STATUTORY RULES OF NORTHERN IRELAND

2005 No. 256

AGRICULTURE

The Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2005

Made - - - -	*12th May 2005*
Coming into operation	*12th May 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 in relation to the promotion of rural development, in exercise of the powers conferred on it by the said section 2(2) and every other power enabling it in that behalf, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2005, and shall come into operation on 12th May 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 –

"Commission Regulation 795/2004" means Commission Regulation (EC) No. 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(**4**);

"Commission Regulation 796/2004" means Commission Regulation (EC) No. 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in the Council Regulation(**5**);

(**1**) S.I.2000/2812 to which there are amendments not relevant to the subject matter of these Regulations, and S.I. 2000/3238
(**2**) 1972 c. 68
(**3**) 1954 c. 33 (N.I.)
(**4**) O.J. No. L141, 30.4.2004, p. 1, as last amended by Commission Regulation (EC) No. 606/2005 (O.J. No. L100, 20.4.2005, p. 15)
(**5**) O.J. No. L141, 30.4.2004, p. 18, as last amended by Commission Regulation (EC) No. 436/2005 (O.J. No. L72, 18.3.2005, p. 4)

"Commission Regulation 1973/2004" means Commission Regulation (EC) No. 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials(**6**);

"Council Regulation" means Council Regulation (EC) No. 1782/2003 establishing common rules for direct support under the common agricultural policy and establishing certain support schemes for farmers(**7**);

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

"direct payment" has the meaning given to it in Article 2(d) of the Council Regulation;

"farmer" has the meaning given to it in Article 2(a) of the Council Regulation;

"holding" has the meaning given to it in Article 2(b) of the Council Regulation;

"IACS Regulations" means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(**8**);

"reference period" has the meaning given to it in Article 38 of the Council Regulation;

"relevant competent authority" has the meaning given to it in regulation 5 of the IACS Regulations;

"single application" has the meaning given to it in Article 2(11) of Commission Regulation 796/2004;

"single payment scheme" means the support scheme established under Title III of the Council Regulation.

(3) Other expressions used in these Regulations shall be construed in accordance with the Council Regulation, Commission Regulation 795/2004, Commission Regulation 796/2004 and Commission Regulation 1973/2004.

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

Regional Application

3. Northern Ireland shall be a region for the purposes of Article 58 of the Council Regulation.

Applications

4. The Department is designated as the competent authority for the purposes of Article 34(1) of the Council Regulation (which requires the competent authority to send application forms to farmers) in relation to farmers of holdings for which the Department is the relevant competent authority.

Minimum size of holding

5. For the purposes of Article 12(6) of Commission Regulation 795/2004, the minimum size of a holding for which the establishment of payment entitlements may be requested shall be 0.3 hectares.

10 month period

6. For the purposes of Article 24(2) of Commission Regulation 795/2004, a farmer shall choose a date for the beginning of the 10 month period referred to in Article 44(3) of the Council Regulation

(**6**) O.J. No. L345, 20.11.2004, p. 1. Commission Regulation (EC) No. 1973/2004 was corrected by a corrigendum at O.J. No. L61, 8.3.2005, p. 51
(**7**) O.J. No. L270, 21.10.2003, p. 1, as last amended by Commission Regulation (EC) No. 118/2005 (O.J. No. L24, 27.1.2005, p. 15)
(**8**) S.I. 2005/218

within a period beginning on 1st October of the calendar year of the year preceding the year of submitting an application under the single payment scheme and ending on 30th April of the year of application.

Dairy premium and additional payments

7. In accordance with Article 62 of the Council Regulation the amounts resulting from dairy premium and additional payments, provided for in Articles 95 and 96 of the Council Regulation, shall be included in full, in the single payment scheme starting in 2005.

Calculation of Entitlements in Northern Ireland

8.—(1) For the purposes of the first paragraph of Article 59(3) of the Council Regulation, the corresponding part of the regional ceiling established under Article 58 of the Council Regulation shall be computed by taking the average amounts of all payments which, but for the application of penalties, would have been paid by the Department to farmers during the reference period under each of the schemes listed at column 1 of the Table at Schedule 1, multiplying each such amount by the percentage opposite the scheme at column 2 and totalling the products of these calculations.

(2) For the purposes of this regulation –

"payment" means a payment for the relevant scheme as it would have been assessed at the appropriate rate for that scheme applicable in the year 2002, and

"appropriate rate" means the rate of payment for that scheme calculated in euro.

Horticulture

9. In accordance with Article 51(b) second subparagraph of the Council Regulation, secondary crops may be cultivated on the eligible hectares during a period of not more than three months beginning each year on 15th August.

Transfers

10. For the purposes of Article 25(3) of Commission Regulation 795/2004, a transferor of a payment entitlement shall communicate the transfer to the relevant competent authority responsible for determining the particular single application in question and shall do so –

(a) no later than six weeks before the transfer is to take place; and

(b) no later than six weeks before the last day for submission of the single application.

Additional modulation

11.—(1) For the purposes of calculating the total amount of direct payments to be paid to a farmer for any year, the Department shall deduct a sum equal to the specified proportion of the relevant amount and shall apply the sum so deducted by way of funds for one or more of the relevant purposes(**9**).

(2) In this regulation –

"the relevant amount" means the amount which would have been granted to the farmer in respect of the year concerned but for the application of Article 10(1) of the Council Regulation;

(**9**) Additional modulation is permitted under Article 1 of Commission Regulation (EC) No. 1655/2004 (O.J. No. L298, 23.9.2004, p. 3) in Member States which applied reductions to direct payments under Article 4 of Council Regulation 1259/1999 (O.J. No. L160, 26.6.1999, p. 113). Such reductions were applied in Northern Ireland by The Common Agricultural Policy Support Schemes (Modulation) Regulations (Northern Ireland) 2000 (S.R. 2000 No. 346), as amended by the Intervention Board for Agricultural Produce (Abolition) Regulations 2001 (S.I. 2001/3686) and The Common Agricultural Policy Support Schemes (Modulation) (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No. 405)

"the relevant purposes" means the purposes of any payment made pursuant to any measure which implements any provision of Articles 10 to 12 (early retirement), 13 to 21 (less-favoured areas and areas with environmental restrictions), 21a to 21d (meeting standards), 22 to 24 (agri-environment and animal welfare), 24a to 24d (food quality) and 31 (afforestation) of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund(**10**);

"the specified proportion" means –

(a) in respect of 2005, 0%, and

(b) from 2006, 4.5%.

Aid for energy crops

12.—(1) Regulations 13 and 14 shall apply where an applicant uses areas covered by the aid provided for in Article 88 of the Council Regulation for the growing of agricultural raw materials under Article 24 of Commission Regulation 1973/2004 and references to raw materials shall be construed accordingly.

(2) Subject to paragraph (3), the Department shall be the competent authority for the purposes of Chapter 8 of Commission Regulation 1973/2004 (Aid for energy crops).

(3) In the case of an applicant the competent authority shall be the relevant competent authority responsible for determining the particular single application in question.

(4) In this regulation "applicant" has the meaning given to it in Article 23 of Commission Regulation 1973/2004.

Provisions relating to raw material

13.—(1) For the purposes of Article 43(2) of Commission Regulation 1973/2004, the minimum cultivated area for any raw material referred to in Article 24 of that Regulation shall be 0.1 hectares.

(2) Where the Department excludes any agricultural raw material from aid for energy crops in accordance with Article 43(1) of Commission Regulation 1973/2004, the Department shall notify the farmers concerned stating, with reasons, the details and duration of the exclusion.

(3) Raw materials to which Article 25(2)(b) of Commission Regulation 1973/2004 applies shall be weighed by an operator of public weighing equipment holding a certificate issued under Article 16 of the Weights and Measures (Northern Ireland) Order 1981(**11**).

(4) For the purposes of Article 25(4) of Commission Regulation 1973/2004, cereals, oilseeds and oil produced by processing oilseeds, to which that paragraph applies, shall be denatured by dying them with a brightly coloured dye.

(5) For the purposes of Article 34(1) of Commission Regulation 1973/2004, the last day on which a contract to which that paragraph applies may be deposited with the Department shall be the last day for submission of the relevant single application.

(6) For the purposes of Article 34(3) of Commission Regulation 1973/2004, the last day on which a first processor to whom that paragraph applies may provide the Department with the information specified in that paragraph shall be the 9th February of the year following the year in which the relevant single application is made.

(7) In this regulation –

(a) "relevant single application" means the single application in which aid for energy crops is being claimed on the areas used for the growing of agricultural raw materials to which

(**10**) O.J. No. L160, 26.6.1999, p. 80 as last amended by Council Regulation (EC) No. 2223/2004 (O.J. No. L379, 24.12.2004, p. 1)
(**11**) S.I. 1981/231 (N.I. 10)

the contract referred to in paragraph (5), or the information referred to in paragraph (6), relates (as the case may be); and

(b) "first processor" has the meaning given to it in Article 23 of Commission Regulation 1973/2004.

Keeping and retention of records

14.—(1) For the purposes of Article 39 of Commission Regulation 1973/2004 on any day during which a processor purchases, processes, destroys, sells or otherwise disposes of any raw materials he shall make a record showing (as the case may be) –

(a) the quantities of the different raw materials purchased by him for processing;

(b) the quantities of raw materials processed by him together with the quantities and types of end products, co-products and by-products obtained from the processing;

(c) the quantities of wastage of raw materials during the processing;

(d) the quantities of raw materials destroyed together with the reason for such destruction;

(e) the quantities and types of products sold or otherwise disposed of by him and the price obtained; and

(f) the names and addresses of any subsequent buyers or processors to whom he sells such raw materials or products of processing.

(2) A processor shall retain the records referred to in paragraph (1) for four years from –

(a) where the records relate to the purchasing, processing, wastage, destruction, sale or other disposal of raw materials, the date on which he purchases, processes, wastes, destroys, sells or otherwise disposes of the raw materials, as the case may be; and

(b) where the records relate to the sale or other disposal of products obtained from the processing of raw materials, the date on which such products were sold or otherwise disposed of, as the case may be.

15. For the purposes of Article 33(1)(b) of the Council Regulation and Article 13(5) of Commission Regulation 795/2004 anticipated inheritance shall include circumstances where upon his retirement a farmer transfers a holding other than for valuable consideration.

Revocations and savings

16.—(1) The Common Agricultural Policy Support Schemes (Modulation) Regulations (Northern Ireland) 2000(**12**) shall continue to apply to direct payments in respect of scheme years which began before 2005.

(2) The Regulations specified in Schedule 2, are revoked to the extent there specified.

(3) The Regulations revoked by paragraph (2) shall continue to apply in respect of applications for direct payments in respect of the calendar years preceding 2005.

(**12**) S.R. 2000 No. 346, as amended by the Intervention Board for Agricultural Produce (Abolition) Regulations 2001, (S.I. 2001/3686) and the Common Agricultural Policy Support Schemes (Modulation) (Amendment) Regulations (Northern Ireland) 2004, S.R. 405/2004