STATUTORY RULES OF NORTHERN IRELAND

1996 No. 606

AGRICULTURE

Environmentally Sensitive Areas Designation Orders (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 and commencement

1. These Regulations may be cited as the Environmentally Sensitive Areas Designation Orders (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 1st January 1997.

Interpretation

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

(2) In these Regulations, "the principal Orders" means the Orders set out in the Schedule.

Amendment of the principal Orders

3.—(1) Each of the principal Orders shall be amended as provided by paragraphs (2) to (5).

(2) In Article 2 (Interpretation) of each of the principal Orders, after the definition of "agreement" there shall be inserted—

(a) ""agri-environment scheme" means an arrangement which is—

(**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.R. 1994/2795 (N.I. 15)

(**3**) 1954 c. 33 (N.I.)

(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

(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;";

(b) " "the Commission Regulation" means Commission Regulation (EC) No. 746/96(**4**) laying down detailed rules for the application of the Council Regulation;"; and

(c) " "the Council Regulation" means Council Regulation (EEC) No. 2078/92(**5**) 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(**6**) as rectified by Commission Regulation (EC) No. 1962/96(**7**);"

(3) In Article 5 (Breach of requirements and provisions of agreement) of each of the principal Orders set out in the Schedule—

(a) at the beginning for the words "An agreement shall include provisions" there shall be substituted the following—

"(1) Subject to paragraph (2), an agreement shall include provisions"; and

(b) at the end of the Article there shall be added—

"(2) Nothing in paragraph (1) requires an agreement to include remedies for the Department which it has by virtue of Articles 5A, 5B and 5C or by virtue of Article 20 of the Commission Regulation (which provides for recovery of wrongful payments with interest, a penalty system and exclusion for false declarations)."

(4) After Article 5 of each of the principal Orders set out in the Schedule there shall be inserted the following Articles—

"**Breach of requirements or provisions: supplementary**

5A.—(1) Subject to the provisions of Article 12 of the Commission Regulation (force majeure) and Article 20 of the Commission Regulation (which provides for recovery of wrongful payments with interest, a penalty system and exclusion for false declarations), and without prejudice to any rights the Department may have under an agreement, the Department may, where the farmer breaches any of the provisions of the agreement he has entered or any other requirement that applies to the making of any payment under this Order—

(a) withhold the whole or any part of any aid payable to the farmer;

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

(c) in so far as is 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 undertaking), require him to pay to the Department a sum equal to no more than 10% of the aid paid or payable to the farmer.

(2) Where the Department takes any step specified in paragraph (1), it may also terminate the agreement by notice in writing to the farmer.

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