1995 No. 116

AGRICULTURE

Organic Farming Aid Regulations (Northern Ireland) 1995

Made	*22nd March 1995*
Coming into operation	*24th April 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 Organic Farming Aid Regulations (Northern Ireland) 1995 and shall come into operation on 24th April 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—

"application" means an application made in accordance with regulation 6 for aid under the scheme;

"arable land" means land—

(*a*) on which an arable crop is growing, or has been planted; or

(*b*) which is lying fallow as part of a normal crop rotation (including short term leys); or

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

"beneficiary" means—

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

(*b*) a person who occupies any farmland following a change of occupation thereof, who has given an undertaking to comply with

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(**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.)

the obligations relating to that production unit assumed by its previous occupier in relation to an application and whose undertaking has been accepted by the Department;

"Council Regulation 2092/91" means Council Regulation (EEC) No. 2092/91(**a**) on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs;

"Council Regulation 2078/92" means Council Regulation (EEC) No. 2078/92(**b**) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside;

"date of entry into the scheme" means the date on which an applicant proposes to assume obligations under the scheme in accordance with regulation 6(*c*);

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

"holding" means all the production units farmed by an applicant or beneficiary;

"improved grassland" means either land used for grazing where over one-third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing, where there is not a significant presence of sensitive plant species indicative of native unimproved grassland;

"landlord" means, in relation to the tenant of a holding or part of a holding, any person who either solely or jointly owns or has a superior tenancy of that holding or part;

"organic farming" means farming in accordance with the standards set out by UKROFS;

"organic standard" means the standard attained by land on the converted land register of UKROFS;

"production unit" means land, other than common grazing, farmed by an applicant or beneficiary which would be accepted by UKROFS as viable for conversion to organic standards;

"rough grazing" means land containing semi-natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing;

"scheme" means the scheme to encourage organic farming methods as specified in Article 2(1)(*a*) of Council Regulation 2078/92;

"set-aside" means set-aside in accordance with the provisions of Council Regulation (EEC) No. 1765/92(**c**) establishing a support system for certain arable crops and Article 5 of Commission Regulation (EEC) No. 762/94(**d**) laying down detailed rules for the application of

(**a**) O.J. No. L198, 22.7.91, p. 1
(**b**) O.J. No. L215, 30.7.92, p. 85
(**c**) O.J. No. L181, 1.7.92, p. 12
(**d**) O.J. No. L90, 7.4.94, p. 8

Council Regulation (EEC) No. 1765/92 with regard to set-aside;

"specified period" means the period being not less than 5 years from the date of entry into the scheme and ending on the date of receipt by a beneficiary of the final payment of aid in respect of any land under the scheme;

"tenant" means a person who occupies a holding or part of a holding under a contract of tenancy for a fixed term of years of which at least five years remain unexpired at the commencement of the specified period;

"unimproved grassland" means land used for grazing or mowing which does not constitute improved pasture or rough grazing;

"UKROFS" means the United Kingdom Register of Organic Food Standards, having responsibility for administering the European Community Organic Farming Standards under Council Regulation No. 2092/91.

Aid for Organic Farming

3. Subject to the provisions of these Regulations, the Department may make payments of aid under the scheme to an applicant who—

(*a*) satisfies the conditions of eligibility specified in regulation 4;

(*b*) has given the undertakings set out in regulation 5;

(*c*) has made an application in accordance with regulation 6 which has been accepted by the Department; and

(*d*) complies with any requirements imposed by the Department under regulation 6.

Conditions of Eligibility

4.—(1) An applicant shall be eligible to make an application if at the date of application the applicant—

(*a*) is the lawful occupier of a production unit;

(*b*) is making an application in relation to a production unit which extends to not less than one hectare;

(*c*) has approval from UKROFS or a UKROFS approved body for his conversion plan.

(2) An application shall not be made in respect of any area of land already converted to organic standard on or after 10th August 1993.

Undertakings by Applicants

5. The applicant shall undertake—

(*a*) to convert the production unit to which the application relates to organic farming methods;

(*b*) to continue with organic farming on that production unit for the specified period;

(*c*) if, at the date of application, organic farming has already been introduced on land on the applicant's farm other than the production

unit to which the application relates, to continue with such farming on the other land for the specified period;

(*d*) to ensure that the organic farming of his farm conforms to UKROFS standards; and

(*e*) if the applicant has chosen to phase the introduction of the conversion to organic standard of the production unit to which the application relates, to do so over a period not exceeding 5 years from the date of entry into the scheme.

Application for Aid

6.—(1) An application for aid shall be made in writing, in such form as the Department may require and shall include—

(*a*) a map clearly showing—

(i) the boundaries of the applicant's holding together with any internal field boundaries; and

(ii) the area of arable land, improved grassland, rough grazing and unimproved grassland; and

(iii) the area of land, if any, which already meets the organic standard; and

(iv) the area of the production unit, if any, on which organic farming is to be introduced or which is on UKROFS's register of land in conversion;

(*b*) a written statement with details of the total area of the applicant's holding and of the areas of land referred to in sub-paragraphs (*a*)(ii), (iii) or (iv), as appropriate;

(*c*) the date on which he first proposes to assume obligations under the scheme;

(*d*) a written statement of the conversion plan if the applicant chooses to phase the conversion of his farm to organic standard; and

(*e*) confirmation of acceptance of the conversion plan by UKROFS or a UKROFS approved body.

(2) An applicant shall furnish to the Department such further information and evidence in relation to the application as the Department reasonably may require.

Restrictions on Acceptance of Applications

7.—(1) The Department shall not accept an application from an applicant who occupies the production unit to which the application relates as a tenant unless the Department is satisfied that such applicant has notified the landlord in writing of the making of such application.

(2) The Department may refuse to accept an application where it is satisfied that—

(*a*) the use of any land 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 the Parliament of the

United Kingdom or by the European Community;

(*b*) payment of aid under these Regulations in respect of any land on which an applicant proposes to carry on organic farming would duplicate any assistance previously given or to be given out of money provided by the Parliament of the United Kingdom or by the European Community.

Change of Occupation

8.—(1) Where there is a change of occupation, during the specified period, of the whole or any part of a beneficiary's production unit—

(*a*) the beneficiary (or, if he has died, his personal representatives or the occupier of the production unit) 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 the production unit or part may give an undertaking to the Department to comply, for the remainder of the specified period, with the obligations assumed by the beneficiary under an application relating to that production unit.

(2) Where there is a change of occupation of part of a production unit, the Department shall determine the extent to which the obligations assumed by the beneficiary relate to that part, having regard to—

(*a*) the area of land comprised in that part and in the remainder of the original production unit, and

(*b*) the use to which that part is put.

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

(4) A new occupier who gives an undertaking under this regulation 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 beneficary 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 the scheme due to the original beneficiary; and