STATUTORY RULES OF NORTHERN IRELAND

2005 No. 6

AGRICULTURE

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

Made - - - -	*10th January 2005*
Coming into operation	*10th January 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 (Cross Compliance) Regulations (Northern Ireland) 2005, and shall come into operation on 10th January 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 –

"agri-environment commitment" means a commitment under Council Regulation 2078/92, Articles 22 to 24 of Council Regulation 1257/1999;

"authorised person" means any person authorised by the Department to act in matters relating to these Regulations, the Council Regulation or the Commission Regulation;

(**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.)

"the Commission Regulation" 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(**4**);

"the Council Regulation" means 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(**5**);

"Council Regulation 2078/92" means Council Regulation (EC) No. 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside(**6**);

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

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

"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; and

"permanent pasture" has the meaning given to it in Article 2(2) of the Commission Regulation.

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

(4) Other expressions used in these Regulations shall be construed in accordance with the Council Regulation and the Commission Regulation.

Designation

3. The Department is designated as the competent national authority in Article 3(2) of the Council Regulation.

Standards of good agricultural and environmental condition

4.—(1) The standards of good agricultural and environmental condition in Article 5(1) of the Council Regulation are set out in the Schedule and shall apply to a farmer in relation to any land over which he exercises control.

(2) If, in relation to any land under an agri-environment commitment, a requirement of the agri-environment commitment conflicts with a standard in the Schedule, any breach of the standard which is a necessary and direct consequence of meeting that requirement shall not be treated as a non-compliance.

Permanent pasture

5.—(1) If it is established that the ratio in Article 3(1) of the Commission Regulation is decreasing, the Department shall prohibit a farmer from converting land under permanent pasture, in accordance with Article 4(1) of the Commission Regulation.

(2) If it is established that the obligation in Article 3(2) of the Commission Regulation cannot be met, the Department shall oblige a farmer to re-convert land to permanent pasture in accordance with Article 4(2) of the Commission Regulation.

(**4**) O.J. No. L141, 30.04.2004, p. 18
(**5**) O.J. No. L270, 21.10.2003, p. 1, as last amended by Council Regulation (EC) No. 864/2004 (O.J. No. L161, 30.04.2004, p. 48, as corrected by a corrigendum at O.J. No. L206, 9.6.2004, p. 20)
(**6**) O.J. No. L215, 30.07.1992, p. 85, as last amended by Commission Regulation (EC) No. 2772/95 (O.J. No. L288, 01.12.1995, p. 35). This Council Regulation is no longer in force, but agri-environment commitments entered into under it remain extant
(**7**) O.J. No. L160, 26.06.1999, p. 80, as last amended by Council Regulation (EC) No. 583/2004 (O.J. No. L91, 30.03.2004, p. 1)

Competent Control Authority

6.—(1) The Department and the Department of the Environment are designated as competent control authorities for the purpose of Article 42(1) of the Commission Regulation.

(2) The Department shall, pursuant to Article 48 of the Commission Regulation, establish the final control report and where the Department is not the Paying Agency send the control report to the Paying Agency.

Powers of authorised persons

7.—(1) An authorised person may exercise any of the powers specified in this regulation for the purpose of –

(a) providing a control report pursuant to Article 48 of the Commission Regulation;

(b) establishing whether there has been a non compliance; or

(c) ascertaining whether an offence under these Regulations has been or is being committed.

(2) An authorised person –

(a) shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any land, other than a building used only as a dwelling, for the purposes of administering and enforcing these Regulations, the Council Regulation and the Commission Regulation, but

(b) may only do so if the land is a holding occupied by, or in the possession of a farmer, employee, agent, contractor or tenant of a farmer or if he has reasonable cause to believe so.

(3) An authorised person may –

(a) carry out any inquiries, checks, examinations and tests;

(b) take samples;

(c) inspect all or any part of the land, whether it is farmed or is withdrawn from agricultural production, including land set aside pursuant to Articles 54 and 55(b) of the Council Regulation;

(d) inspect any crops growing on that land or kept on it;

(e) mark any animal or other thing for identification purposes;

(f) have access to, inspect and copy any records (in whatever form they are held) kept in relation to activities covered by these Regulations or remove such records to enable them to be copied;

(g) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require and, where a record is kept by means of a computer, require the records to be produced in a form in which it can be taken away.

(4) An authorised person entering any premises by virtue of this regulation may take with him –

(a) such other persons as he considers necessary; and

(b) any representative of the European Commission acting for the purposes of the Council Regulation and the Commission Regulation.

(5) If an authorised person enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

(6) Where an authorised person has entered any land, other than a building used only as a dwelling, under a power bestowed on him by other legislation he may exercise any of the powers specified in paragraphs (3) and (4) for the purposes of paragraph (1).

Assistance to authorised persons

8. A farmer or any employee, agent, contractor or tenant of a farmer shall give an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred on him by regulation 7.

Offences and penalties

9.—(1) Any person who –

(a) intentionally obstructs an authorised person (or person accompanying him and acting under his instructions) in the exercise of a power conferred by regulation 7; or

(b) without reasonable cause fails to comply with a request made under regulation 8, shall be guilty of an offence.

(2) Nothing in paragraph 1(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 10th January 2005.

R. Jordan
A senior officer of the
Department of Agriculture and Rural
Development