1991 No. 264

AGRICULTURE

HORTICULTURE

Farm and Conservation Grant Regulations (Northern Ireland) 1991

Made	*24th June 1991*
Coming into operation . .	*18th July 1991*

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 Farm and Conservation Grant Regulations (Northern Ireland) 1991 and shall come into operation on 18th July 1991.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**), except section 20(2) and (3), shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations—

"agricultural business" means a business consisting in, or such part of any business as consists in, the pursuit of agriculture (including the storage, the transport and the preparation for market of the produce of the business), and any ancillary farm business;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, reed beds, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" (except in the expression "agricultural business") and references to farming shall be construed accordingly;

(**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.)

''ancillary farm business'' means any business of a type specified in any of paragraphs 1 to 8 in column 1 of Schedule 2 where that business is carried on by a person also carrying on a business consisting in or partly in the pursuit of agriculture on the same or adjacent land;

''approved'' means approved by the Department in writing;

''beneficial organism'' means any creature bred or kept for its use in the control of infestation of horticultural produce by pests;

''contractor'' means any person who enters into an agreement to supply agricultural work or services in connection with agricultural land;

''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 for Northern Ireland and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB;

''earned income'', in relation to an agricultural business, means the revenue of the business as assessed by the Department, and in any such assessment the said revenue shall be taken to include net inventory changes and farmhouse consumption less remuneration of capital invested in the agricultural business and such charges and expenses as the Department may consider reasonable;

''eligible agricultural business'' has the meaning assigned to that expression by regulation 4;

''eligible person'' has the meaning assigned to that expression by regulation 3;

''farm-based industry'' means—

(*a*) the manufacture of craft items or tourist souvenirs;

(*b*) food processing;

(*c*) the purification, carbonation and bottling of spring water;

(*d*) the processing of timber;

(*e*) the processing of agricultural produce for purposes other than human or animal consumption; or

(*f*) the repair or renovation of agricultural machinery;

''farm shop'' means a shop primarily used for the sale of the produce of the agricultural business of which the shop forms part;

''food processing'' means the application of any process or treatment to agricultural produce for the purposes of human consumption but does not include—

(*a*) the cleaning and trimming of raw fruit and vegetables to which no further process or treatment is applied or the packaging of such fruit and vegetables;

(*b*) the slaughter of livestock and the skinning and gutting of animal carcases;

(*c*) any process or treatment applied for the purposes of the manufacture of wine;

(*d*) any process or treatment applied to cows' milk for the purposes of the liquid consumption of that milk or for the purposes of the manufacture of any milk-based drink as defined in regulation 2 of the Milk Regulations (Northern Ireland) 1987(**a**) and any process or treatment applied to any such milk-based drink; or

(*e*) the processing or treatment of poultry meat or of eggs;

"glasshouse" means a fixed or mobile structure, used for the production of horticultural produce or beneficial organisms for sale, which is mounted on durable foundations, is not less than 1.67 metres high at the ridge, and of which more than half the total area of the sides, ends and roof is of glass or such other translucent material as will give a durability and transparency similar to that of glass;

"horticultural produce" means—

(*a*) fruit;

(*b*) vegetables of a kind grown for human consumption, including fungi, but not including maincrop potatoes or peas grown for seed or for harvesting dry;

(*c*) flowers, pot plants and decorative foliage;

(*d*) herbs;

(*e*) seeds (other than pea seeds), bulbs and other material, being seeds, bulbs or material for—

(i) sowing or planting for the production of fruit, of the vegetables, flowers, plants or foliage mentioned in (*b*) and (*c*) or of herbs, or

(ii) reproduction of the seeds, bulbs, or other material sown or planted; or

(*f*) trees and shrubs, other than trees grown for the purpose of afforestation;

but does not include hops;

"labour unit" means the amount of work, other than work done by a contractor who does not satisfy the requirements of regulation 3(4) except to the extent that such work is carried out by seasonal labour, which would in the opinion of the Department occupy the full time, not exceeding 2,200 hours per year, of a full-time worker;

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

(*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(**b**) on mountain and hill-farming and farming in

(**a**) S.R. 1987 No. 229 to which there are amendments not relevant to these Regulations
(**b**) O.J. No. L128, 19.5.75, p. 1

certain less-favoured areas, as amended by Council Directive 80/666/EEC(**a**), which list is contained in Council Directive 84/169/EEC(**b**), as amended by Commission Decision 91/25/EEC(**c**), 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 any combination of, soil, relief, aspect or climate;

"livery" means the provision of accommodation and care for horses and ponies;

"preparation for market", in relation to produce, does not include canning, bottling, pulping or cooking, or preserving by sterilising, by freezing or by de-hydrating;

"provision of accommodation", in Schedule 2 means, in relation to persons, provision of simple overnight shelter or hostel-style self-catering accommodation in a traditional farm building other than a dwelling-house;

"sports" in Schedule 2 means any game or exercise other than field sports, horse riding and sports involving the use of motor vehicles, firearms or crossbows;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954;

"the 1987 Regulations" means the Agriculture Improvement Regulations (Northern Ireland) 1987(**d**);

"the 1987 Scheme" means the Agriculture Improvement Scheme (Northern Ireland) 1987(**e**);

"the 1987 Diversification Scheme" means the Farm Diversification Grant Scheme (Northern Ireland) 1987(**f**);

"the 1989 Regulations" means the Farm and Conservation Grant Regulations (Northern Ireland) 1989(**g**);

"the 1989 Scheme" means the Farm and Conservation Grant Scheme (Northern Ireland) 1989(**h**).

Eligible persons

3.—(1) Subject to the provisions of these Regulations, the following classes of person shall be eligible for a grant under these Regulations:

(**a**) O.J. No. L180, 14.7.80, p. 34
(**b**) O.J. No. L82, 26.3.84, p. 67
(**c**) O.J. No. L16, 22.1.91, p. 25
(**d**) S.R. 1987 No. 156 as amended by S.R. 1987 No. 452, S.R. 1988 No. 265, S.R. 1988 No. 412, S.R. 1989 No. 39, S.R. 1990 No. 232
(**e**) S.R. 1987 No. 157 as amended by S.R. 1988 No. 243 and S.R. 1988 No. 413 and S.R. 1989 No. 38
(**f**) S.R. 1987 No. 451, as amended by S.R. 1988 No. 191 and S.R. 1991 No. 10
(**g**) S.R. 1989 No. 39 as amended by S.R. 1990 No. 232
(**h**) S.R. 1989 No. 38 as amended by S.R. 1990 No. 226 and S.R. 1991 No. 21

(*a*) an individual carrying on an eligible agricultural business if the Department is satisfied that that individual or, as the case may be, the farm manager or other person through whom the business is carried on—

(i) derives not less than half of his annual income, calculated in accordance with the provisions of paragraph (2) from agricultural activities relating to that business and any qualifying activity carried on by him on land to which the business or a qualifying business relates.

(ii) derives not less than one quarter of his annual income, so calculated, from agricultural activities relating to the agricultural business,

(iii) spends time in such agricultural and qualifying activities amounting to at least 1,100 hours per year, and

(iv) possesses sufficient agricultural skill and competence, in that he holds an appropriate certificate issued by a teaching establishment recognised for this purpose by the Department or has been engaged in agricultural activities for not less than five years;

(*b*) any person representing a body carrying on an eligible agricultural business if the Department is satisfied that the farm manager or other person through whom the business is carried on meets the requirements, as specified in sub-paragraph (*a*)(i) and (iii) and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (*a*)(iv);

(*c*) persons carrying on an eligible agricultural business in partnership if the Department is satisfied that the farm manager or other person through whom the business is carried on meets the requirements, as specified in sub-paragraph (*a*)(i) and (iii), and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (*a*)(iv);

(*d*) the owner of land occupied for the purposes of an eligible agricultural business who makes an application for approval of an improvement plan relating to such land jointly with one of the kinds of person eligible for grant under sub-paragraph (*a*), (*b*) or (*c*).

(2) For the purposes of this regulation a person's annual income shall be calculated in each case by reference to the financial year immediately preceding the day on which the improvement plan is submitted or such other period as the Department shall determine, being a period which it is satisfied gives a fair indication of the normal amount of income of that person and the normal amount of income derived from agricltural activities in the business and (as the case may be) qualifying activities by that person.

(3) For the purposes of this regulation—

"qualifying business" means a business consisting in the pursuit of a qualifying activity where that business is carried on by the person also carrying on the eligible agricultural business on the same or adjacent land;

"qualifying activity" means any activity carried on for the purpose of—