STATUTORY RULES OF NORTHERN IRELAND

# 1996 No. 608

# AGRICULTURE

## Habitat Improvement (Amendment) Regulations (Northern Ireland) 1996

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| *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 powers enabling it in that behalf, hereby makes the following Regulations:

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Habitat Improvement (Amendment) Regulations (Northern Ireland) 1996 and 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.

### Amendments to the Habitat Improvement Regulations (Northern Ireland) 1995

**2.**—(1) The Habitat Improvement Regulations (Northern Ireland) 1995(**4**) shall be amended as provided by paragraphs (2) to (7).

(2) In regulation 2(2) (Interpretation)—

(a) after the definition of "agriculture" there shall be inserted the following definition—

> ""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
(**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. 134

(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;"; and

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

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

"the Council Regulation" means Council Regulation (EEC) No. 2078/92(**6**) 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. 2772/95(**7**) as rectified by Commission Regulation (EC) No. 1962/96(**8**);.

(3) In regulation 4(1) (Conditions of eligibility) after sub-paragraph (*c*) there shall be inserted the following sub-paragraph—

"; and

(d) and is not prohibited from providing an undertaking pursuant to an agri-environment scheme either 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);".

(4) In regulation 7 (Change of occupation)—

(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

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

"(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)".

(5) In regulation 8 (Amounts of aid and claims) for paragraph (1) there shall be substituted—

"(1) Subject to regulation 7(6) and 10(1) and (2), 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 for all aid under the Council Regulation) and, in respect of an application made after 1st January 1997, of Article 10 of the Commission Regulation (which restricts duplication of aid payments), payments of aid under a scheme to a beneficiary shall be made annually, in arrears";

(**5**) O.J. No. L102, 25.4.96, p. 19
(**6**) O.J. No. L215, 30.7.92, p. 85
(**7**) O.J. No. L288, 1.12.95, p. 35
(**8**) O.J. No. L259, 12.10.96, p. 7