1988 No. 279

EUROPEAN COMMUNITIES

AGRICULTURE

Set-Aside Regulations (Northern Ireland) 1988

Made . . . . . *29th July 1988*

Coming into operation . . *5th August 1988*

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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

(**a**) S.I. 1972/1811

(**b**) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and it is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

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 Set-Aside Regulations (Northern Ireland) 1988 and shall come into operation on 5th August 1988.

Interpretation

2.—(1) In these regulations—

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, freshwater fish farming, the use of land as grazing land, meadow land, osier land, reed beds, market gardens and nursery grounds;

"application" means an application for aid under regulation 5;

"arable crops" means crops of a type listed in Schedule 1;

"arable land" means land used for the production of arable crops;

"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**);

"beneficiary" means—

(*a*) a person whose application has been accepted; or

(*b*) a person who occupies a holding or part of a holding following a change of occupation of that holding or part and who has given an undertaking to comply with the set-aside obligations relating to that holding or part assumed by the previous occupier;

"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 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;

"eligible person" means a person who on the date of the submission of his application occupies a holding comprising arable land as an owner or tenant and who, at the commencement of the set-aside period, will have so occupied that holding for a period of at least twelve months;

"the Farm Woodland Scheme" means the Scheme made by the Department for the making of grants under section 2(1)(*e*) of the Forestry Act (Northern Ireland) 1953(**b**) to owners or lessees of agricultural land which has been converted to farm woodlands for abating any financial loss which has been or will be suffered in consequence of that conversion;

(**a**) S.I. 1985/170 (N.I. 1)
(**b**) 1953 c. 2 (N.I.)

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

"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—

(*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;

"permanent fallow" means land which is fallowed for the whole of the set-aside period;

"reference period" means the period commencing on 1st July 1987 and ending on 30th June 1988;

"relevant arable crops" means crops of a type listed in List A in Schedule 1;

"relevant arable land" means land used for the production of relevant arable crops;

"rotational fallow" means land fallowed as part of the arable rotation;

"the set-aside area" means the area of arable land which a beneficiary undertakes to set aside under the provisions of these regulations;

"set-aside land" means any land forming part of the set-aside area;

"the set-aside obligations" means—

(*a*) the obligations assumed by a beneficiary by virtue of the undertakings referred to in regulation 3; and

(*b*) (where these apply) the requirements laid down in regulations 4, 7(1), 8, 9(1) and (2);

"the set-aside period" means—

(*a*) in relation to an application accepted by the Department in 1988, the period commencing on the date of acceptance of that application or 1st October 1988, whichever is later, and ending on 30th September 1993;

(a) O.J. No. L128, 19.5.75, p. 1; Article 2 was amended by Council Directive No. 80/666/EEC (OJ No. L180, 14.7.80, p. 34)

(*b*) in relation to an application accepted by the Department in a year subsequent to 1988, the period of five consecutive years from 1st October in that year;

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

"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 five years remain unexpired at the commencement of the 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 five years from the commencement of the set-aside period;

"the Woodland Grant Scheme" means the Scheme made by the Department for the making of grants under section 2(1)(*e*) of the Forestry Act (Northern Ireland) 1953 to any persons in respect of the afforestation of land.

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

Aid for set aside of arable land

3.—(1) Subject to the provisions of these regulations, the Department may make payments of aid to any eligible person who undertakes for the duration of the set-aside period—

(*a*) to set aside an area of the arable land on his holding which was arable land in the reference period and which is equal in size to at least 20 per cent. of the relevant arable land on that holding in the reference period; and

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

(i) permanent fallow;

(ii) rotational fallow;

(iii) woodland;

(iv) non-agricultural purposes; and

(*c*) to ensure that the area of relevant arable land on his holding shall not exceed the area of relevant arable land on his holding in the reference period less an area equal in size to the set-aside area.

(2) Subject to the provisions of these regulations, the Department may make payments of aid to any beneficiary who, within three years from the date of acceptance of his original application, undertakes for the remainder of the set-aside period—

(*a*) to set aside an additional area of the arable land on his holding which was arable land in the reference period; and

(*b*) to use that additional set-aside area for one or more of the purposes set out in paragraph 1(*b*); and

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

(*c*) to ensure that the area of relevant arable land on his holding shall not exceed the area of relevant arable land on his holding in the reference period, less an area equal in size to the sum of the original set-aside area and the additional set-aside area.

(3) Subject to the provisions of these regulations, the Department may make payments of aid to any beneficiary who enlarges his holding by the acquisition of arable land which was arable land in the reference period and who, within four years from the date of acceptance of his original application, undertakes for the remainder of the set-aside period—

(*a*) to set aside an area of that acquired arable land; and

(*b*) to use that additional set-aside area for one or more of the purposes set out in paragraph (1)(*b*); and

(*c*) to ensure that the area of relevant arable land on his enlarged holding shall not exceed the sum of the area of relevant arable land on his holding in the reference period and the area of relevant arable land comprised in the acquired arable land in the reference period, less an area equal in size to the sum of the original set-aside area and the additional set-aside area.

(4) In determining whether any arable land was arable land in the reference period for the purposes of paragraphs (1) to (3), no account shall be taken of any land which was converted to the production of arable crops in the period commencing on 1st January 1988 and ending on 30th June 1988.

Requirements in relation to the set-aside area

4.—(1) The set-aside area shall include either—

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

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

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

Applications for aid

5.—(1) An application for aid under these regulations shall be made at such time and in such form as the Department reasonably may require and shall include—

(*a*) a map of the applicant's holding showing—

(i) the boundaries of the holding and internal field boundaries;

(ii) the area of land which the applicant proposes to set aside;

(iii) the area of land on which the applicant intends to continue production of relevant arable crops;

(*b*) details of the type of production carried out or to be carried out on each individual field during the reference period and during the period of twelve months immediately preceding the commencement of the set-aside period;

(*c*) a description of the intended use or uses of the proposed set-aside area;