# 1989 No. 39

# AGRICULTURE

# HORTICULTURE

## Farm and Conservation Grant Regulations (Northern Ireland) 1989

*Made . . . . . 13th February 1989*

*Coming into operation . . 20th February 1989*

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 all other powers 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) 1989 and shall come into operation on 20th February 1989.

*Interpretation*

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

(2) In these regulations, unless the context otherwise requires—

"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;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping and freshwater fish farming, 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 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. (N.I.) 1984 No. 253
(**c**) 1954 c. 33 (N.I.)

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

"approved" means approved by the Department in writing;

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

"dairy cows" means cows which have calved and which by reason of their breed or suitability are exclusively or principally kept for the production of milk either for human consumption or for processing into milk products;

"designated map" means the map marked "map of less-favoured farming areas in Northern Ireland" dated 4th April 1984, 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;

"glasshouse" means a fixed or mobile structure, used for the production of horticultural produce 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 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(3) 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—

(*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 of Council Directive No. 75/268/EEC on mountain and hill farming and farming in certain less-favoured areas(**a**), 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, and which land is within the area shaded blue or shaded pink on the designated map;

"pig place" for the purposes of regulation 6(3)(*b*), means the facilities necessary to house one fattening pig, save that where the herd includes breeding sows the facilities necessary to house such sow shall be taken to be the equivalent of 6.5 pig places.

"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;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (N.I.) 1954.

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

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

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

*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*) 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—

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(**a**) O.J. No. L128, 19.5.75, p. 1; Article 2 was amended by Council Directive No. 80/666/EEC (O.J. No. L180, 14.7.80, p. 34)
(**b**) S.R. 1987 No. 156 as amended by S.R. 1987 No. 452, S.R. 1988 No. 265 and S.R. 1988 No. 412
(**c**) S.R. 1987 No. 157 as amended by S.R. 1988 No. 243 and S.R. 1988 No. 413
(**d**) S.R. 1989 No. 38

(i) practises farming as his main occupation, in that not less than half of his annual income, calculated in accordance with the provisions of paragraph (2) is derived from agricultural activities relating to that business and the amount of time spent by him in those activities is more than 1,100 hours per year, and

(ii) 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,

and if the individual carrying on that agricultural business submits an improvement plan in accordance with regulation 5, and undertakes, if that plan is approved, to carry it out and, for the duration of the plan, to keep accounts in accordance with regulation 11(1);

(*b*) any person representing a body carrying on an eligible agricultural business if—

(i) the Department is satisfied that the farm manager or other person through whom the business is carried on practises farming as his main occupation, as specified in sub-paragraph (*a*)(i) and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (*a*)(ii), and

(ii) the said person representing the said body submits on behalf of the said body an improvement plan in accordance with regulation 5 and gives the undertakings required of an individual by sub-paragraph (*a*);

(*c*) persons carrying on an eligible agricultural business in partnership if—

(i) the Department is satisfied that the farm manager or other person through whom the business is carried on practises farming as his main occupation, as specified in sub-paragraph (*a*)(i), and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (*a*)(ii), and

(ii) an improvement plan is submitted and the undertakings required of an individual by sub-paragraph (*a*) are given on behalf of the partnership;

(*d*) the owner of land occupied for the purposes of an eligible agriculture 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 agricultural activities in the business by that person.

(3) Where a person eligible for grant under paragraph (1) is a contractor, it shall be a further condition of eligibility that he has entered into a written agreement with the occupier of the land on which the eligible business is

carried on which is expressed to continue in force for a period of not less than seven years from the day immediately preceding the day on which the improvement plan is submitted.

*Eligible agricultural business*

**4.** For the purposes of these regulations an eligible agricultural business is an agricultural business as to which the Department is satisfied that the earned income per labour unit reasonably required under the existing system of production is less than the reference income determined in accordance with regulation 14(*a*).

*Improvement plans*

**5.**—(1) An improvement plan submitted for approval shall be set out in such form as the Department may from time to time require and the person submitting it shall furnish all such particulars and information relating thereto as the Department may require, and in particular—

(*a*) sufficient information to show that the person undertaking to carry out the plan is an eligible person and that the plan relates to an eligible agricultural business;

(*b*) a description of that agricultural business at the time of submission of the plan for approval and of the land to which the plan relates;

(*c*) a description of that agricultural business on completion of the plan in the form of an estimated budget, an estimate of the earned income per labour unit reasonably required in the carrying on of the business on completion of the plan and an estimate of the number of such labour units;

(*d*) an indication of the measures to be taken and, in particular, of the investments to be made, in order to achieve the aim of the plan and a list of any agreements to purchase land or take land on lease made in order to achieve an increase in the area of land occupied for the purposes of the agricultural business to which the plan relates;

(*e*) an indication of any loan guarantee which may be required.

(2) The duration of an improvement plan shall be such period as is specified in the plan, being a period not exceeding six years from the date of approval of the plan.

*Restrictions on approval of improvement plans*

**6.**—(1) An improvement plan shall not be approved unless the Department is satisfied that the investments to be made under the plan are justified from the point of view of the situation of the agricultural business and its economy and that completion of the plan will bring about a lasting and substantial improvement of that situation, and in particular of the income per labour unit reasonably required in the carrying on of the business.

(2) An improvement plan shall not be approved under these regulations unless the Department is satisfied that if it is completed—

(*a*) the agricultural business to which it relates may reasonably be expected to achieve an earned income per labour unit which amounts to not more than 120 per cent. of the aggregate of—