STATUTORY RULES OF NORTHERN IRELAND

1998 No. 368

AGRICULTURE

Countryside Access (Amendment) Regulations (Northern Ireland) 1998

Made - - - -	*22nd October 1998*
Coming into operation	*30th November 1998*

The Department of Agriculture, 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, in exercise of the powers conferred on it by the said section 2(2) and by Article 3(1) and (2) of the Agriculture (Conservation Grants) (Northern Ireland) Order 1995(**3**) 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Countryside Access (Amendment) Regulations (Northern Ireland) 1998 and shall come into operation on 30th November 1998.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendments to the Countryside Access Regulations (Northern Ireland) 1996

2.—(1) The Countryside Access Regulations (Northern Ireland) 1996(**5**) shall be amended by substituting for regulations 10 to 10B, the following regulations—

"**Withholding and recovery of aid, termination and exclusion**

10.—(1) Where any person, with a view to obtaining the payment of aid under these Regulations to 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 aid payable to that person or to such other person and may, subject to the provisions of Article

(**1**) S.I.1972/1811
(**2**) 1972 c. 68; Section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.I. 1994/2795 (N.I. 15)
(**3**) S.I. 1995/3212 (N.I. 21)
(**4**) 1954 c. 33 (N.I.)
(**5**) S.R. 1996 No. 213 as amended by S.R. 1996 No. 609

20 of the Commission Regulation (which provides for recovery of wrongful payments with interest, a penalty system and exclusion for false declarations), recover the whole or any part of any aid already paid to that person or to such other person.

(2) Where a beneficiary—

(a) fails to comply with any of the undertakings referred to in regulation 3;

(b) fails to permit entry and inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 9; or

(c) fails to comply with any other requirement of these Regulations,

the Department may withhold the whole or any part of any aid payable to that beneficiary and may recover the whole or any part of any aid already paid to him and may also, in so far as is permitted by Article 20(2) of the Commission Regulation (which requires Member States to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings), require him to pay to the Department a sum equal to no more than 10% of the aid paid or payable to the beneficiary.

(3) Where the Department takes any step specified in paragraph (1) or (2), it may also treat as terminated the undertakings given by the beneficiary under these Regulations.

(4) Where under paragraph (3) the Department treats the undertakings given by the beneficiary as terminated, in connection with any step taken under paragraph (1) or (2), it may also in so far as is consequent upon Article 20(2) of the Commission Regulation by notice in writing to the beneficiary prohibit him from providing a new undertaking or entering a new agreement under an agri-environment scheme for such period (not exceeding two years) from the date of that termination as is specified in the notice.

(5) Where there is a change of occupation of all or part of the beneficiary's farmland or farm lane which is subject to management requirements set out in the Schedule, and the Department, in accordance with paragraph (3), subsequently treats as terminated the undertakings given by a beneficiary in relation to any part of that farmland or farm lane as the case may be, it may—

(a) withhold the whole or any part of any aid payable to the new occupier; and

(b) recover the whole or part of any aid already paid to him.

(6) The powers in paragraph (5)(*a*) and (*b*) shall not be exercised against a new occupier unless the Department notified him in writing at the time his undertaking under regulation 6(1)(*b*) was given, with specific reference to the farmland or farm lane in relation to which he undertook to comply with the obligations assumed by the original beneficiary, of the circumstances in which those powers could be exercised against him.

(7) Before taking any step specified in paragraph (2), (3) or (4) by reference to paragraph (2)(*a*) or (*c*), or any step specified in paragraph (5), the Department shall—

(a) give to the beneficiary a written explanation of the reasons for the step proposed to be taken;

(b) afford the beneficiary the opportunity of appearing before and being heard by the Department; and

(c) consider the report by the person so appointed and supply a copy of the report to the beneficiary.

Recovery of interest

10A.—(1) Where a payment of aid is made to a beneficiary by the Department and, by virtue of Article 20(1) of the Commission Regulation (which provides for recovery of wrongful payments with interest), the beneficiary is required to reimburse all or part of the payment with interest, the rate of interest shall be one percentage point above LIBOR on a day to day basis.