1995 No. 134

AGRICULTURE

Habitat Improvement Regulations (Northern Ireland) 1995

Made	*29th March 1995*
Coming into operation . .	*1st May 1995*

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Economic 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, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Habitat Improvement Regulations (Northern Ireland) 1995 and shall come into operation on 1st May 1995.

Interpretation

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

(2) In these Regulations—

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding, the use of land as grazing land, meadow land, market gardens and nursery grounds;

"application" means an application made in accordance with regulation 5, for aid under a scheme;

"beneficiary" means—

(*a*) a person whose application has been accepted; or

(*b*) a person who occupies any farmland following a change of occupation thereof, who has given an undertaking to comply with the obligations relating to that farmland assumed by the previous occupier and whose undertaking has been accepted by the Department;

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

(a) S.I. 1972/1811
(b) 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. 1984 No. 253
(c) 1954 c. 33 (N.I.)

"designated or declared habitats" means areas declared by the Department of the Environment for Northern Ireland under Part VI of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**a**);

"scheduled watercourse" means any lough or river or section of river listed in Schedule 6;

"environmentally sensitive areas" means any area designated under Article 3(1) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(**b**);

"field" means an area of land with an established boundary;

"grassland habitat" means areas of grassland set aside from agriculture as a wildlife corridor linking existing wildlife habitats or which is extensively grazed and/or set aside from agriculture as a buffer to designated or declared habitats;

"grazed marshland" means areas of marsh which provide grazing for livestock;

"habitat site" means the area of farmland which is the subject of an undertaking given under regulation 3(1)(*a*) or (*b*);

"holding" means land which is occupied as a unit for agricultural purposes;

"improved land" means arable land on which a crop is growing or has grown in the 12 months prior to the date of application or which is fallow as part of the normal crop rotation or grassland on which more than 20% of the sward is comprised of ryegrass, timothy, red fescue or white clover, any land under cultivation at the date of an agreement or any land (other than grassland) uncultivated at the date of an agreement but which has been previously cultivated;

"management plan" in relation to any habitat site means a description of the methods by which the applicant will manage the site so as to establish or improve a wildlife habitat and to benefit the flora and fauna, taking into account the requirements of the Schedule which applies to the site;

"rough moorland grazing" means grassland the vegetation of which is comprised wholly or mainly of matt grass, purple moor grass, cotton grasses, wavy hair grass or sedges;

"scheme" means either—

(*a*) the scheme to withdraw land from agricultural production for purposes connected with the environment for a period of 20 years as specified in Article 2(1)(f) of Council Regulation 2078/92(**c**) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, or

---

(**a**) S.I. 1985/170 (N.I. 1) as amended by 1989/492 (N.I. 3)
(**b**) S.I. 1987/458 (N.I. 3)
(**c**) O.J. No. L215, 30.7.92, p. 85

(*b*) the scheme to use for a period of 10 years farming practices compatible with the requirements of protection of the environment and natural resources as specified in Article 2(1)(*d*) of that Regulation;

"tenant" means a person who occupies land under a contract of tenancy for a fixed term of years of which:

(*a*) at least 20 years remain unexpired at the commencement of the period of duration of the undertaking referred to in regulation 3(1)(*a*), or

(*b*) at least 10 years remain unexpired at the commencement of the date of duration of the undertaking referred to in regulation 3(1)(*b*);

"unimproved land" means grassland on which less than 20% of the sward is comprised of ryegrass, timothy, red fescue or white clover;

"waterside habitats" means land alongside watercourses where vegetation naturally arises from the cessation of cropping or the cessation or extensification of grazing;

"woodland habitat" means woodland which is comprised wholly or mainly of broadleaved species.

Aid for improvement or establishment of habitats

3.—(1) Subject to and in accordance with the provisions of these Regulations, the Department may make payments of aid under a scheme to an applicant who gives either or both of the following undertakings:

(*a*) to withdraw farmland from agricultural production for a period of 20 consecutive years from the date of entry into the scheme and to use that land for the purposes of the establishment, improvement or protection of one or more of the following wildlife habitats:

(i) waterside habitats;

(ii) grassland habitats;

(*b*) to use farming practices on selected areas of farmland compatible with the requirements of the protection of the environment for a period of 10 consecutive years from the date of entry into the scheme and to use that land for the purposes of the establishment, improvement or protection of one or more of the following wildlife habitats:

(i) waterside habitats;

(ii) grassland habitats;

(iii) woodland habitats.

(2) In addition to the undertakings mentioned in paragraph (1), applicants shall undertake:

(*a*) to observe in relation to each habitat site the management requirements contained in Part II of the Schedule relevant to that habitat site;

(*b*) to manage the habitat site in accordance with a management plan agreed with the Department.

Conditions of eligibility

4.—(1) A person shall be eligible to make an application if at the date of application he:

(*a*) has been the lawful owner or tenant of the habitat site to which it relates for a period of 12 months;

(*b*) satisfies the requirements of Part I of the Schedule relevant to that habitat site; and

(*c*) satisfies the requirements in paragraph (2).

(2) The proposed habitat site or sites shall extend individually or in aggregate to at least 1 hectare per holding.

Applications for aid

5. An application shall be made at such time and in such from as the Department may reasonably require and shall include:

(*a*) a map of the applicant's farm showing the habitat site or sites to which it relates and any features of a kind specified in the management requirements in Part II of the Schedule relevant to the site or sites;

(*b*) a statement of the area of each habitat site or sites;

(*c*) a description of the use or uses of the habitat site or sites during the 12 months prior to the date of application;

(*d*) a management plan; and

(*e*) if required by the Department, evidence showing the nature of the applicant's estate or interest in that land.

Restrictions on acceptance of applications

6.—(1) The Department shall not accept an application unless it is satisfied that, having regard to the condition of the habitat site to which the application relates and the surrounding land at the time of the submission of the application, the use or management of the habitat site in accordance with the proposals contained in the application, will provide significant benefit to the environment.

(2) The Department shall not accept an application in relation to any farmland 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 may refuse to accept an application in relation to any farmland where it is satisfied that:

(*a*) the use of any farmland in accordance with the proposals contained in that application would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Community; or

(*b*) the payment of aid under these Regulations would duplicate any assistance previously given or to be given out of money provided by Parliament or by the European Community.

Change of occupation

7.—(1) Where there is a change of occupation, during the period of the scheme, of the whole or any part of a beneficiary's farmland which is subject to management obligations:

(*a*) the beneficiary (or, if he has died, his personal representatives or the occupier of the farmland) 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 of occupation in such form and within such period as the Department may reasonably determine;

(*b*) subject to the provisions of this regulation, the new occupier of that farmland or part may give an undertaking to the Department to comply, for the remainder of the scheme, with the obligations assumed by the beneficiary under an application relating to that farmland.

(2) Where there is a change of occupation of part of any farmland subject to management obligations, the Department shall determine the extent to which the obligations assumed by a beneficiary relate to that part, having regard to the location of the habitat site or sites.

(3) The Department shall not accept an undertaking from a new occupier of land or part thereof to comply with obligations assumed by a beneficiary unless it is satisfied that that new occupier occupies that land or part as an owner or tenant, or as the personal representative of the beneficiary.

(4) A new occupier who gives an undertaking to comply with the obligations assumed by the beneficiary shall supply to the Department such information in such form and within such period following the change of occupation as the Department may reasonably determine.

(5) Where the Department has accepted an undertaking from a new occupier to comply with the obligations undertaken by a beneficiary his undertaking to comply with the obligations undertaken by the original beneficiary shall be deemed to take effect on the date of the acceptance by the Department of that undertaking.

(6) Where within 3 months from the date of change of occupation a new occupier has not given an undertaking to comply with the obligations assumed by the original beneficiary, the Department may:

(*a*) withhold the whole or any part of any payments of aid under a scheme due to the original beneficiary; and

(*b*) recover from that original beneficiary or his personal representatives the whole or any part of any payments of aid under the scheme already made to him.

(7) Paragraph (6) shall not apply where the change of occupation of the farmland or part thereof is the result of:

(*a*) the compulsory purchase of the farmland or part; or