1987 No. 154

AGRICULTURE

HORTICULTURE

Agriculture 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 Agriculture 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) In these regulations, unless the context otherwise requires—

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, 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 "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, the transport and the preparation for market of the produce of the business;

"agricultural produce" includes anything (whether live or dead) produced in the course of agriculture;

"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) and 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 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 agricultural business" has the meaning assigned to that expression by regulation 4;

"eligible person" has the meaning assigned to that expression by regulation 3;

"forestry income" means income from the planting, tending and management of woodlands and includes income from the sale of timber and other products therefrom;

"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 which 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), 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;

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

"labour unit" means the amount of work, other than work done by a contractor, 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, wool, skins or fur, 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 sterilising, by freezing, by de-hydrating, by heat or by chemical process;

"severely 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

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

(*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.

Eligible persons

3.—(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 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 being carried on—

(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 and the amount of time spent by him in such activities is more than half of the time spent by him in working, 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 a development plan in accordance with regulation 5, and undertakes, if that plan is approved, to carry it out and, during its carrying out, to keep accounts in accordance with regulation 9;

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

(i) the Department is satisfied that the main purpose of that business is farming and 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 a development 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) a development 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 agricultural business who makes an application for approval of a development plan relating to such land jointly with one of the kinds of person eligible for grant under sub-paragraphs (*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 such year or years within the 3 years immediately preceding the day on which application for assistance 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 person.

Eligible agricultural business

4. For the purposes of these regulations an eligible agricultural business is an agricultural business which appears to the Department to be suitable for development and as to which the Department is satisfied—

(*a*) that the earned income per labour unit reasonably required under the existing system of production is less than the comparable income determined in accordance with regulation 13(*a*), or

(*b*) that the nature or structure of the business is such as to place at risk the maintenance of an earned income at the level of the said comparable income, and that the earned income per labour unit reasonably required under the existing system of production is not greater than 120 per cent of the said comparable income.

Development plans

5.—(1) A development 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—

(*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 and of a statement of the number of labour units required in the carrying on of the business;

(*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;

(*f*) such other particulars and information relating thereto as the Department may require.

(2) A development plan shall not be approved under these regulations unless an application for assistance was received under the Agriculture and Horticulture Development Regulations 1980(**a**) on or before 30th September

(a) S.I. 1980/1298, amended by S.I. 1981/1708, 1983/508, 1983/924, 1983/1763, 1984/618, 1984/1922, 1985/1025.