STATUTORY RULES OF NORTHERN IRELAND

2001 No. 270

AGRICULTURE

Environmentally Sensitive Areas (Enforcement) Regulations (Northern Ireland) 2001

Made - - - -	*5th July 2001*
Coming into operation	*10th September 2001*

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) 2001 and shall come into operation on 10th September 2001.

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 2001 Order;

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

(a) regulated by a 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**) 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-environmental 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;

"Commission Regulation 3887/92" means Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(**5**);

"Commission Regulation 1750/1999" means Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of the Council Regulation(**6**) as amended by Commission Regulation (EC) No. 2075/2000(**7**);

"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(**8**);

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

"farmer" has the same meaning as in the 2001 Order;

"the 2001 Order" means the Environmentally Sensitive Areas Designation Order (Northern Ireland) 2001(**9**);

"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(**10**).

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 any part of any payments payable to that person or to such other person and may, subject to the provisions of Article 48 of Commission Regulation 1750/1999, recover the whole or any part of any payments already paid to that person or to such other person.

(2) Subject to the provisions of Article 30 of Commission Regulation 1750/1999 (force majeure) and Article 48 of Commission Regulation 1750/1999 (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 48(2) of Commission Regulation 1750/1999 (which requires 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. L391, 31.12 .92, p. 36 as last amended by Commission Regulation (EC) No. 2721/2000 (O.J. No. L314, 14.12.2000, p. 8)
(**6**) O.J. No. L214, 13.8.1999, p. 31
(**7**) O.J. No. L246, 30.9.2000, p. 46
(**8**) O.J. No. L160, 26.6.1999, p. 80
(**9**) S.R. 2001 No. 269
(**10**) 1954 c. 33 (N.I.); section 1(*f*) was amended by S.I. 1999/663