STATUTORY RULES OF NORTHERN IRELAND

2008 No. 174

AGRICULTURE

Countryside Management Regulations (Northern Ireland) 2008

Made - - - -	*14th April 2008*
Coming into operation	*14th May 2008*

The Department of Agriculture and Rural Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community and in relation to matters relating to the promotion of rural development, in exercise of the powers conferred on it by the said section 2(2), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Countryside Management Regulations (Northern Ireland) 2008 and shall come into operation on 14 May 2008.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

"agreement" means an agreement under regulation 6(6)(c);

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, use of land as grazing land, meadow land, weed beds, market gardens and nursery grounds and the maintaining of land in good agricultural and environment conditions as provided for in Article 5 of Council Regulation (EC) No. 1782/2003(**4**);

"approval" means an approval granted by the Department under Regulation 6;

"assistance" means the payments of support under the agri-environment measures falling within Axis 2 under Section 2 of Chapter 1 of Title IV of the Council Regulation which are provided for in the Rural Development Programme and which are payable in accordance with the Community Legislation;

(**1**) S.I. 1972/1811
(**2**) 1972 c.68
(**3**) 1954 c.33 (N.I.)
(**4**) O.J. L 270, 21.10.2003, p. 1

"authorised person" means a person authorized by the Department to enforce these Regulations;

"beneficiary" means—

(a) a person who has applied for and been granted an approval; and

(b) in relation to any time after grant has been paid in connection with the approval, the person to whom the grant has been paid;

"the Council Regulation" means Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)(**5**);

"Community legislation" means the instruments listed in the Schedule;

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

"eligible Land" means land used for agricultural purposes and recorded on a farm business map produced by the Department;

"grant" means a grant of payment under Regulation 4(1);

"operation" has the meaning given to it by the Council Regulation;

"Rural Development Programme" means the Northern Ireland Rural Development Programme submitted by the United Kingdom to the European Commission in accordance with Article 18 of the Council Regulation, as approved by Commission Decision C (2007) 4411of 27 September 2007;

"Water Framework Directive" means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(**6**);

"water quality" means the ecological and chemical status of any waterway, as defined by the Water Framework Directive.

(3) In these Regulations references to priority habitats, special environmental projects, habitat enhancement options and capital enhancement items shall be construed in accordance with the Rural Development Programme.

Scope of the Regulations

3. These Regulations shall not apply in relation to any operation carried out or intended to be carried out in pursuance of an agreement with the Department under the Organic Farming Regulations (Northern Ireland) 2008(**7**).

Power to make payment of grant

4.—(1) The Department may make payment of assistance towards expenditure incurred in connection with an approved operation.

(2) Payments in accordance with paragraph (1) shall be—

(a) of such an amount;

(b) made at such time or by such instalments at such intervals; and

(c) may be made subject to such conditions,

as the Department may determine in accordance with the Community legislation and the Rural Development Programme.

(**5**) O.J. No. L 277, 21.10.2005, p. 1
(**6**) O.J. No. L 327, 22.12.2000, p.1
(**7**) S.R. 2008, No. 172

Annual claims for grant

5. A claim for grant shall be—

(a) made annually in accordance with Article 8 of Commission Regulation (EC) No. 1975/2006(**8**); and

(b) contain or be accompanied by such information as the Department may require.

Approvals

6.—(1) Subject to paragraph (6) the Department may approve an operation for the purposes of Regulation 4 where it is satisfied that the operation is eligible for assistance in accordance with these Regulations, the Community legislation and the Rural Development Programme.

(2) An application for an approval shall—

(a) be made in such form and within such time limits; and

(b) contain or be accompanied by such information, as the Department may require.

(3) An approval may be given subject to such conditions as may be determined by the Department in accordance with the Community legislation and the Rural Development Programme.

(4) Subject to paragraph (5) any conditions to which any approval is granted may be varied, supplemented or revoked by notice in writing given by the Department.

(5) The Department shall not give a notice under paragraph (4) unless it has—

(a) first informed the beneficiary of its proposal to do so and given him a full statement of its reasons;

(b) given the beneficiary a reasonable opportunity to make representations in relation to the proposals; and

(c) considered the representations.

(6) The Department shall, in particular, not approve an operation unless—

(a) it is carried out on or in relation to eligible land;

(b) the applicant for the approval is the owner or occupier of the land; and

(c) the applicant has entered into an agreement with the Department that the Department is satisfied complies with the Community legislation and the requirements of the Rural Development Programme and the operation is to be carried out in pursuance of that agreement.

Agreements

7.—(1) An agreement shall, in particular, include such commitments by the applicant as the Department considers—

(a) appropriate to ensure compliance with the whole farm management requirements set out in the Rural Development Programme;

(b) appropriate to ensure the achievement of a minimum level of environmental benefit in accordance with the Rural Development Programme, by—

(i) where one or more farmland habitats are present on the eligible land, carrying out works specified by the Department to enhance at least one of those farmland habitats, to an extent to be specified by the Department; or

(**8**) O.J. No. L 368, 23.12.2006, p. 74

(ii) where no farmland habitats are present, carrying out works to enhance biodiversity or water quality on the farm, using habitat enhancement options specified by the Department to an extent to be specified by the Department; and

(c) appropriate to all farmland habitats present on the eligible land, bearing in mind the requirements of the Rural Development Programme.

(2) An agreement for the purposes of paragraph (1)(c) may also include—

(i) commitments for carrying out a special environmental project

(ii) commitments relating to habitat enhancement options to be undertaken by the applicant; and

(iii) commitments relating to the carrying out of operations in respect of capital enhancement items.

(3) Where two or more persons make commitments in relation to a special environmental project and—

(a) each owns or occupies contiguous land; or

(b) each owns or occupies land which falls wholly or mainly within a single area—

(i) designated as an Area of Special Scientific Interest under the Environment (Northern Ireland) Order 2002;

(ii) designated as a Special Area of Conservation under Council Directive 92/43/EEC; or

(iii) designated as a Special Protection Area under Council Directive 79/409/EEC,

and the operations relating to the special environmental project are, in the opinion of the Department, likely to improve the quality or condition of any habitat, species or features in respect of which the area is designated; or

(c) each owns or occupies land which falls wholly or mainly within a single river catchment area and the operations which comprise the special environmental project are, in the opinion of the Department, likely to maintain or improve the water quality of the waterways within that river catchment area,

then without prejudice to the generality of regulation 4(1) assistance payable under that paragraph shall include for each such person an additional amount equal to 20% of the expenditure incurred by that person on operations comprising the project, to represent the costs incurred by that person as a result of any collaboration between them on the project.

Financial limits

8.—(1) If, in view of the total number of applications already accepted, the Department is at any time of the opinion that the financial resources which are available for payment of grant under these Regulations during any period are insufficient to satisfy any payment during that period which would result from the acceptance of any further application, it may suspend further consideration of any application received at the date of its decision but not yet accepted, or any application it may receive after the date of its decision, until such time as may subsequently be specified by it.

(2) Notice of a suspension by the Department under paragraph (1), or of the termination of any such suspension, shall be published in the Belfast Gazette.

Power to vary agreements

9.—(1) The Department may vary the terms of an agreement—

(a) at the written request of the beneficiary with whom it has entered into the agreement; or

(b) in the event of material changes to the statutory management requirements and standards of good agricultural and environmental conditions provided for in Articles 4 and 5 of Annex III and IV to Council Regulation Note 1782/2003.

(2) Any variation under paragraph (1)(a) may be subject to such conditions as the Department may reasonably determine.

(3) The Department shall not agree to any variation under paragraph (1)(a) unless it is satisfied that the purposes for which the agreement was made would not be adversely affected by the variation.

(4) Where any variation under paragraph (1)(a) reduces the area of eligible land in respect of which grant is payable, that reduction in area will be considered to have taken place on the most recent anniversary of the date of the commencement of the agreement in question.

(5) Where a variation under paragraph (1)(a) increases the area of eligible land in respect of which grant is payable, that increase in area will be considered to have taken place on the next anniversary on the date of the commencement of the agreement in question.

(6) The Department shall notify the beneficiary in writing before any variation under paragraph (1)(b) shall take affect and where the beneficiary informs the Department in writing within 28 days of the date of that notice, that he accepts the variation, the variation shall take affect at the end of that period.

(7) Otherwise, the agreement to which the notice under paragraph (6) relates shall cease to have affect at the end of the 28 day period referred to in that paragraph.

(8) Following the termination of an agreement under paragraph (7), the Department shall not seek to recover any grant paid during the period when the agreement was in effect.

Change of ownership or occupancy

10.—(1) Where there is a change of ownership or occupancy of any land that forms all or part of any eligible land subject to an agreement ("the relevant land") the Department shall not pursuant to Article 44 of Commission Regulation (EC) No. 1974/2006(**9**) seek reimbursement of grant already paid in respect of that land if—

(a) the change of ownership or occupancy follows the death of the beneficiary; or

(b) the beneficiary—

(i) informs the Department within 28 days of the change of ownership or occupancy;

(ii) has in the opinion of the Department substantially fulfilled the terms of the agreement relating to the relevant land; and

(iii) has definitively ceased agricultural activity on all parcels on his holding; or

(c) the new owner or occupier of the relevant land enters into an agreement with the Department in respect of that land and all other eligible land owned or occupied by him.

(2) No agreement under paragraph (1)(c) shall be accepted by the Department unless—

(a) the Department receives within six months of the change of ownership or occupation of the relevant land, an application for approval under Regulation 5(2) for operations on or relating to the land in question; and

(b) the person to whom the land is transferred is in lawful possession of the land as owner or tenant.

(3) The new owner or occupier of the relevant land subject to an agreement under paragraph (1)(c) shall be treated as the beneficiary in relation to that land from the date the agreement takes effect and these Regulations shall apply accordingly.

(**9**) O.J. No. L 368, 23.12.2006, p. 15