STATUTORY RULES OF NORTHERN IRELAND

# 2008 No. 172

# AGRICULTURE

## Organic Farming Regulations (Northern Ireland) 2008

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| *Made - - - -* | *10th April 2008* |
| *Coming into operation* | *8th 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 Organic Farming Regulations (Northern Ireland) 2008 and shall come into operation on 8th May 2008.

### Interpretation

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

(2) In these Regulations—

"agreement" means the agreement under regulation 3(1)(d).

"agriculture" includes horticultural, 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 environmental conditions as provided for in Article 5 of Council Regulation (EC) 1782/2003(**3**).

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

"beneficiary" means—

(**1**) S.I. 1972/1811
(**2**) 1972 c.68
(**3**) O.J. L 270, 21.10.2003, p. 1–69

(a) a person who has for the purposes of regulation 3(1)(c) been granted a Certificate of Registration by an Inspection Authority and entered into an agreement with the Department, or

(b) in relation to any time after grant has been paid in pursuance of the agreement, the person to whom the grant has been paid.

"Certificate of Registration" means a Certificate issued to a person by an Inspection Authority in respect of an organic parcel when it is or is to be the subject of a conversion plan and which specifies the conversion period which applies in relation to that organic parcel or the date on which that conversion period begins;

"claim" means claim for grant made under and in accordance with Regulation 5;

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

"the Compendium of Organic Standards" means the Compendium of Organic Standards published by the Department of Environment, Food and Rural Affairs, in September 2006;

"conversion" means the conversion of land to organic farming methods;

"conversion period" means the period of time with respect to a parcel of land beginning with its first registration with an Inspection Authority and ending with its certification as fully organic land by that body;

"conversion plan" in relation to any land means the written schedule of agricultural activity designed to achieve the conversion of the land;

"the Council Regulation" means Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs(**4**);

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

"farmer" means an individual or group of legal or natural persons that undertakes agricultural activity;

"grant" means a grant of payments under regulation 3(1);

"holding" means all land in the United Kingdom owned or occupied by a single farmer;

"Inspection Authority" means a body approved in accordance with Article 9 of the Council Regulation;

"land" means land used for agriculture;

"organic parcel" means an area of land which comprises the whole or part of any holding and which is identified by an inspection authority as organic land and entering into conversion at the one time;

"organic unit" means one or more organic parcel comprising the whole or part of any holding and which is or are managed or are intended to be managed in the future as a unit;

"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 on support for rural development by the European Agricultural Fund for Rural Development and approved by the Commission on 24 July 2007.

**Power to make payment of grant**

**3.**—(1) The Department may make annual payments of assistance in respect of an eligible organic parcel to any person who—

(**4**) O.J. L 198, 22.7.1991, p. 1-15

(a) owns or occupies the parcel;

(b) has agreed with an Inspection Authority a conversion plan for the parcel or, where the parcel forms part of a larger organic unit, for the unit as a whole;

(c) has been certified by the Authority as complying with the terms of the plan, the Compendium of Organic Standards, and the Council Regulation;

(d) has entered into an agreement with the Department which includes the undertakings required by regulation 4(2); and

(e) has made a claim in accordance with regulation 5.

(2) For the purposes of paragraph (1) an organic parcel is eligible if—

(a) it consists of land recorded on a farm business map produced by the Department;

(b) where it consists only of horticultural land, it comprises not less than one hectare;

(c) where it consists wholly or partly of arable or other improved or semi-improved land, it consists of not less than 3 hectares of land; and

(d) it has not already been certified as fully organic by an Inspection Authority.

**Application and agreement**

**4.**—(1) An application to enter into an agreement 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.

(2) Each beneficiary shall for the purposes of the agreement undertake to the Department—

(a) that he will remain the owner or occupier of the organic parcel to which the claim relates for so long as any payment under these Regulations is claimed by him in respect of the parcel;

(b) that he will comply with all relevant provisions of the Compendium of Organic Standards and with the Council Regulation, and adhere, on the entirety of his holding, to the statutory management requirements and standards of good agricultural and environmental condition provided for in Article 4 and 5 of Annex III and IV to Council Regulation (EC) No.1782/2003;

(c) that he will notify the Department within 28 days of any loss or suspension of a Certificate of Registration issued by an Inspection Authority in respect of the organic parcel to which the claim relates; and

(d) that he will complete to the satisfaction of an inspection authority the conversion of the organic parcel no later than the fifth anniversary of the date of his first claim for grant under these Regulations.

(3) The Department may vary an agreement—

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

(b) in the event of amendments of the statutory management requirements and standards of good agricultural and environmental condition provided for in Article 4 and 5 of Annex III and IV to Council Regulation (EC) No.1782/2003.

(4) Any variation under paragraph (3)(a) may be subject to such conditions as the Department may reasonably determine.

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

(6) Where a variation under paragraph (3)(a) reduces the area of any parcel or parcels in respect of which a conversion plan applies, the reduction in area will be considered to have taken place on the most recent anniversary of the date of the agreement.

(7) Where a variation under paragraph (3)(a) increases the area of any parcel or parcels to which a conversion plan applies, the increase in area will be considered to have taken place on the next anniversary of the date of the receipt of first claim relating thereto.

(8) The Department shall notify the beneficiary in writing before any variation under paragraph (3)(b) takes effect and where the beneficiary informs the Department in writing within 28 days of the date of the notice that he accepts the variation, the variation shall take effect at the end of that period.

(9) Otherwise, the agreement concerned shall cease to have effect and no further grant shall be payable in respect of the parcel in question.

(10) Following the termination of an agreement under paragraph (9), the Department shall not seek to recover any grant paid during the period when the agreement was in effect.

**Annual claims for grant**

**5.**—(1) A claim for grant shall be—

(a) made annually in accordance with Article 8 of Commission Regulation (EC) 1975/2006; and

(b) accompanied by a declaration by the beneficiary that he continues to comply with the conversion plan agreed with the Inspection Authority, with all relevant provisions of the Compendium of Organic Standards, and with the Council Regulation, and has suffered no loss or suspension of certification in the relevant period.

(2) For the purposes of paragraph (1)(b) the relevant period shall be—

(a) in the case of a first claim by a beneficiary in respect of a parcel, the period beginning with the date of the agreement under regulation 5 and ending on the date of the claim; and

(b) in the case of subsequent claims in respect of the parcel, the year ending on the date of the claim.

**Loss of certification**

**6.** Grant shall not be payable in respect of any organic parcel where, in the 12 months prior to the making of a claim for assistance in respect of that parcel, there has been any loss or suspension of a Certificate of Registration issued by the Inspection Authority in respect of that organic parcel unless—

(a) the Inspection Authority informs the Department in writing that there has been no interruption of the use of organic farming methods on the parcel; and

(b) the beneficiary supplies to the Department a current Certificate of Registration issued by the Inspection Authority in respect of the organic parcel.

**Amount and duration of support**

**7.**—(1) No more than 5 annual payments of grant shall be made in respect of any parcel.

(2) Payment of grant shall be—

(a) of such amount; and

(b) made at such time and 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 and these Regulations.

**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 the payment of grant during any period are insufficient to satisfy any payments of grant during that period which would result from the acceptance of any further applications, it may suspend from consideration any application received after 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 any termination of any such suspension, shall be published in the Belfast Gazette.

**Change of ownership or occupancy**

**9.**—(1) Where there is a change of ownership or occupancy of any land that forms all or part of any organic parcel to which an agreement relates the Department shall not pursuant to Article 44 of Commission Regulation No 1974/2006 seek to recover 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 conversion relating to the land; and

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

(c) the new owner or occupant of the land enters into the same agreement with the Department as had been in effect immediately before the change of ownership or occupancy.

(2) The new owner or occupier of the land concerned shall in the circumstances set out in paragraph (1)(c) be treated as the beneficiary in relation to that land from the first anniversary of the change of ownership of the land and these Regulations shall apply accordingly.

(3) Grant in respect of any organic parcel to which paragraph (1)(c) applies shall not be payable in respect of any period following the fourth anniversary of the date of the first claim in respect of that parcel.

**Powers of authorized persons**

**10.**—(1) An authorized person may at all reasonable times, on producing if so required some duly authenticated documents showing his authority, enter on to any land, other than land used solely for the purpose of a dwelling house—

(a) to which a claim or agreement relates; or

(b) on which he has reasonable grounds to believe that documents relating to a claim or agreement are being kept

for any of the purposes mentioned in paragraph (2).

(2) The purposes referred to in paragraph (1) are—

(a) inspecting the land to which a claim or agreement relates;

(b) verifying the accuracy of any information provided by the beneficiary in relation to a claim or agreement; and