1994 No. 430

HORTICULTURAL PRODUCE

Apple Orchard Grubbing Up (Amendment) Regulations (Northern Ireland) 1994

Made . . . . . *3rd November 1994*

Coming into operation . . *3rd November 1994*

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 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, commencement and application

1.—(1) These Regulations may be cited as the Apple Orchard Grubbing Up (Amendment) Regulations (Northern Ireland) 1994 and shall come into operation on 3rd November 1994.

(2) These Regulations shall apply in respect of applications (within the meaning of the Apple Orchard Grubbing Up Regulations (Northern Ireland) 1991(**c**)) made on or after 3rd November 1994.

Amendments to the Apple Orchard Grubbing Up Regulations (Northern Ireland) 1991

2. The Apple Orchard Grubbing Up Regulations (Northern Ireland) 1991 shall be amended as provided in Regulations 3 to 9.

Interpretation

3. In regulation 2(1)—

(*a*) for the definition of "applicant" there shall be substituted the following definition—

" "applicant" means a person who makes an application and includes his personal representatives;";

(*b*) in the definition of "the Commission Regulation" at the end there shall be inserted the words:

"as amended by Commission Regulation (EC) No. 2264/94(**d**)";

(**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**) S.R. 1991/157

(**d**) O.J. No. L246, 21.9.94, p. 2

(*c*) after the definition of ''the Commission Regulation'' there shall be inserted the following definition:—

'' ''the continuing control objective'' means the objective that no planting of an apple tree shall be carried out on any holding containing or new holding containing the whole or any part of a former orchard or of a retained orchard during the restriction period relating to that former or (as the case may be) retained orchard, other than planting on a retained orchard or other orchard;'';

(*d*) in the definition of ''the Council Regulation'' at the end there shall be inserted the words ''as last amended by Council Regulation (EC) No. 1890/94(**a**);'';

(*e*) for the definition of ''holding'' there shall be substituted the following definition—

'' ''holding'' means, except in the expression ''new holding'', land formerly an apple orchard in respect of which an application is made, occupied as a unit for the time being for agricultural purposes by the applicant;'';

(*f*) after the definition of ''holding'' there shall be inserted the following definitions—

'' ''legal estate'' means any estate in land other than an equitable estate;

''new holding'' means land, occupied as a unit for agricultural purposes by an occupier at any time after he has begun occupation of a former orchard or part of a former orchard or a retained orchard or part of a retained orchard;'';

(*g*) for the definition of ''occupier'' there shall be substituted the following definition—

'' ''occupier'' means a person, other than the applicant, who occupies a former orchard or part of a former orchard or a retained orchard or part of a retained orchard at any time during the restriction period relating to the former or (as the case may be) retained orchard and includes the occupiers personal representatives;'';

(*h*) after the definition of ''occupier'' there shall be inserted the following definitions—

'' ''other orchard'' means, in relation to a new holding, any apple orchard which was on that holding at or was added to that holding after the time that the restricted parcels became part of it, other than a retained orchard transferred to the occupier by the applicant or previous occupier;

''owner'' means any person having any legal estate in land and includes his personal representatives;'';

(**a**) O.J. No. L197, 30.7.94, p. 41

(*i*) after the definition of "premium" there shall be inserted the following definitions—

" "restricted parcel" means any parcel the planting of any apple tree on which would for the time being be incompatible with the continuing control objective;

"restriction" means any restriction on planting apple trees on a holding or new holding (as the case may be) imposed by or under the Council Regulation, the Commission Regulation or these Regulations and includes a restriction deriving from an undertaking to observe planting controls;";

(*j*) for the definition of "the restriction period" there shall be substituted the following definition—

" "the restriction period" means—

(*a*) in relation to a former orchard, the period of fifteen years commencing with the day on which grubbing up for which premium is payable is completed in that orchard; and

(*b*) in relation to a retained orchard, the period of fifteen years commencing with the day on which grubbing up for which premium is payable is completed in its linked former orchard,

and for this purpose a former orchard is linked to a retained orchard where the identification of the latter as a retained orchard derives from the identification of the former as a former orchard;"; and

(*k*) after the definition of "the restriction period" there shall be added the following definitions—

" "retained orchard" means any part of an applicant's apple orchard in respect of which premium had not been paid;

"undertaking to observe planting controls" means a written undertaking in favour of the Department by the occupier of a new holding not to act in a manner incompatible with the continuing control objective in relation to his new holding.".

Powers of entry and inspection

4. In regulation 5—

(*a*) after paragraph (1) there shall be inserted the following paragraph—

"(1A) At any time after a new holding has been created until the end of the restriction period relating to it, an authorised officer may at all reasonable times, and on production of his authority on demand, enter upon the new holding and inspect any land or apple tree, whether planted or grubbed up, in order to determine whether any apple tree has been planted on the new holding during the restriction period."; and

(*b*) in paragraph (2), for the words "paragraph (1)" there shall be substituted "paragraph (1) or (1A)".