STATUTORY RULES OF NORTHERN IRELAND

2016 No.15

AGRICULTURE

The Areas of Natural Constraint Regulations (Northern Ireland) 2016 (revoked with savings)

Made - - - - 22nd January 2016

Coming into operation 1st March 2016

[[F1]The Department of Agriculture and Rural Development is a department designated [F2] for the purposes of section 2(2) of the European Communities Act 1972 [F3] in relation to the common agricultural policy of the European Union and in relation to matters relating to the promotion of rural development.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

F2 S.I. 2000/2812 and S.I. 2000/3238 to which there are amendments not relevant to the subject matter of these Regulations

F3 1972 c. 68

Citation and commencement

1. [[F1]These Regulations may be cited as The Areas of Natural Constraint Regulations (Northern Ireland) 2016 and shall come into operation on 1st March 2016.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

Interpretation

2.—[[F1](1) The Interpretation Act (Northern Ireland) 1954 [F4] shall apply to these Regulations as it applies to an Act of the Assembly.

(2) In these regulations—

"active farmer" has the same meaning as in Article 9 of the Direct Payment Regulation;

"agriculture" comprises horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the use of land for other agricultural purposes;

"ANC allowance" means any payment made under Regulation 3;

"beneficiary" has the meaning given by sub-paragraph (1) of Article 2(1) of the Horizontal Delegated Regulation;

"breeding female deer" means any female of the Red, Fallow, or Sika species that is at least a six months old breeding female managed on a forage area of a holding enclosed by a deer-proof barrier and kept by way of business for the primary purpose of the production of meat;

"breeding female goat" means any female of the caprine species that is at least a one year old breeding female which is kept by way of business for the primary purpose of the production of milk or fibre;

"claim" means a claim for an ANC allowance;

"claimant" means any person who has made a claim;

"common land" means land the grazing of animals on which is shared between two or more holdings;

"deer-proof barrier" means a barrier which will, to the satisfaction of the Department, and having regard to the character and nature of the land, prevent the escape of deer from or, as the case may be, the entry of deer on to any land;

"the Department" means the Department of Agriculture and Rural Development;

"designated map" means the map marked "Map of less-favoured farming areas in Northern Ireland", dated 8th May 1991, signed by the Secretary of State for Northern Ireland and deposited at the Offices of the Department at Dundonald House, Upper Newtownards Road, Ballymiscaw, Belfast BT4 3SB;

"the Direct Payment Regulation" means Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No. 637/2008 and Council Regulation (EC) No. 73/2009[F5];

"electronic communication" has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001 [F6];

"eligible dairy stocking unit" means a dairy breed cow that has calved at least once or any female dairy breed animal of at least 30 months which is not recorded as having calved;

"ewe" means any female of the ovine species having lambed at least once or that is at least one year old;

"forage area" means the area of the holding, including common land, situated in Northern Ireland, available to the claimant throughout the minimum grazing period and used for rearing livestock, including areas used to produce grass hay, grass silage, sainfoin, clover, lucerne and forage vetches, but not including buildings, woods, ponds, paths;

"heifer" means a female beef breed bovine from the age of eight months which has not yet calved;

"holding" has the same meaning as it has in Article 4 (1) (b) of the Direct Payment Regulation;

"the Horizontal Delegated Regulation" means Commission Delegated Regulation (EU) No. 640/2014 [F7] of 11 March 2014 supplementing Regulation (EU) No 1306/2013 [F8] of the European Parliament and of the Council with regard to the integrated administration and

control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance;

"the Horizontal Implementing Regulation" means Commission Implementing Regulation (EU) No. 809/2014 [F9] laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the council with regard to the integrated administration and control system, rural development measures and cross compliance;

"the Horizontal Regulation" means Regulation (EU) No. 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy;

"keeper" insofar as it relates to the keeper of suckler cows, heifers and eligible dairy stock is as defined in The Cattle Identification (Enforcement) Regulations (Northern Ireland) 1998 and, insofar as it relates to the keeper of sheep or goats, is as defined in The Sheep and Goats (Records, Identification and Movement) Order (Northern Ireland) 2009;

"livestock unit" means a unit of measurement of livestock numbers, and each of the following constitutes a single livestock unit—

(a) one suckler cow or a heifer aged over 24 months;

(b) 1.67 heifers aged between 8 months and 24 months;

(c) 6.67 ewes;

(d) 6.67 breeding female goats;

(e) 3.3 breeding female deer aged 27 months and over; or

(f) 5 breeding female deer at least 6 months but less than 27 months;

"minimum grazing period" means the seven month period 1st April to 31st October 2015;

"notional livestock density" means the number of livestock units per hectare of forage area, calculated as a fraction of which the numerator is the number of relevant animals expressed in livestock units and the denominator is the claimant's forage area expressed in hectares;

"qualifying forage area" means the forage area or, in relation to a claimant in relation to whom regulation 7 applies, such part of the forage area as results from the reductions made to the forage area in accordance with that regulation;

"relevant animals" means—

(a) the number of suckler cows and heifers for which the claimant is the keeper and which produces the lowest number of livestock units on any one of a number of dates determined by the Department during the minimum grazing period;

(b) the number of ewes and breeding female goats as declared on the claimant's single application and accepted by the Department and for which the claimant is the keeper; and

(c) the number of breeding female deer as declared on the claimant's single application and accepted by the Department and owned by the claimant and for which the claimant makes the final decisions regarding, and paying for, feeding, bedding, housing and veterinary requirements;

"the Rural Development Regulation" means Regulation (EU) No. 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development [F10];

"severely disadvantaged land" means the land shown coloured pink on the designated map;

"single application" means the application for direct payments in respect of the Basic Payment Scheme and other area-related aid schemes;

"suckler cow" means a cow belonging to a beef breed or born of a cross with a beef breed, and belonging to a herd intended for rearing calves for meat production;

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date on which these Regulations are made.

(4) 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 capable of being subsequently reproduced.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

F4 1954 c.33 (N.I)

F5 OJ L 347, 20.12.2013, p. 608

F6 2001 c.9 (N.I); the definition of "electronic communication" contained in section 4(1) was amended by section 406(1) of, and paragraph 170 of Schedule 17 to, the Communications Act 2003 (c.21)

F7 OJ L 181, 20.6.2014, p. 48–73

F8 OJ L 347 20.12.2013, p. 549–607

F9 OJ L 227 31.7.2014, p. 69–124

F10 OJ No. L 347, 20.12.2013, p.487, amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No L. 347, 20.12.2013, p.865).

Payment of ANC allowance

3. [F1The Department may pay an ANC allowance to any claimant who is eligible under regulation 4 in respect of land that meets the conditions of regulation 5.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

Claimant eligibility for ANC allowance

4.—**[**F1(1) A claimant shall be eligible for ANC allowance if, and only if—

(a) the claimant is an active farmer;

(b) the claim is made on the single application;

(c) subject to paragraph (2) the notional livestock density relating to the forage area on the claimant's holding does not fall below 0.2 on any one of a number of dates determined by the Department during the minimum grazing period; and

(d) the area of land complying with regulation 5 is at least three hectares.

(2) The Department may determine that a notional livestock density of less than 0.2 is sufficient to meet the eligibility requirement for the purposes of paragraph (1)(c) if it is reasonably satisfied that it is appropriate to do so in all the circumstances of the case, having regard, in particular, to the sensitivity of the land in question to a stocking density of more than 0.2 and any obligation of the claimant under or in pursuance of any statutory provision in relation to the maintenance of a stocking density of less than 0.2.

(3) For the purposes of calculating notional livestock density in any case the number of heifers to be taken into account shall not exceed a number equal to two thirds of the number of suckler cows.

(4) A claimant shall provide such information as the Department may reasonably require to enable it to make a determination under paragraph (2).

(5) Article 13 of the Horizontal Delegated Regulation (late submission) shall apply to a claim made in a single application after 15th May 2015.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

Land eligibility for ANC allowance

5. **[**[F1]Land shall be eligible for payment if, and only if—

(a) it complies with the definition of qualifying forage area;

(b) it lies within the severely disadvantaged area; and

(c) it has been entered in the single application at column H under either of the land use codes in column 1 of Schedule 1.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

Rates of payment

6. **[**[F1]Subject to regulation 4 and Articles 91, 92 and 93 of the Horizontal Regulation, payment of an ANC allowance for an area of land that complies with regulation 5 and which falls within the qualifying forage area specified in column 1 of Schedule 2 shall be paid at the rate specified opposite thereto in column 2.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

Exclusion of forage area

7.—**[**[F1](1) For the purpose of determining the qualifying forage area, a claimant's forage area shall be reduced by 1 hectare for every 1.71 of the average number of eligible dairy stocking units for which he is the keeper over a number of dates determined by the Department during the minimum grazing period.

(2) Where paragraph (1) applies, the reduction in the forage area shall first be applied to the forage area which is not severely disadvantaged land, followed by severely disadvantaged land.**]**

Annotations:

F1 Regulations revoked (with savings) (1.3.2017) by The Areas of Natural Constraint Regulations (Northern Ireland) 2017 (S.R. 2017/8), regs. 1, **18(1)** (with reg. 18(2))

Transfer of holdings

8. **[**[F1]For the purposes of Article 8(3)(a) of the Horizontal Implementing Regulation, the period within which the transferee must inform the Department of the transfer and request payment under regulation 3 is 90 days beginning with the first day after the date of the transfer.**]**