

Statutory Rule 1999 No. 237

Organic Farming Regulations (Northern Ireland) 1999

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STATUTORY RULES OF NORTHERN IRELAND

1999 No. 237

AGRICULTURE

Organic Farming Regulations (Northern Ireland) 1999

<i>Made</i>	<i>20th May 1999</i>
<i>Coming into operation</i>	<i>23rd June 1999</i>

The Department of Agriculture, being a Department designated[1] for the purposes of section 2(2) of the European Communities Act 1972[2] in relation to the common agricultural policy of the European 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, after obtaining the approval of the European Commission to zonal programmes submitted in draft in accordance with Article 7.1 of Council Regulation (EEC) No. 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside[3], hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Organic Farming Regulations (Northern Ireland) 1999 and shall come into operation on 23rd June 1999.

Interpretation

2. - (1) The Interpretation Act (Northern Ireland) 1954[4], except sections 20(2) and (3) and 39(2), shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations -

"aid" means the payments under the Community aid scheme referred to in Article 1 of Council Regulation 2078/92 in so far as it relates to farmers who undertake to introduce organic farming methods;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping and the use of land for grazing, meadow land, market gardens and nursery grounds, but does not include the use of land -

- (i) as osier land; or**
- (ii) for woodlands, except where that use is ancillary to any other use of land for the purposes of agriculture;**

"agri-environment scheme" means an arrangement which is -

(a) regulated by statutory rule providing for the payment of aid to persons who give an undertaking or enter into an agreement in relation to the use or management of land; and

(b) approved by the Commission of the European Communities under Article 7(3) of Council Regulation 2078/92 as part of a zonal programme drawn up pursuant to Article 3 of that Regulation;

"application" means an application for aid made in accordance with regulation 9 in respect of one or more organic parcels and "applicant" and "apply" shall be construed accordingly;

"approved" means approved by an inspection authority;

"authorised person" means a person (whether or not an officer of the Department) who is authorised by the Department, either generally or specifically, to act in matters arising under these Regulations;

"beneficiary" means -

(a) a person whose application in respect of land comprising one or more organic parcels has been accepted by the Department; or

(b) a person who occupies the whole or any part of an organic unit following a change of occupation of the holding, who has given an undertaking to comply with all the obligations assumed by its previous occupier under these Regulations, in so far as they relate to land comprised in that organic unit or the part of that organic unit occupied by him, and whose undertaking in such terms has been accepted by the Department;

"certificate of registration" means a certificate issued by an inspection authority in respect of an organic parcel, specifying the conversion period which applies in relation to that organic parcel, or the date on which that conversion period

begins; and for this purpose a certificate so issued is issued "in respect of" an organic parcel if it relates to that organic parcel, whether or not it also relates to any other organic parcel;

"Commission Regulation" means Commission Regulation (EC) No 746/96 laying down detailed rules for the application of Council Regulation (EEC) No 2078/92[5] as amended by Commission Regulation (EC) No. 435/97[6];

"conversion" in relation to an organic parcel, means the conversion of that organic parcel to being fully organic;

"conversion period", in relation to an organic parcel, means the period determined by the inspection authority as the period in which the conversion of that organic parcel is expected to be completed, being a period starting -

(a) in relation to the first organic parcel, not later than the date of receipt; and

(b) in relation to any other organic parcel, not later than the fifth anniversary of the date of receipt;

"Council Regulation 2092/91" means Council Regulation (EEC) No. 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs[7], as last amended by Commission Regulation (EC) No. 1900/98[8];

"Council Regulation 2078/92" means Council Regulation (EEC) No. 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside[9], as last amended by Commission Regulation (EC) No. 2772/95[10] as in turn rectified by Commission Regulation (EC) No. 1962/96[11];

"date of receipt", in relation to an organic parcel, means the date on which the Department received an application in accordance with regulation 9 in respect of that organic parcel;

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

"first organic parcel" means, of all the organic parcels comprised in an application, the organic parcel the conversion period for which begins first;

"first year" means -

(a) in relation to an organic parcel -

(i) in a case where the conversion period in respect of the organic parcel has commenced no later than the date of receipt, the year beginning with the date of receipt; and

(ii) in any other case, the year beginning with the anniversary of the date of receipt which is the first such anniversary to occur during the conversion period relating to the organic parcel in question; and

(b) in relation to an organic unit, the first year in relation to the first organic parcel to which an application relates, being the first such application relating to land comprised in that organic unit;

and any reference to any successive year is a reference to the relevant successive year following in sequence from the first year;

"fully organic" in relation to an organic parcel or organic unit means that -

(a) the inspection authority is satisfied that the conversion of that organic parcel or organic unit is completed; and

(b) notification having been given under Article 8 of Council Regulation 2092/91, details of such organic parcel or organic unit have appeared in the list referred to in that Article;

"grazing year" means any period of twelve months beginning with the date of receipt or any anniversary of the date of receipt;

"holding" means all the production units managed by a producer situated within the same member State's territory;

"inspection authority", in relation to an organic unit or organic parcel, means -

(a) the authority designated by the Organic Products Regulations 1992[12] for the purposes of Article 9 of Council Regulation 2092/91, or

(b) a private inspection body approved by that authority in accordance with Article 9 of that Regulation (which concerns the inspection system to which organic farming is subject),

being the authority or private inspection body to whom the applicant has applied to carry out inspection functions in relation to that organic unit or organic parcel;

"land" means land which is used for agriculture;

"landlord", in relation to the tenant of a holding, means any person who either solely or jointly owns, or has a superior tenancy of, that holding and "immediate landlord" means the landlord from whose title (or, as the case may be, joint title) the tenant directly derives his title;

"last organic parcel" means, of all the organic parcels which are the subject of an application, the organic parcel the conversion period for which begins last;

"livestock" means any animal or fowl kept for the production of food, wool or skins or for the breeding of any animal for any such purpose;

"livestock undergoing conversion" means livestock which are identified in an approved plan as being in the process of being converted into organic livestock, and which fully conform to those UKROFS standards which apply in relation to the organic farming of livestock undergoing conversion;

"organic farming" means farming by organic farming methods;

"organic farming methods" has the same meaning as in Article 2(1)(a) of Council Regulation 2078/92;

"organic livestock" means livestock that are identified in an approved plan as being livestock that fully conform to those UKROFS standards which apply in

relation to the organic farming of livestock;

"organic parcel" means an area of land which comprises the whole or part of an organic unit and which is identified in an approved plan by reference to such system of field numbering as the Department may direct;

"organic unit" means an area of land which comprises the whole or part of a holding, and which has been established as an organic unit in accordance with Annex III to Council Regulation 2092/91 (which concerns the delineation of the organic unit by any inspection authority in a report countersigned by the producer);

"owner" means the person who owns the fee simple of the holding;

"plan" means a schedule in writing specifying, in relation to an organic unit -

- (a) those parcels which have been registered by the inspection authority;**
- (b) those parcels which it is intended to register in the future;**
- (c) the dates on which such organic parcels have been or (as the case may be) are to be registered; and**
- (d) where the plan relates to land on which livestock are kept, the livestock that are undergoing conversion or are organic livestock;**

"specified period", in relation to an application, means the period beginning with the date of receipt and ending on the expiry of the period of five years from the date on which the first payment becomes payable in respect of the last organic parcel which is the subject of that application;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"tenant" means a person who occupies a holding or part of a holding under a contract of tenancy for a fixed term of years of which at least 5 years remain unexpired at the commencement of the specified period;

"UKROFS standards" means the production standards for organic farming of the United Kingdom Register of Organic Food Standards published in January 1999 by the Ministry of Agriculture, Fisheries and Food and known as the UKROFS Standards for Organic Food Production.

Aid for organic farming

3. - (1) Subject to the provisions of regulations 6 and 7 the Department may make payments of aid in accordance with these Regulations -

- (a) in respect of an organic parcel, to any person who is a beneficiary in respect of that organic parcel; and**
- (b) in respect of an organic unit, to any person who is a beneficiary in respect of an organic parcel comprised in that organic unit,**

provided that, in relation to any payment in respect of any given year, the beneficiary has made a claim for payment in respect of that year in accordance with regulation 9, and has supplied such further information and evidence in relation to that claim as the

Department reasonably may direct to be supplied.

(2) If, following the receipt of an application made in accordance with regulation 9 and such information and evidence as the Department reasonably may direct to be supplied, it appears to the Department that the applicant satisfies the conditions of eligibility specified in regulation 5 in respect of all, some or any one of the organic parcels that are the subject of that application ("the eligible organic parcels"), the Department shall, subject to regulations 6, 7 and 8, accept the application with respect of the eligible organic parcel or parcels and notify the applicant in writing of the acceptance and the date from which aid shall become payable in respect of the eligible organic parcel or parcels.

(3) An application may be withdrawn by a notice in writing given by the applicant at any time before the application is accepted by the Department.

(4) A claim for the payment of aid shall be made at such time as the Department may reasonably direct.

(5) A payment of aid made by the Department to a beneficiary pursuant to these Regulations may be made at any time during the year in respect of which the payment in question is to be made.

Determinations of amount of aid and periods for which aid is paid

4. - (1) Subject to the provisions of these Regulations, where a beneficiary is entitled to the payment of aid, the aid shall be paid in respect of the following periods -

(a) in respect of an organic parcel, five years -

(i) in the case of the first organic parcel, beginning with the date of receipt; and

(ii) in any other case, beginning with the anniversary of the date of receipt which is the first such anniversary to occur during the conversion period relating to the organic parcel in question; and

(b) in respect of an organic unit, three years beginning with the date of receipt of the first application relating to land comprised in that organic unit.

(2) The amount of aid payable under paragraph (1)(a) shall be determined in accordance with Part I of Schedule 1; the amount of aid payable under paragraph (1)(b) shall be determined in accordance with Part II of Schedule 1.

Conditions of eligibility

5. - (1) The conditions of eligibility referred to in regulation 3(2) are that -

(a) the application shall be made in respect of not less than one hectare of land;

(b) at the date of his application, the applicant -

(i) shall be the owner or tenant of the land which is the subject of his application and in lawful occupation of that land; and

(ii) shall not be disqualified from eligibility to participating in an agri-environment scheme either by application of a penalty consequent upon

Article 20(2) of the Commission Regulation (which requires member States to determine a system of penalties for breaches of undertakings) or by application of Article 20(3) of the Commission Regulation (which requires a person who, intentionally or by reason of gross negligence, makes a false declaration to be excluded from all aid under Council Regulation 2078/92);

- (c) the use of any land in accordance with the proposals contained in the application relating to it shall not be such as to frustrate the purposes of any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community; and**
- (d) the applicant shall give the undertakings mentioned in paragraph (2) in support of his application.**

(2) The undertakings referred to in paragraph (1)(d) are -

- (a) before claiming aid in respect of any organic parcel, to furnish to the Department a certificate of registration in respect of that organic parcel;**
- (b) for the duration of the specified period -**

- (i) to retain a certificate of registration in respect of each organic parcel on which aid has been claimed;**
- (ii) to farm the land that is the subject of his application, and such part of the organic unit comprising that land as at any given time is being farmed by organic farming methods, in accordance with the proposals set out in his application and with UKROFS standards and the standards set out in Schedule 2;**
- (iii) to ensure that no livestock other than organic livestock or livestock undergoing conversion are grazed on his organic unit for more than 62 days in each grazing year unless with the prior written agreement of the Department;**
- (iv) to ensure that any organic livestock or livestock undergoing conversion which are kept on his organic unit are kept in accordance with UKROFS standards; and**
- (v) where at the date of his application the applicant has introduced organic farming on a part of his holding other than the part which is the subject of the application, to ensure that that other part conforms to UKROFS standards and continue with organic farming on that other part of his holding, in accordance with UKROFS standards and the standards set out in Schedule 2; and**

- (c) to complete the conversion of each organic parcel no later than the fifth anniversary of the date on which the conversion period in respect of the organic parcel in question begins.**

Restrictions on acceptance of applications

6. - (1) The Department shall not accept an application unless -

(a) it is accompanied by a certificate of registration given by the inspection authority in respect of the first organic parcel; and

(b) it contains a declaration by the applicant that the inspection authority has approved a plan relating to the whole of the organic unit comprising the organic parcel to which the application relates.

(2) Subject to paragraph (4), the Department shall not accept an application for aid under these Regulations unless it is made within three months of the date on which a certificate of registration is first issued by the inspection authority in respect of the first organic parcel.

(3) The Department shall not accept an application from an applicant who occupies his holding as a tenant unless the applicant has satisfied the Department that he has notified his immediate landlord in writing of the making of such application.

(4) Paragraph (2) shall not apply to an application in relation to an organic parcel for which a certificate of registration was first issued by an inspection authority at any time after 1st April 1998 and before 23rd June 1999.

Restrictions on payment of aid

7. - (1) Aid shall not be payable in respect of an application in respect of any period before the date of receipt.

(2) The Department may refuse or reduce aid which would duplicate any assistance previously given or to be given out of money provided by or under any statutory provision, and for this purpose aid shall be taken to be such as to duplicate such assistance if it would (if paid) be paid for any of the same purposes in respect of any of the same land.

(3) No payment of aid shall be made in respect of an organic parcel until the Department has received a certificate of registration in respect of that organic parcel.

(4) Where an application in respect of an organic parcel is accepted before the date on which the conversion period in respect of that organic parcel begins, no payment of aid in respect of that organic parcel shall be made in respect of any period beginning before the anniversary of the date of receipt which is the first such anniversary to occur during that conversion period.

(5) Aid shall not be payable in respect of any organic parcel, or any organic unit comprising land to which an application relates, which -

(a) is fully organic at the date of receipt; or

(b) has been fully organic at any time during the period beginning on 10th August 1993 and ending on the date of receipt.

(6) Aid shall not be payable under Part I of Schedule 1 in respect of any organic parcel in respect of any period beginning more than five years after the date on which the first payment of aid became payable in respect of that organic parcel.

Financial limits

8. - (1) If, in view of the total number of applications already approved or received, the Department is at any time of the opinion that the financial resources which are

available for payment of aid under these Regulations during any period are insufficient to satisfy any payment during that period which would result from the approval of any further application, it may suspend further consideration of any application received at the date of its decision but not yet accepted, or any application it may receive after the date of its decision, until such time as may subsequently be specified by it.

(2) Notice of a suspension by the Department under paragraph (1), or of the termination of any such suspension, shall be published in the Belfast Gazette.

Form and content of application etc

9. Each of the following -

- (a) an application,
- (b) a claim for payment, and
- (c) an undertaking given by a new occupier in accordance with regulation 12,

shall be made in writing and in such form, and shall be accompanied by such information, as the Department reasonably may direct.

Power to vary undertakings

10. - (1) Subject to paragraph (2), the Department may in writing, at the request of the beneficiary, vary the terms of any undertaking given by the beneficiary under regulation 5(1)(d), 12(1)(b) or 12(6)(d), and any such variation may be subject to such conditions as the Department reasonably may determine and may be expressed to apply only for a specified period.

(2) The Department shall not vary the terms of an undertaking unless it is satisfied that, having regard to any conditions proposed to be attached to the variation, the purposes for which the undertaking was given will not be adversely affected by the variation.

Amendment of approved plan

11. No amendment to a plan approved by an inspection authority shall have effect unless such amendment has been approved by the inspection authority.

Change of occupation

12. - (1) Where during the specified period there is a change of occupation of the whole or any part of a beneficiary's organic unit by reason of the devolution of that organic unit or part on the death of the beneficiary or otherwise -

- (a) the beneficiary (or, if he has died, his personal representatives) shall within 28 days notify the Department in writing of the change of occupation, and shall supply to the Department such information relating to the change of occupation in such form and within such period as the Department reasonably may direct; and
- (b) subject to the provisions of this regulation, the new occupier of that organic unit or part may give an undertaking in writing to the Department to comply, with effect from the date on which he entered into occupation of the organic unit or part (as the case may be) and for the remainder of the specified period, with the obligations assumed by the beneficiary under his application relating to the land comprised in that organic unit, in so far as they apply in relation to the land transferred to the new occupier.

(2) Where the change of occupation referred to in paragraph (1) is consequent on the beneficiary's death, the power conferred on the Department by regulation 15(2) shall not apply in relation to the beneficiary's estate, in respect of the beneficiary's failure to comply with any undertaking by reason of his death.

(3) Subject to paragraph (4), where the change of occupation referred to in paragraph (1) is not consequent on the beneficiary's death, the powers which are conferred on the Department by regulation 15(2) in respect of the beneficiary's obligations of reimbursement under Article 11(1) of the Commission Regulation (which governs transfers of holdings), or in respect of any failure by the beneficiary to comply with any undertaking, and which are in either case exercisable as a consequence of his ceasing to be in occupation of the organic unit or part of the organic unit (as the case may be), shall not apply, provided that -

- (a) within three months of the date on which the beneficiary ceased to be in occupation of the land in question, a new occupier gives an undertaking under paragraph (1)(b) in relation to that land; and**
- (b) where the new occupier occupies part only of the beneficiary's organic unit, the beneficiary satisfies the conditions of eligibility in regulation 5(1)(a), (b) and (c), as they would apply in relation to that part of the organic unit of which he remains in occupation, if an application had been made by him in relation to that part.**

(4) Provisos (a) and (b) to paragraph (3) shall not apply in relation to any land transferred if, in respect of the whole of the land transferred, the conversion period has been completed and all payments due under these Regulations have been made.

(5) Where there is a change of occupation of part of an organic unit, the Department shall determine the extent to which the obligations assumed by the beneficiary relate to that part, having regard to -

- (a) the area of land comprised in that part and in the remainder of the organic unit; and**
- (b) the use to which that part is put,**

and an undertaking given under paragraph (1)(b) in respect of part of the organic unit shall apply in relation to that part to the extent so determined.

(6) The Department shall not accept an undertaking under paragraph (1)(b) unless it is satisfied that -

- (a) the land to which the undertaking relates ("the relevant land") forms the whole or part of an organic unit comprising the whole or part of the holding of the new occupier or a holding vested in him as personal representative;**
- (b) the new occupier is in lawful occupation of the relevant land as owner or tenant or is in lawful possession of that land as the personal representative of the beneficiary;**
- (c) the conditions of eligibility specified in regulation 5(1)(a), (b)(ii) and (d)**

would be satisfied if the undertaking were an application in respect of the relevant land to which the undertaking relates; and

(d) the new occupier has given the undertaking mentioned in paragraph (7) in any case where, before entering into occupation of the organic unit in question, the new occupier has introduced organic farming on any part of his holding.

(7) The undertaking referred to in paragraph (6)(d) is that the new occupier shall continue to farm the part of his holding referred to in that paragraph in accordance with organic farming methods for the remainder of the specified period which is applicable in relation to the land to which the undertakings of the previous occupier of the organic unit in question related.

(8) A new occupier who gives an undertaking to comply with the obligations assumed by the beneficiary shall, within such period following the change of occupation as the Department reasonably may direct, supply to the Department such evidence and such supplementary information in such form as the Department reasonably may direct to be supplied.

(9) Where the Department has accepted an undertaking from a new occupier to comply with the obligations of a beneficiary -

(a) that undertaking shall be deemed to take effect on the date that the new occupier entered into occupation of the holding, or part of the holding, as the case may be; and

(b) with effect from that date, the previous occupier shall cease to be a beneficiary, and shall cease to be bound by the obligations assumed by virtue of his undertaking, in so far as they apply in relation to the holding or (as the case may be) that part of the holding occupied by the new occupier.

(10) Nothing in paragraph (9)(b) shall affect any liability of the beneficiary which has accrued prior to the date on which the undertaking given by the new occupier takes effect.

Notes:

[1] S.I. 1972/1811[back](#)

[2] 1972 c. 68[back](#)

[3] O.J. L215, 30.7.92, p.85[back](#)

[4] 1954 c. 33 (N.I.)[back](#)

[5] O.J. No. L102, 25.4.96, p. 19[back](#)

[6] O.J. No. L67, 7.3.97, p. 2[back](#)

[7] O.J. No. L198, 22.7.91, p. 1[back](#)

[8] O.J. No. L247, 5.9.98, p. 6[back](#)

[9] O.J. No. L215, 30.7.92, p. 85[back](#)

[10] O.J. No. L288, 1.12.95, p. 35[back](#)

[11] O.J. No. L259, 12.10.96, p. 7[back](#)

[12] S.I. 1992/2111, the relevant amending instrument is S.I. 1994/2286[back](#)
