STATUTORY RULES OF NORTHERN IRELAND

2005 No. 277

AGRICULTURE

Environmentally Sensitive Areas (Enforcement) Regulations (Northern Ireland) 2005

Made - - - -	*26th May 2005*
Coming into operation	*8th June 2005*

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 matters relating to the promotion of rural development, 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 Environmentally Sensitive Areas (Enforcement) Regulations (Northern Ireland) 2005 and shall come into operation on 8th June 2005.

Interpretation

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

(2) In these Regulations –

"agreement" means an agreement made after the coming into operation of these Regulations under Article 3(2) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(**4**) as regards agricultural land in any of the areas designated by Article 3 of, and Schedule 1 to, the 2005 Order;

"agri-environment scheme" means an arrangement which is –

(a) regulated by a statutory provision for the payment of aid to persons who give an undertaking or enter an agreement in relation to land to which that statutory provision relates; and

(**1**) S.I. 1972/1811 and S.I. 2000/3238
(**2**) 1972 c. 68
(**3**) 1954 c. 33 (N.I.)
(**4**) S.I. 1987/458 (N.I. 3)

(b) approved by the Commission of the European Communities under Article 44.2 of the Council Regulation as part of a rural development plan drawn up pursuant to Article 41 of that Regulation;

"aid" means payments under the agri-environment measure referred to in Chapter VI of Title II of the Council Regulation which are provided for in the programming document based on the rural development plan relating to Northern Ireland approved by Commission Decision C(2000) 3638 of 4th December 2000 as amended and approved by Commission Decision C(2005) 952 of 16th March 2005;

"Commission Regulation 796/2004" means Commission Regulation (EEC) No. 796/2004 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(**5**);

"Commission Regulation 817/2004" means Commission Regulation (EC) No. 817/2004 laying down detailed rules for the application of the Council Regulation(**6**);

"the Council Regulation" means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(**7**);

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

"farmer" has the same meaning as in the 2005 Order;

"the 2005 Order" means the Environmentally Sensitive Areas Designation Order (Northern Ireland) 2005(**8**);

"payment" means a payment under an agreement; and

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(**9**).

Department's powers of recovery etc.

3.—(1) Where any person, with a view to obtaining a payment for himself or any other person, makes any statement or furnishes any information which is false or misleading, the Department may withhold the whole or part of any payments payable to that person or to such other person and may, subject to the provisions of Article 72 of Commission Regulation 817/2004, recover the whole or part of any payments already paid to that person or to such other person.

(2) Subject to the provisions of Article 39 of Commission Regulation 817/2004 (force majeure) and Article 73 of Commission Regulation 817/2004 (which provides for recovery of wrongful payments with interest, a penalty system to be imposed in the event of breaches of the obligations entered into and exclusion for false declarations), and without prejudice to any rights the Department may have under an agreement, the Department may, where a farmer breaches any of the provisions of the agreement he has entered or any other requirement that applies to the making of any payments –

(a) withhold the whole or any part of any payments due to the farmer;

(b) recover the whole or any part of any payments already paid to him;

(c) in so far as is consequent upon Article 73 of Commission Regulation 817/2004 (which required Member States to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect), require the farmer to

(**5**) O.J. No. L141, 30.04.2004, p. 18-58
(**6**) O.J. No. L153, 30.04.2004, p. 30-83
(**7**) O.J. No. L160, 26.6.1999, p. 80-102
(**8**) S.R. 2005 No. 276
(**9**) 1954 c. 33 (N.I.); section 1(f) was amended by S.I. 1999/663