1987 No. 155

AGRICULTURE

HORTICULTURE

Farm and Horticulture Development Regulations (Northern Ireland) 1987

Made	*30th March 1987*
Coming into operation . .	*1st April 1987*

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 Horticulture Development Regulations (Northern Ireland) 1987 and shall come into operation on 1st April 1987.

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

''agriculture'' includes horticulture, seed growing, dairy farming, the breeding and keeping of livestock, the use of land as grazing land, meadow land and osier land and the use of land for woodlands where that use is ancillary to the farming of land for other agricultutal purposes, and ''agricultural'' and references to farming shall be construed accordingly;

''agricultural business'' means a business consisting in, or such part of any business as consists in, the pursuit of agriculture, including the storage, preparation for market or transport of the produce of the business;

''agricultural produce'' includes anything (whether live or dead) produced in the course of agriculture, but does not include horticultural produce;

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

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

(**b**) 1972 c. 68 (Section 2 is subject to Schedule 2 of that Act and is to be read with Articles 4(6) and (8) of the Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703 (N.I. 3) S.R. 1984 No. 253)

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

"approved" means approved by the Department in writing, and "approve" and "approval" shall be construed accordingly;

"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—

(*a*) 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;

"disadvantaged land" means land—

(*a*) 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

(*b*) 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,

which land is within the area shaded blue or pink on the designated map;

"earned income", in relation to an agricultural business, means the revenue of the business as assessed by the Department provided that 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;

"ECU" means the unit of account used for the purposes of the common agricultural structures policy of the European Economic Community and any reference in these regulations to a specified number of ECU in relation to any expenditure or any grant shall be taken to be a reference to the sterling equivalent of that number of ECU converted into sterling at the agricultural exchange rate applicable on 1st January in the calendar year during which the decision to pay grant is taken;

"eligible person" has the meaning assigned to that expression by regulation 5;

"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;

"heifers" means female bovine animals of two years of age or over which have not calved and are intended to replace dairy cows;

"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, and bulbs or other material being seeds, bulbs or material for sowing or planting for the production of fruit, of such vegetables, flowers, plants or foliage as aforesaid, or of herbs, or for 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;

"horticultural production business" means an agricultural business consisting in, or such part of any agricultural business as consists in, the growing in Northern Ireland of horticultural produce for sale or the growing of produce as aforesaid and its storage, preparation for market or transport;

"labour unit" means the amount of work, other than work done by contractors, which would in the opinion of the Department occupy the full time, not exceeding 2,300 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 in certain less-favoured areas(**a**). and

(*b*) which is shaded blue and pink on the designated map;

"livestock" includes any creature kept for the production of food or for the purpose of its use in the farming of land;

"main framework", in relation to a building or structure, means the floor, outer walls and roof of that building or structure and any internal dividing walls which are integral to that building or structure;

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

"severely disadvantaged land" means land

(*a*) which is, in the opininion 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

(*b*) whose agricultural production is, in the opinion of the Department, severely restricted in its range by, or by any combination of, soil, relief, aspect or climate,

which land is within the area shaded pink on the designated map.

(a) OJ No. L128, 19.5.75, p. 1

Scope

3. The provisions of these regulations shall apply only to development plans approved under the Farm and Horticulture Development Regulations 1981(**a**)

Farm development grants

4.—(1) Subject to the provisions of these regulations the Department may make to any eligible person a grant towards expenditure incurred or to be incurred by him for the purposes of, or in connection with, the carrying on of an agricultural business being expenditure which:—

(*a*) was included in a development plan approved for that business under the Farm and Horticulture Development Regulations 1981;

(*b*) has been or is to be incurred in respect of any work or facility, or part thereof, or transaction of a kind specified in column 1 of Schedules 1, 2, 3, 4, 5, 6 and 7;

(*c*) appears to the Department to be of a capital nature or incurred in connection with expenditure of a capital nature; and

(*d*) is approved by the Department for the purposes of a grant under these regulations.

(2) The Department may make to an eligible person in respect of an approved development plan grants of amounts specified in regulation 10(2) for the keeping to the satisfaction of the Department of accounts of a kind described in regulation 10(1).

(3) Subject to the provisions of these regulations, the Department may make grants by way of guidance premiums of amounts calculated in accordance with regulation 11 to an eligible person in respect of an approved development plan which makes or made such provision for the breeding or keeping of cattle or sheep suitable for the production of beef or sheep meat that on completion of the plan the sales of such cattle and sheep, assessed in such manner as the Department shall consider appropriate, made in the carrying on of the business to which the development plan relates or related shall comprise more than half of all sales so made, assessed as aforesaid,

(4) The Department may, as it thinks fit, either refuse to approve expenditure or approve it in whole or in part for the purposes of a grant under paragraph (1) and may make or refuse to make a grant under paragraph (2) or (3) and any such approval may be given, or grant made, subject to such conditions as the Department thinks fit, and any payment by way of a grant under these regulations may be made at such time, or by such instalments at such intervals or times, as the Department may determine.

(5) Any approval of expenditure for the purposes of a grant under these regulations may be varied or withdrawn by the Department with the written consent of the person currently responsible for carrying on the agricultural business to which the development plan relates.

(6) Any application for a grant under these regulations, or for approval of expenditure for the purpose of such a grant, shall be made in such form and

(**a**) S.I. 1981/1707 amended by S.I. 1983/507, 1983/925, 1983/1762, 1984/620, 1984/1924 and 1986/1295

manner and at such time as the Department may from time to time require and the applicant for grant shall furnish all such particulars and information relating to the application as the Department may require.

(7) Where it appears to the Department that expenditure in respect of which approval for the purposes of a grant under paragraph (1) is applied for is expenditure incurred or to be incurred partly for the purposes of, or in connection with, the carrying on of an agricultural business and partly for other purposes, the Department may for the purposes of a grant under the said paragraph (1) treat as having been, or to be, incurred for the purposes of, or in connection with, the carrying on of an agricultural business so much of that expenditure as appears to the Department to be referable to the carrying on of an agricultural business.

Eligible persons

5.—(1) Subject to the provisions of these regulations the following kinds of person shall be eligible for a grant under these regulations—

(*a*) an individual carrying on an agricultural business; or

(*b*) a person acting for or on behalf of a body of persons carrying on an agricultural business; or

(*c*) persons carrying on an agricultural business in partnership;

whose development plan was approved under the Farm and Horticulture Development Regulations 1981.

(2) The Department shall not approve an application by an eligible person to replace the farm manager or other person through whom the agricultural business is carried on unless it is satisfied that the person who is to replace the farm manager or as the case may be other person through whom the business specified in the application is carried on—

(*a*) practises farming as his main occupation, in that not less than half of his annual income is derived from agricultural activities and the amount of time spent by him in activities connected with agriculture is equivalent to more than half the time spent by him in working: for the purposes of this sub-paragraph annual income shall be calculated in each case by reference to such year or years within 3 years immediately preceding the day on which the application is made as the Department shall determine, being a year or years which the Department is satisfied gives or give a fair indication of the normal amount of income derived from agricultural activities by that farm manager, or other person, as the case may be, and

(*b*) 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 5 years.

Variation and withdrawal of development plans

6. The Department may, on the written request of the person currently responsible for the carrying on of an agricultural business to which a development plan relates, vary or withdraw the approval of that plan.