1990 No. 314

EUROPEAN COMMUNITIES

AGRICULTURE

The Set-Aside (Amendment) Regulations (Northern Ireland) 1990

Made	*23rd August 1990*
Coming into operation . .	*24th August 1990*

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, commencement and interpretation

1.—(1) These Regulations may be cited as the Set-Aside (Amendment) Regulations (Northern Ireland) 1990, and shall come into force on 24th August 1990.

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

Amendment of the Set-Aside Regulations (Northern Ireland) 1988

2. The Set-Aside Regulations (Northern Ireland) 1988(**d**) shall be amended as provided in regulations 3 to 18.

Definitions

3. In regulation 2(1) (Interpretation)—

(*a*) after the definition of "eligible person" there shall be inserted the following definition:

" "fallow land" means permanent fallow or rotational fallow;";

(*b*) after the definiton of "the Farm Woodland Scheme" there shall be inserted the following definition:

" "grazed fallow" means fallow land grazed extensively by livestock;";

(**a**) S.I. 1972/1811
(**b**) 1972 c. 68
(**c**) 1954 c. 33
(**d**) S.R. 1988 No. 279, as amended by S.R. 1989 No. 239

(*c*) after the definition of "less-favoured area" there shall be inserted the following definiton:

" "livestock" includes any creature kept for the production of food, wool, skins, or fur or for the purpose of its use in farming the land or in the carrying on, in relation to land, of any agricultural activity;";

(*d*) in the definition of "the set-aside obligations", in paragraph (*b*) after "7(1)" there shall be inserted "and (2)";

(*e*) after the definition of "tenant" there shall be inserted the following definition:

" "vernacular building" means buildings traditionally found in the locality;"; and

(*f*) after the definition of "the Woodland Grant Scheme" there shall be inserted the following definition:

" "year" means, except for the purposes of the definitions of "the set-aside period" and "tenant", a period of 12 months commencing on 1st October.".

Aid for set-aside of arable land

4. In regulation 3—

(*a*) for paragraph (1)(*b*) there shall be substituted the following sub-paragraph:

"(*b*) to use the set-aside area for one of the following—

(i) permanent fallow;

(ii) rotational fallow;

(iii) grazed fallow (subject to regulation 7A);

(iv) woodland;

(v) non-agricultural purposes;

(vi) a combination of any two or more of (iii), (iv) and (v);

(vii) a combination of any two or more of (i), (ii), (iv) and (v); and";

(*b*) for sub-paragraph (*b*) of paragraphs (2) and (3) there shall be substituted, in each case, the following sub-paragraph:

"(*b*) to use that additional set-aside area for one of the purposes set out in paragraph (1)(*b*)(ii)-(vi) or a combination of any two or more of (ii), (iv) and (v), provided that—

(i) if he has undertaken to use any land for either of the purposes set out in paragraph (1)(*b*)(i) or (ii) he shall undertake not to use that additional set-aside area for the purposes set out in paragraph (1)(*b*)(iii) or (vi);

(ii) if he has undertaken to use any land for the purpose set out in paragraph (1)(*b*)(iii) he shall undertake not to use that additional set-aside area for the purposes set out in paragraph (1)(*b*)(i) or (ii), or any one of the following combinations—

(1)(*b*)(ii) and (iv)
(1)(*b*)(ii) and (v)
(1)(*b*)(ii), (iv) and (v); and".

Applications for aid

5. In regulation 5(1) for the full stop at the end of sub-paragraph (*d*) there shall be substituted—

"; and

(*e*) where an applicant proposes to use set-aside land for grazed fallow, details of the number of each type of livestock kept in the reference period on the holding of which the land he proposes to set aside for grazed fallow formed part and the amount of feed required by them in the reference period.".

Restriction on acceptance of applications for aid

6. In regulation 6(2) for the words "or rotational fallow" there shall be substituted the words ", rotational fallow or grazed fallow".

Requirements in relation to use for fallow

7. For regulation 7 there shall be substituted the following regulations—

(*a*) "7.—(1) A beneficiary whose undertaking takes effect on or after 1st October 1990 or who, in accordance with regulation 10, terminates part of the undertakings given by him shall observe in relation to any land which he has undertaken to set aside for permanent fallow or rotational fallow the requirements set out in paragraphs 1(*a*), 2, 3, 4(*a*) and 5 to 14 of Schedule 2.

(2) A beneficiary whose undertaking takes effect before 1st October 1990 may elect before 1st October 1990 to observe in relation to any land which he has undertaken to set aside for permanent fallow or rotational fallow the requirements set out in paragraphs 1(*a*), 2, 3, 4(*a*) and 5 to 14 of Schedule 2 but shall, if he does not so elect, observe in relation to that land the requirements set out in paragraphs 1(*b*), 2, 3, 4(*b*), 5 to 12, 13 in so far as it relates to the features listed in heads (*a*) and (*b*), and 14 of Schedule 2.

(3) Where any set aside land is used for rotational fallow, the beneficiary shall, before 1st October in each year of the set-aside period, notify the Department of the location of the area of set-aside land to be used for that purpose in that year.

(4) Where a beneficiary has undertaken to use any set-aside land for rotational fallow, and provided that he observes the requirements set out in paragraphs 1(*a*), 2, 3, 4(*a*) and 5 to 14 of Schedule 2—

(*a*) subject to sub-paragraph (*b*), he may in any year alter the area of the land which he undertook to set aside for rotational fallow if the amount by which he increases or reduces that area does not:

(i) exceed 10 per cent. of the area of land which he undertook to set aside for rotational fallow, or

(ii) reduce the area of set-aside land below 20 per cent. of the relevant arable land on the holding in the reference period or increase the said area above that which is equal in size to such relevant arable land; and

(*b*) he may only reduce the area of the land which he undertook to set aside for rotational fallow if he has in any previous year increased the area of land which he undertook to set aside for rotational fallow by at least that same amount.

(5) Where any set-aside land is used for grazed fallow, the beneficiary shall observe in relation to that land the requirements set out in Schedule 4."; and

(*b*) *"Grazed fallow*

7A.—(1) Subject to paragraph (4) where a beneficiary uses set-aside land for grazed fallow he shall not allow the number of livestock units on his holding to exceed the maximum number of livestock units in the reference period on the holding of which the set-aside land formed part.

(2) Subject to paragraph (4), where livestock were not kept in the reference period on the holding of which the set-aside land formed part, the beneficiary shall only use the fallow land on that set-aside land for grazed fallow for deer or goats, and he shall not allow the number of livestock units on his holding to exceed the number of livestock units representing one livestock unit per hectare of the forage area of his holding.

(3) Subject to paragraph (4) except where the beneficiary's holding is identical to that of which the set-aside land referred to in paragraph (1) formed part, where that holding comprises a greater or lesser forage area than the forage area of the holding referred to in that paragraph, for the purposes of paragraph (1), the maximum number of livestock units in the reference period on the holding of which the set-aside land formed part shall be deemed to bear the same proportion to the total number of livestock units on that holding in the reference period as the forage area of the beneficiary's holding at the time he gives his undertaking to set aside land for grazed fallow bears to the forage area in the reference period of the holding of which the set-aside land formed part.

(4) Where a beneficiary enlarges his holding by the acquisition of arable land or temporary grassland which was arable land in the reference period, and

(*a*) he—

(i) already uses for grazed fallow set-aside land forming part or all of a holding on which livestock were kept in the reference period; and

(ii) undertakes to set aside an area of that acquired land for grazed fallow, where such land forms part or all of a holding on which no livestock were kept in the reference period; or

(*b*) he—

(i) already uses for grazed fallow set-aside land forming part or all of a holding on which no livestock were kept in the reference period; and

(ii) undertakes to set aside an area of that acquired land for grazed fallow, where such land forms part or all of a holding on which livestock were kept in the reference period,

then if he uses his holding for the grazing of only deer or goats, he shall not allow to be grazed on that holding more than the sum of:

(i) the number of livestock units in the reference period on the holding of which the set-aside land formed part; and

(ii) the number of livestock units representing one livestock unit per hectare of the forage area of the acquired land; but

if he uses his holding for the grazing of livestock (other than exclusively deer or goats), he shall not allow to be grazed on that holding more than the number of livestock units in the reference period on the land forming part or all of the holding on which livestock were kept in the reference period.

(5) For the purposes of this regulation—

(*a*) "his holding" means all the land occupied by the beneficiary as a unit at the time he gave his undertaking to set aside land for grazed fallow, together with any land subsequently acquired by him; and

(*b*) the equivalent in livestock units of an animal of the type described in the first column of Schedule 5 shall be the number specified opposite thereto in the second column.".

Requirements in relation to use for woodland

8. For regulation 8(1) there shall be substituted the following paragraph:

"(1) Where a beneficiary has undertaken to use any set-aside land for woodland, that beneficiary shall, until planting commences, undertake to use that set-aside land for permanent fallow and shall observe in relation to it the relevant requirements set out in Schedule 2.".

Requirements in relation to use for non-agricultural purposes

9. For regulation 9(1) there shall be substituted the following paragraph:

"(1) Where a beneficiary has undertaken to use any set-aside land for non-agricultural purposes, that beneficiary shall, until the conversion of that land to use for non-agricultural purposes commences, undertake to use that set-aside land for permanent fallow and shall observe in relation to it the relevant requirements set out in Schedule 2.".

Termination of undertakings

10. In regulation 10—

(*a*) in paragraph (1) after the word "all" there shall be inserted the words "or any part of";

(*b*) at the end of paragraph (1) there shall be inserted the words "and provided that, if he terminates those undertakings in relation to only part of that land, he does not thereby reduce the area of land set aside below 20 per cent. of the relevant arable land on the holding in the reference period"; and