1991 No. 157

HORTICULTURAL PRODUCE

Apple Orchard Grubbing Up Regulations (Northern Ireland) 1991

Made	*15th April 1991*
Coming into operation . .	*20th May 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.—(1) These Regulations may be cited as the Apple Orchard Grubbing Up Regulations (Northern Ireland) 1991 and shall come into operation on 20th May 1991.

Interpretation

2.—(1) In these Regulations—

"apple tree" means any plant actually or potentially capable of producing a normal and full crop of apples other than cider apples;

"applicant" means a person who makes an application;

"application" means an application for a premium;

"authorised officer" means an officer authorised by the Department for the purposes of these Regulations;

"the Commission Regulation" means Commission Regulation (EEC) No. 2604/90(**c**) laying down detailed rules for the application of Council Regulation (EEC) No. 1200/90(**d**) on the improvement of the Community production of apples and amending Commission Regulation (EEC) No. 3322/89(**e**) determining the operative events applicable in the fruit and vegetables sector;

"the Council Regulation" means Council Regulation (EEC) No. 1200/90 on the improvement of the Community production of apples;

(**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**) O.J. No. L245, 8.9.90, p. 23
(**d**) O.J. No. L119, 11.5.90, p. 63
(**e**) O.J. No. L321, 4.11.89, p. 32

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

"former orchard" means land formerly an apple orchard in respect of which a premium has been paid;

"holding" means land including an apple orchard in respect of which an application is made, occupied as a unit for agricultural purposes by the applicant at the time of making the application;

"occupier" means a person, other than the applicant, who occupies a former orchard or part of a former orchard at any time during the restriction period;

"premium" means the grubbing up premium provided for in Article 1 of the Council Regulation;

"the restriction period" means, in relation to a holding, the period of fifteen years commencing with the day on which grubbing up is completed on that holding.

(2) Expressions in these Regulations, other than those defined in paragraph (1), which also appear in the Council Regulation or the Commission Regulation, have the meanings they bear therein.

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

Applications for premium

3. Applications shall be made to the Department.

Calculation of areas

4. For the purpose of calculating the area of parcels under apple trees which make up an apple orchard in respect of which an application is made, reasonable working headlands shall be included.

Powers of entry and inspection

5.—(1) From the date an application is made until the expiry of the restriction period which relates to the applicant's holding, an authorised officer may, at all reasonable times and on production of his authority on demand, enter upon the holding and inspect any land or apple tree, whether planted or grubbed up, in order to—

(*a*) verify the accuracy of any particulars given in the application;

(*b*) determine whether grubbing up has been carried out in accordance with the Council Regulation and the Commission Regulation; or

(*c*) determine whether any apple tree has been planted on the holding during the restriction period.

(2) When exercising the powers conferred upon him by paragraph (1), an authorised officer may be accompanied by such other persons acting under his instructions as appear to him to be necessary for the purpose.

(a) 1954 c. 33 (N.I.)

Inspection of documents

6. An authorised officer may, in order to—

(*a*) verify the accuracy of any particulars given in an application; or

(*b*) determine whether the applicant has planted an apple tree or has had an apple tree planted on the holding, or whether an occupier has planted an apple tree or has had an apple tree planted on the former orchard on the applicant's holding,

require the applicant or the occupier to produce for inspection any bill, account, record or other document in his possession or under his control relating to the holding or any part of it, or the apple orchard or any apple tree on the holding, and may make copies of or take extracts from any document so produced.

Retention of grubbed up apple trees

7. Where an application has been made in respect of an apple orchard and apple trees grubbed up in that apple orchard have been removed from the holding before they have been inspected by an authorised officer, the Department may withhold the whole or any part of the premium applied for.

Notification on change of occupation

8. Where, during the restriction period—

(*a*) an applicant or an occupier ceases to occupy the whole or any part of a former orchard; or

(*b*) an applicant or an occupier has died while in occupation of the whole or any part of a former orchard,

the applicant or occupier or, if he has died, his personal representatives, shall at or before the time the first or next occupier, as the case may be, takes occupation, notify him in writing that the former orchard or part is subject to the provisions of these Regulations and that the planting of apple trees on it may render him liable to pay a penalty.

Recovery of premiums

9.—(1) Where any person for the purpose of obtaining the payment of a premium to himself or any other person—

(*a*) makes any statement which is false or misleading in a material respect; or

(*b*) furnishes to the Department any inaccurate information,

the Department may recover the whole or any part of the premium paid to him or to such other person.

(2) Where an applicant—

(*a*) intentionally obstructs an authorised officer in the exercise of the powers conferred upon him by regulation 5(1) or 6, or a person accompanying him and acting under his instructions; or

(*b*) fails without reasonable excuse to comply with a requirement under regulation 6,

the Department may recover the whole or any part of the premium paid to him.