/1999 (OJ No. L316, 10.12.1999, p.26), applications made after 29th July 1999 must conform to the terms of the England Rural Development Programme, which has been approved by the European Commission under Article 44 of the rural development Regulation, and a copy of which is available for inspection during normal office hours at the offices of the Ministry of Agriculture, Fisheries and Food, 17 Smith Square, London, SW1P 3JR, together with a copy of Commission Decision No. C(2000) 3003 approving it. Consequently, the Regulations provide that the Organic Farming Regulations 1999 (S.I. 1999/590) shall cease to apply in relation to any person whose application was made after 29th July 1999 *(regulation 14(1))*.

Penalties in respect of an over-declaration of land area are provided by Article 48(1) and (3) of Commission Regulation (EC) No. 1750/1999 (OJ No. L214, 13.8.1999, p.31). The Minister is given a power to recover in the event of a breach of any obligation by the England Rural Development Programme (Enforcement) Regulations 2000 (S.I. 2000/3044), which also create an offence of making false or misleading statements and of obstruction of an authorised person.

The UKROFS standards are published by and copies are available from the Office of the Secretary to UKROFS, Room 118, Nobel House, 17 Smith Square, London SW1P 3JR.

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

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