STATUTORY RULES OF NORTHERN IRELAND

# 1996 No. 610

# AGRICULTURE

## Organic Farming Aid (Amendment) Regulations (Northern Ireland) 1996

*Made - - - - 23rd December 1996*

*Coming into operation 1st January 1997*

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 that section and of all other powers enabling it in that behalf, hereby makes the following Regulations:

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Organic Farming Aid (Amendment) Regulations (Northern Ireland) 1996 shall come into operation on 1st January 1997.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(3) In these Regulations, "the principal Regulations" means the Organic Farming Aid Regulations (Northern Ireland) 1995(**4**).

### Application

**2.** These Regulations apply with effect from 1st January 1997 to undertakings given before that date under the principal Regulations but only in respect of actions taken and events occurring on or after that date and to undertakings given on or after that date.

### Amendment of the principal Regulations

**3.** In regulation 2(2) (Interpretation) of the principal Regulations—

(a) in the definition of "beneficiary" for sub-paragraph (*c*) there shall be substituted—

(**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**) 1954 c. 33 (N.I.)
(**4**) S.R. 1995 No. 116

"(c) set aside and which has been land within the meaning of sub-paragraph (*a*) or (*b*) or improved grassland for a period of at least 3 years before the date of application.";

(b) after the definition of "beneficiary" there shall be inserted—

" "the Commission Regulation" means Commission Regulation (EC) No. 746/96(**5**) laying down detailed rules for the application of Council Regulation 2078/92;";

(c) for the definitions of "organic farming" and "organic standards" there shall be substituted —

""organic farming" means farming in accordance with UKROFS standards;"; and

(d) for the definition of "UKROFS" there shall be substituted—

""UKROFS standards" means the United Kingdom Register of Organic Food Standards production standards (as amended from time to time) for organic farming published by the Ministry of Agriculture, Fisheries and Food and known as the UKROFS Standards for Organic Food Production."

**4.** In regulation 4 (Conditions of eligibility) of the principal Regulations for paragraph (1)(*c*) there shall be substituted—

"(c) is not prohibited from giving the undertakings set out in regulation 5 by application of a penalty pursuant to Article 20(2) (reimbursement of aid and penalties) of the Commission Regulation; and

(d) is not excluded from all aid under the Council Regulation 2078/92 by virtue of Article 20(3) of the Commission Regulation.".

**5.** In regulation 6(1) (Application for aid) of the principal Regulations—

(a) for sub-paragraph (*a*)(iii) and (iv) there shall be substituted—

"(iii) the area of land, if any, which already meets UKROFS standards; and

(iv) the area of land, if any, on which organic farming is to be introduced or which is in the course of conversion to organic farming";

(b) for sub-paragraph (*d*) and (*e*) there shall be substituted—

"(d) where the applicant chooses to phase the conversion of his farm to organic farming, a written statement of the conversion plan; and

(e) confirmation that his conversion proposals meet UKROFS standards."

**6.** In regulation 8 (Change of occupation) of the principal Regulations—

(a) after paragraph (3) there shall be inserted the following paragraph—

"(3A) The Department shall not accept an undertaking referred to in paragraph (1)(*b*) unless it is satisfied that the new occupier is not prohibited from providing an undertaking pursuant to an agri-environment scheme by application of Article 10 of the Commission Regulation (which restricts duplication of aid payments), by application of a penalty consequent upon 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) or by application of Article 20(3) of the Commission Regulation (which requires a person who, intentionally or by reason of gross negligence, makes a false declaration, to be excluded from all aid under the Council Regulation).";  and

(**5**) O.J. No. L102, 25.4.96, p. 19

(b) for paragraph (7) there shall be substituted—

"(7) The foregoing provisions of this Regulation shall be subject to Article 11 of the Commission Regulation (which governs transfers of holdings) and Article 12 of the Commission Regulation (force majeure)".

**7.** For regulation 9 (Amounts of aid and claims) of the principal Regulations there shall be substituted—

"**Amounts of aid and claims**

**9.**—(1) Subject to regulation 8(6), paragraphs (3) and (4) and regulation 11(1) and (2), the Department shall make payments annually in arrears and the amount of each payment shall be calculated in accordance with the Schedule.

(2) Payments shall be made in respect of a maximum of 300 hectares per holding.

(3) A claim for each annual payment under paragraph (1) shall be made at such time and in such form and shall contain such information as the Department may reasonably require.

(4) The provisions of this regulation are subject to Articles 14(2) and (3) (rules governing undertakings and payment procedures) of the Commission Regulation and, in the case of an undertaking under these Regulations given on or after 1st January 1997, Article 10 (combination of aids) of the Commission Regulation.".

**8.** For regulation 11 (Withholding and recovery of aid) there shall be substituted the following regulation—

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

**11.**—(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 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 set out in regulation 5;

(b) fails without reasonable excuse to permit entry and inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 10; 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)