STATUTORY RULES OF NORTHERN IRELAND

2005 No. 268

AGRICULTURE

Countryside Management Regulations (Northern Ireland) 2005

Made - - - -	*20th May 2005*
Coming into operation	*1st June 2005*

The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred on it by Article 3 of the Agriculture (Conservation Grants) (Northern Ireland) Order 1995(**2**), and of every other power enabling it in that behalf, and being a Department designated(**3**) for the purposes of section 2(2) of the European Communities Act 1972(**4**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, and with the consent of the Department of Finance and Personnel, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Countryside Management Regulations (Northern Ireland) 2005 and shall come into operation on 1st June 2005.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations –

"activities" means the activities referred to in regulation 3(4);

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, the use of land as grazing land, meadowland, osier land, reed beds, market gardens and nursery grounds;

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

(a) regulated by statutory provision providing 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**) Formerly the Department of Agriculture; *see*S.I. 1999/283 (N.I. 1) Article 3(4)
(**2**) S.I. 1995/3212 (N.I. 21)
(**3**) S.I. 2000/2812 and S.I. 2000/3238
(**4**) 1972 c. 68
(**5**) 1954 c. 33 (N.I.)

(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 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;

"applicant" means an applicant under these Regulations and in regulations 10 and 11 includes a person whose application for grant has been accepted and a person who takes on an undertaking on a change of occupation as provided in regulation 9;

"application for grant" means an application under these Regulations and includes an application made under regulation 6(1);

"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(**6**);

"Commission Regulation 817/2004" means Commission Regulation (EC) No. 817/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(**7**);

"the Council Regulation" means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee fund and amending and repealing certain Regulations(**8**);

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

"environmentally sensitive area" means an area designated as an environmentally sensitive area under Article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(**9**);

"eligible land" means land which is outside an environmentally sensitive area and which is used for agriculture;

"parkland management plan" means a management plan agreed with the Department designed to restore parkland through a programme of tree planting and restoration of landscape features;

"relevant period" means a period of not less than 5 years or, in the case of an undertaking under these Regulations which is in substitution for an undertaking given under any of the Regulations mentioned in regulation 6(1), a period which together with the expired period of the undertaking under those Regulations forms a continuous period of not less than 5 years;

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

"tenant" means a person who occupies land under a contract or tenancy for a fixed term of years the unexpired portion of which at the commencement of the relevant period is equal to or greater than that period;

"undertaking" means an undertaking mentioned in regulation 3(2).

(3) Words and phrases used in Schedules 1 to 6 and not defined in paragraph (2) shall be construed in accordance with Schedule 6.

(**6**) O.J. No. L141, 30.04.2004, p. 18-58
(**7**) O.J. No. L153, 30.04.2004, p. 30-83
(**8**) O.J. No. L160, 26.06.1999, p. 80-102
(**9**) S.I. 1987/458 (N.I. 3)

Grants for purposes conducive to conservation

3.—(1) Subject to the provisions of these Regulations, the Department may make payment of a grant in respect of an undertaking to which these Regulations apply to an applicant who –

(a) is the owner or tenant of the eligible land to which such undertaking relates and is in lawful occupation of that land; and

(b) has made an application for grant which has been accepted by the Department.

(2) These Regulations apply to an undertaking in writing by the applicant, for the relevant period –

(a) to comply with, in relation to the whole of the eligible land to which the undertaking relates, the general environmental conditions set out in Schedule 1;

(b) to carry out, in relation to the whole of the eligible land to which the undertaking relates, the management activities set out in paragraph (4)(a);

(c) to carry out, in so far as is appropriate in relation to that land, at least one of the activities referred to in paragraph (4)(b);

(3) An undertaking mentioned in paragraph (2) may also include an undertaking by the applicant to carry out or, as the case may be, to carry out and maintain any of the activities referred to in paragraph (4)(c) and (d).

(4) The activities mentioned in paragraph (2) and (3) are –

(a) the management activities set out in column 1 of Schedule 2;

(b) the management activities set out in column 1 of Schedule 3 (habitats) to be undertaken on a site which forms part of the eligible land to which the undertaking relates;

(c) the management activities set out in column 1 of Schedule 4 (optional habitats) to be undertaken on a site which forms part of the eligible land to which the undertaking relates;

(d) the capital activities set out in column 1 of Schedule 5 to be undertaken and maintained on any part of the eligible land to which the undertaking relates.

Applications for grant

4. An application for grant under these Regulations shall be made at such time and in such form, and shall include or be accompanied by such information as the Department may require.

Restrictions on acceptance of applications

5.—(1) The Department shall not accept an application for grant –

(a) in relation to any land which is situated in an environmentally sensitive area; or

(b) unless the applicant includes in the undertaking all the eligible land he owns or holds under a tenancy agreement.

(2) The Department shall not accept an application for grant in relation to any eligible land which is occupied by a tenant unless it is satisfied that the tenant has notified the landlord of his intention to make the application.

(3) The Department shall not accept an application for grant for an area of less than 3 hectares.

(4) The Department shall refuse to accept an application for grant in relation to any eligible land where –

(a) it is satisfied that the use of any land in accordance with the proposals contained in the application would frustrate the purposes of any assistance given or to be given out of money provided by or under any statutory provision or by the European Community;

(b) it is satisfied that the payment of grant under these Regulations would duplicate any assistance previously given out of money provided by or under any statutory provision or by the European Community;

(c) the applicant is prohibited from giving the undertaking under these Regulations by application of a penalty consequent upon Article 73 of Commission Regulation 817/2004 (which requires member States to determine a system of penalties for breaches of the obligations entered into and of regulatory provisions applicable to the case); or

(d) the applicant is excluded from all aid under Chapter VI of Title II of the Council Regulation by virtue of Article 72 of Commission Regulation 817/2004 (which requires a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of the Council Regulation) and the grant in respect of the proposed undertaking would include such aid.

(5) The Department shall not accept an application for grant without first having agreed with the applicant the date of commencement of the undertaking relating to it which shall in no circumstances be earlier than the date on which the application was accepted.

Transformation of undertakings

6.—(1) A beneficiary under the Habitat Improvement Regulations (Northern Ireland) 1995(**10**) may apply to substitute for the unexpired period of an undertaking under those Regulations an undertaking to which these Regulations apply.

(2) The Department may accept an application under paragraph (1) only where it is satisfied that the conditions set out in Article 21 (transformation of undertakings) of Commission Regulation 817/2004 are met.

Amounts of grant and claims

7.—(1) Subject to the provisions of this regulation the grant payable under regulation 3(1) shall be calculated with reference to the activities to be undertaken and in relation to each such activity shall be at a rate not exceeding the maximum payment rate specified in column 2 of Schedule 2, 3, 4 or 5 corresponding to that activity.

(2) Subject to paragraph (3) the grant payable under regulation 3(1) in respect of the activities set out in Schedule 5 shall not exceed £2,500 per annum for each applicant.

(3) For the purposes of paragraph (2) the activities set out in the following paragraphs of Schedule 5 shall be disregarded –

(a) paragraph 3(d);

(b) paragraph 3(f) and (g) provided the activities undertaken form part of a parkland management plan;

(c) paragraph 4;

(d) paragraph 8;

(e) paragraph 9(c) and (d) provided the activities undertaken are associated with fencing of habitats;

(f) paragraph 10.

(4) Subject to the provisions of these Regulations the Department shall make payments of grant in arrears, with such frequency as the Department may determine, not exceeding 2 payments per year.

(5) A claim for grant under regulation 3(1) shall be made at such time and in such form and shall contain such information as the Department may require.

(**10**) S.R. 1995 No. 134, as amended by S.R. 1996 No. 608 and S.R. 1997 No. 351

(6) The provisions of these Regulations are, in so far as grant claimed includes aid under the Council Regulation, subject to Article 37.3 of the Council Regulation and Article 41.2 of Commission Regulation 817/2004 (combination of aids).

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.

Change of occupation

9.—(1) Where during the period of an undertaking, there is a change of occupation of all or any part of the land to which that undertaking relates the former occupier (or, if he has died, his personal representatives) shall within 3 months notify the Department in writing of the change of occupation, and shall supply to the Department such information relating to that change in such form and within such period as the Department may determine.

(2) A new occupier of all or any part of the land who wishes to take on the undertaking shall furnish the Department with such information in such form and within such period following the change of occupation as the Department may determine.

(3) A new occupier of all the land may take on the undertaking where the Department is satisfied that –

(a) the former occupier had complied with the undertaking to the date of the change of occupation; and

(b) the new occupier is the lawful occupier of the land and has since the date of change of occupation complied with the undertaking.

(4) A new occupier of any part of the land or, as the case may be, the former occupier of all the land may take on the undertaking insofar as it extends to that part of the land which he occupies or, as the case may be, continues to occupy where the Department is satisfied that –

(a) such new occupier or, as the case may be, such former occupier of all the land, is the lawful occupier of the part of the land which he occupies and has since the date of change of occupation complied or, as the case may be, continued to comply with the undertaking insofar as it extends to the part of the land which he occupies; and

(b) it is reasonable for the occupier to do so having regard to the activities included in the undertaking and the part of the land which is occupied by the new occupier or, as the case may be, continues to be occupied by the former occupier of all the land.

(5) Where occupation of the land is divided the Department shall determine –

(a) the extent to which the activities included in the undertaking relate to any part of the land occupied by a new occupier or, as the case may be, the former occupier of all the land; and

(b) the proportion, if any, of the grant which would be payable under paragraph (7) for the remainder of the period of the undertaking in respect of that part of the land.

(6) Where the Department is satisfied as specified in paragraph (3), it shall, subject to regulation 7, make payments of the grant for the remainder of the period of the undertaking to the new occupier of the land who has taken on the undertaking.