STATUTORY RULES OF NORTHERN IRELAND

# 1999 No. 208

# AGRICULTURE

## Countryside Management Regulations (Northern Ireland) 1999

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| *Made - - - -* | *30th April 1999* |
| *Coming into operation* | *24th May 1999* |

The Department of Agriculture, in exercise of the powers conferred on it by Article 3 of the Agriculture (Conservation Grants) (Northern Ireland) Order 1995(**1**) and of every other power enabling it in that behalf, and being a Department designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) 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) 1999 and shall come into operation on 24th May 1999.

### Interpretation

**2.**—(1) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure 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**) S.I. 1995/3212 (N.I. 21)
(**2**) S.I. 1972/1811
(**3**) 1972 c. 68
(**4**) 1954 c. 33 (N.I.)

(b) approved by the Commission of the European Communities under Article 7(3) of the Council Regulation as part of a zonal programme drawn up pursuant to Article 3 of the Council Regulation;

"applicant" means an applicant under these Regulations and in regulations 9 and 10 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 8;

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

"the Commission Regulation" means Commission Regulation (EC) No. 746/96(**5**) laying down detailed rules for the application of the Council Regulation, as last amended by Commission Regulation (EC) No. 435/97(**6**);

"the Council Regulation" means Council Regulation (EEC) No. 2078/92(**7**) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, as last amended by Commission Regulation (EC) No. 2722/95(**8**) as rectified in turn by Commission Regulation (EC) No. 1962/96(**9**);

"the Department" means the Department of Agriculture for Northern Ireland;

"environmentally sensitive area" means an area designated as an environmentally sensitive area under Article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(**10**);

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

"parkland" means an enclosed area of land at least 3 hectares in extent with a minimum of two mature trees per hectare;

"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.

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

### 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 lawful occupier of the eligible land to which such undertaking relates; and

(b) who 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 —

(**5**) O.J. No. L102, 25.4.96, p. 19
(**6**) O.J. No. L67, 7.3.97, p. 2
(**7**) O.J. No. L215, 30.7.92, p. 85
(**8**) O.J. No. L288, 1.12.95, p. 35
(**9**) O.J. No. L259, 12.10.96, p. 7
(**10**) S.I. 1987/458 (N.I. 3)

(a) to follow, 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 so far as is appropriate in relation to that land, the activities referred to in paragraph (4)(a); and

(c) to carry out 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) or (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 (priority 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 in relation to any land which is situated in an environmentally sensitive area.

(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 1 hectare.

(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 previously 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 pursuant to Article 20(2) of the Commission Regulation (reimbursement of aid and penalties); or

(d) the applicant is excluded from all aid under the Council Regulation by virtue of Article 20(3) of the Commission 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 which shall in no circumstances be earlier than the date of submission of the application.

### Transformation of undertakings

**6.**—(1) A beneficiary under the Habitat Improvement Regulations (Northern Ireland) 1995(**11**) or the Moorland (Livestock Extensification) Regulations (Northern Ireland) 1995(**12**) may apply to substitute for the unexpired period of an undertaking under any of 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 13 (transformation of undertakings) of the Commission Regulation 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 Schedules 2, 3, 4 or 5 corresponding to that activity.

(2) The grant payable under regulation 3(1) in respect of the activities set out in Schedule 2 shall not exceed£1,500 per annum.

(3) Subject to paragraph (4) the grant payable under regulation 3(1) in respect of the activities set out in Schedule 5 shall not exceed£1,500 per annum.

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

(a) 3(d), (e) and (f) provided the activities undertaken form part of a parkland management plan;

(b) paragraph 4;

(c) paragraph 9;

(d) paragraph 10(c) and (d) provided the activities undertaken are associated with fencing of habitats;

(e) paragraph 11;

(5) Subject to the provisions of these Regulations the Department shall make payments of grant annually in arrears.

(6) 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.

(7) The provisions of these Regulations are, in so far as grant claimed includes aid under the Council Regulation, subject to Article 10 (combination of aids) and Article 14(2) and (3) (rules governing undertakings and payment procedures) of the Commission Regulation.

### Change of occupation

**8.**—(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.

(**11**) S.R. 1995 No. 134, as amended by S.R. 1996 No. 608 and S.R. 1997 No. 351
(**12**) S.R. 1995 No. 239, as amended by S.R. 1996 No. 505 and S.R. 1996 No. 607

(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.

(7) Where the Department is satisfied as specified in paragraph (4) it shall, subject to regulation 7, make payments of such proportion of the grant, if any, as it has determined under paragraph (5) are due for the remainder of the period of the undertaking to the new occupier or, as the case may be, former occupier of all the land who has taken on the undertaking.

(8) Where within 3 months from the date of change of occupation the undertaking has not been taken on in accordance with paragraph (3) or, as the case may be, paragraph (4), the Department may—

(a) withhold the whole or any part of any payment of grant under these Regulations due to the former occupier in respect of the undertaking; and

(b) recover from the former occupier or his personal representatives the whole or any part of any payment of grant under these Regulations already made to him in respect of the undertaking.

(9) The provisions of this regulation are, insofar as the grant paid under these Regulations includes aid under the Council Regulation, subject to Article 11 (transfer of holding) and Article 12 (force majeure) of the Commission Regulation and where by virtue of Article 11 an applicant for grant is required to reimburse, in accordance with Article 20(1) of the Commission Regulation, the aid paid, the rate of interest shall be that provided in regulation 11(1).

**Obligation to permit entry and inspection**

**9.**—(1) An applicant shall permit any person duly authorised by the Department, accompanied by such persons acting under his instructions as appear to that authorised person to be necessary for the purpose, at all reasonable hours and on production on demand of some duly authenticated