1991 No. 405

EUROPEAN COMMUNITIES

AGRICULTURE

Temporary Set-Aside Regulations (Northern Ireland) 1991

Made . . . . . *29th August 1991*

Coming into operation . . *29th August 1991*

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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 that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

(**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

Citation and commencement

1. These Regulations may be cited as the Temporary Set-Aside Regulations (Northern Ireland) 1991 and shall come into operation on 29th August 1991.

Interpretation

2.—(1) In these Regulations—

"aid" means the aid referred to in Articles 2(a) and (b) of the Council Regulation;

"application" means an application under regulation 3 and "applicant" shall be construed accordingly;

"area of special scientific interest" means an area of land specially protected by a declaration made by the Department of the Environment for Northern Ireland under Article 24 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**a**);

"authorised officer" means an officer of the Department duly authorised for the purposes of regulation 12;

"beneficiary" means any applicant whose application has been accepted;

"the Commission Regulation" means Commission Regulation (EEC) No. 2069/91(**b**) laying down detailed rules for the application of the temporary set-aside scheme for arable land in the 1991/92 marketing year;

"Community Scheme" means the scheme for the temporary set aside of arable land introduced by the Council Regulation;

"the Council Regulation" means Council Regulation (EEC) No. 1703/91(**c**) introducing a temporary set-aside scheme for arable land for the 1991/92 marketing year and laying down special measures for that marketing year under the set-aside scheme provided for in Council Regulation (EEC) No. 797/85(**d**);

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

"designated map" means the map marked "map of less-favoured farming areas in Northern Ireland" dated 8th May 1991, signed by the Secretary of State and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB;

"eligible arable crops" means those crops which are referred to in Article 1(2) of the Commission Regulation;

"eligible person" means an applicant who on the date of submission of his application occupies a holding as an owner or tenant;

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

(**a**) S.I. 1985/170 (N.I. 1)
(**b**) O.J. No. L191, 16.7.91, p. 19
(**c**) O.J. No. L162, 26.6.91, p. 1
(**d**) O.J. No. L93, 30.3.85, p. 1

"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;

"less-favoured area" means land within the area shaded blue or pink on the designated map—

(*a*) which is situated in an area included in the list of less-favoured farming areas adopted by the Council or the Commission of the European Communities under Article 2(2) of Council Directive 75/268/EEC(**a**) on mountain and hill farming and farming in certain less-favoured areas, as amended by Council Directive 80/666/EEC(**b**), which list is contained in Council Directive 84/169/EEC(**c**), as amended by Commission Decision 91/25/EEC(**d**); and

(*b*) which is, in the opinion of the Department, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and whose agricultural production is, in the opinion of the Department, restricted in its range by, or by any combination of, soil, relief, aspect or climate;

"obligations" means the obligations specified in regulation 4;

"premium" means that part of the aid which is referred to in Article 2(a) of the Council Regulation;

"registration" means the process of registering with the Department for the Community Scheme by supplying the information required by Article 3 of the Commission Regulation, and "registration form" shall be construed accordingly;

"to set aside" means, in relation to land, to withdraw it from agricultural production;

"temporary set-aside period" means the period starting with 1st September 1991 and ending with 31st August 1992;

"tenant" means a person who either—

(*a*) occupies a holding or part of a holding under a contract of tenancy for a fixed term of years of which at least one year remains unexpired at the commencement of the temporary set-aside period; or

(*b*) otherwise satisfies the Department that he has the right to occupy a holding or part of a holding as tenant for at least one year from the commencement of the temporary set-aside period;

(**a**) O.J. No. L128, 19.5.75, p. 1
(**b**) O.J. No. L180, 14.7.80, p. 34
(**c**) O.J. No. L82, 26.3.84, p. 67
(**d**) O.J. No. L16, 22.1.91, p. 25

"the 1988 Regulations" means the Set-Aside Regulations (Northern Ireland) 1988(**a**);

"vernacular buildings" in relation to any locality, means buildings traditionally found therein.

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

Applications

3.—(1) An application for aid under the Community Scheme may be submitted to the Department by an eligible person who has registered the land to which the application relates with the Department on or before 31st July 1991.

(2) An application—

(*a*) shall be made to the Department on or before 31st August 1991;

(*b*) shall contain the information specified in Article 9 of the Commission Regulation (which deals with the content of applications);

(*c*) shall include details of any changes in the information given on the applicant's registration form; and

(*d*) shall contain an undertaking that the applicant will in respect of the holding to which the application relates abide by the obligations specified in regulation 4 for the duration of the temporary set-aside period.

Obligations

4. The obligations referred to in regulation 3(2)(*d*) are as follows:

(*a*) to set aside on the holding an area of land which in preparation for the 1991 harvest was planted with one or more of the eligible arable crops in accordance with the terms of Article 1(3) of the Council Regulation (which deals with the areas of land to be set aside and the areas to remain under cultivation);

(*b*) to observe the requirements of Article 1(3) of the Council Regulation with regard to the area of the holding left under cultivation;

(*c*) to plant the land set aside with one or more of the plant cover types specified in Schedule 1 in accordance with the terms of Article 2(2) of the Commission Regulation (which deals with conditions relating to the land set aside);

(*d*) to observe the conditions set out in Schedule 2 for management of the land set aside.

Additional requirements in relation to land area

5.—(1) The area set aside under the Community Scheme shall include either—

(**a**) S.R. 1988 No. 279 as amended by S.R. 1989 No. 239 and S.R. No. 1990 No. 314
(**b**) 1954 c. 33 (N.I.)

(*a*) one whole field amounting to at least half a hectare; or

(*b*) an area consisting of adjacent whole fields and amounting to at least half a hectare.

(2) Where any land set aside consists of a strip of land, that strip shall be at least 15 metres wide.

(3) Land acquired by a beneficiary during the temporary set-aside period shall not be eligible for inclusion in the Community Scheme.

(4) Land acquired by an eligible person before 31st August 1991 may be the subject of an application provided that land has been registered.

Restrictions on acceptance of applications

6.—(1) The Department shall not accept an application from an eligible person who proposes to set aside land within an area of special scientific interest unless it is satisfied that that person has notified in writing the Department of the Environment for Northern Ireland of his intention to make the application.

(2) The Department shall not accept an application from a tenant unless it is satisfied that the tenant has notified in writing the landlord of the land which is the subject of the application of his intention to make the application in relation to that land.

(3) The Department shall not accept an application where it is satisfied that—

(*a*) the setting aside of any land or the use of any land that would be set aside 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 or under any statutory provision or by the European Economic Community; or

(*b*) payment of aid in respect of any land which an applicant proposes to set aside would duplicate any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Economic Community.

Claims

7.—(1) A claim for the payment of aid shall be made on or before 31st August 1992.

(2) A claim under paragraph (1) shall include—

(*a*) details of any changes in the information given in the application; and

(*b*) a declaration that the beneficiary has fulfilled the obligations.

Rates of premium

8. The premium shall be payable at the rate per hectare of the land set aside shown in the following table: