

Welsh Statutory Instrument 2001 No. 424 (W.18)

The Organic Farming Scheme (Wales) Regulations 2001

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STATUTORY INSTRUMENTS

2001 No. 424 (W.18)

AGRICULTURE, WALES

The Organic Farming Scheme (Wales) Regulations 2001

<i>Made</i>	<i>15th February 2001</i>
<i>Coming into force</i>	<i>19th February 2001</i>

The National Assembly for Wales, being 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 that section, and all other powers enabling it in that behalf, after obtaining the approval of the European Commission to a rural development plan submitted in draft in accordance with Article 41 of Council Regulation (EC) No. 1257/1999^[3] on support for rural development, hereby makes the following Regulations -

Name, commencement and application

1. These Regulations are called the Organic Farming Scheme (Wales) Regulations 2001, shall apply in relation to Wales and shall come into force on 19th February 2001.

Interpretation

2. - (1) In these Regulations, unless the context otherwise requires -

"AAPS" ("*CTATA*") means the Arable Area Payment Scheme;

"the 1994 Regulations" ("*Rheoliadau 1994*") means the Organic Farming (Aid) Regulations 1994^[4];

"the 1999 Regulations" ("*Rheoliadau 1999*") means the Organic Farming (Wales) Regulations 1999^[5];

"agriculture" ("*amaethyddiaeth*") includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping and the use of land for grazing, meadow land, market gardens or 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" ("*cynllun amaeth-amgylcheddol*") means an arrangement which is -

- (a) regulated by statutory instrument 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 44 of Council Regulation 1257/1999 as part of a rural development plan drawn up pursuant to Article 41 of that Regulation;

"aid" ("*cymorth*") means the payments under the Community aid scheme referred to in Article 2 of Council Regulation 1257/1999 in so far as it relates to farmers who undertake to introduce organic farming methods;

"application" ("*cais*") means an application for aid made in accordance with regulation 9 in respect of one or more organic parcels, and "applicant" ("*ceisydd*") and "apply" ("*gwneud cais*") shall be construed accordingly;

"approved" ("*a gymeradwywyd*") means approved by an inspection authority;

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

"beneficiary" ("*buddiolwr*") means -

- (a) a person whose application in respect of land comprising one or more organic parcels, has been accepted by the National Assembly; 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 the new occupant, and whose undertaking in such terms has been accepted by the National Assembly;

"certificate of registration" ("*tystysgrif gofrestru*") 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;

"the Commission Regulation" ("*Rheoliad y Comisiwn*") means Commission Regulation (EC) No. 1750/1999[6] laying down detailed rules for the application of Council Regulation (EEC) No. 1257/1999;

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

"conversion period" ("*cyfnod trosi*"), 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 acceptance; and

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

"Council Regulation 2092/91" ("*Rheoliad y Cyngor 2092/91*") means Council Regulation (EEC) No. 2092/91[7] on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs;

"Council Regulation 1257/1999" ("*Rheoliad y Cyngor 1257/1999*") means Council Regulation (EC) No. 1257/1999 on support for rural development;

"date of acceptance" ("*dyddiad derbyn*") means the date on which the National Assembly accepts an application in accordance with regulation 3;

"date of receipt" ("*dyddiad dod i law*"), in relation to an organic parcel, means the date on which the National Assembly received an application in accordance with regulation 9 in respect of that organic parcel;

"financial year" ("*blwyddyn ariannol*") means the twelve months ending with 31st March;

"first organic parcel" ("*parsel organig cyntaf*") means, of all the organic parcels comprised in an application, the organic parcel the conversion period for which begins first;

"first year" ("*blwyddyn gyntaf*") 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 acceptance, the year beginning with the date of acceptance; and

(ii) in any other case, the year beginning with the anniversary of the date of acceptance 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" ("*hollol organig*") 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;

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

"inspection authority" ("*awdurdod archwilio*"), in relation to an organic unit or organic parcel, means -

- (a) the authority designated by the Organic Products Regulations 1992^[8] 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" ("*tir*") means land which is used for agriculture;

"landlord" ("*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" ("*landlord uniongyrchol*") means the landlord from whose title (or, as the case may be, joint title) the tenant directly derives his or her title;

"last organic parcel" ("*parsel organig olaf*") means, of all the organic parcels which are the subject of an application, the organic parcel the conversion period for which begins last;

"livestock" ("*da byw*") 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" ("*da byw sy'n cael eu trosi*") means livestock that is 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;

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"organic farming" ("*fffermio organig*") means farming by organic farming methods;

"organic farming methods" ("*dulliau ffermio organig*") means farming in accordance with Annex 1 to Council Regulation 2092/91;

"organic livestock" ("*da byw organig*") 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" ("*parsel organig*") 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 any system of field numbering that the National Assembly may direct;

"organic unit" ("*uned organig*") 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 inspection scheme for organic units);

"owner" ("*perchennog*") means the person who owns the fee simple of the holding, and "owns" shall be construed accordingly;

"plan" ("*cynllun*") 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 is kept, the livestock that is undergoing conversion or that is already organic livestock;

"specified period" ("*cyfnod penodedig*"), in relation to an application, means the period beginning with the date of acceptance 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;

"tenant" ("*tenant*") means a person whose right to occupation of a holding derives from -

- (a) an agreement which has effect by virtue of section 2 of the Agricultural Holdings Act 1986^[9] as an agreement for the letting of land on a tenancy from year to year;
- (b) a tenancy agreement falling within section 1 of the Agricultural Tenancies Act 1995^[10]; or
- (c) a contract for a tenancy for a fixed term of years; and

"UKROFS standards" ("*safonau UKROFS*") 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.

(2) Any reference in these Regulations to -

- (a) a numbered regulation or Schedule shall be construed as a reference to the

regulation or Schedule so numbered in these Regulations; and

(b) a numbered or lettered paragraph is a reference to the paragraph so numbered or lettered in the regulation in which the reference occurs.

(3) Words and phrases used in the Regulations and not defined in paragraph (1) shall be construed in accordance with Schedule 1.

Aid for organic farming

3. - (1) Subject to the provisions of regulations 6 and 7, the National Assembly 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 National Assembly 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 National Assembly reasonably may direct to be supplied, it appears to the National Assembly 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 National Assembly must, subject to regulations 6, 7 and 8, accept the application with respect to 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 National Assembly.

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

(5) A payment of aid made by the National Assembly 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.

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

4. - (1) Subject to the provisions of these Regulations, when 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 acceptance; and

(ii) in any other case, beginning with the anniversary of the date of acceptance 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 acceptance of the first application relating to land comprised in that organic unit.

(2) The amount of aid payable under paragraph (1)(a) is to be determined in accordance with Part I of Schedule 1 and the amount of aid payable under paragraph (1)(b) is to 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 the application and in lawful occupation of that land; and

(ii) shall not be disqualified from eligibility to participate in an agri-environment scheme either by application of a penalty consequent upon Article 48(2) of the Commission Regulation (which requires member States to determine a system of penalties for breaches of undertakings) or by application of Article 48(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 1257/1999);

(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 Parliament or by the European Community; and

(d) the applicant shall give the undertakings mentioned in paragraph (2) in support of the application.

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

(a) before claiming payment of aid in respect of any organic parcel, to furnish to the National Assembly 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 the 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 the application and with UKROFS standards and the standards set out in Schedule 2;

(iii) to ensure that any organic livestock or livestock undergoing conversion

which are kept on the organic unit are kept in accordance with UKROFS standards; and

(iv) where at the date of the application the applicant has introduced organic farming on a part of the 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 the holding, in accordance with UKROFS standards and the standards set out in Schedule 2; and

(v) to farm any part of the holding that is not the subject of paragraph (ii) above in accordance with 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 National Assembly shall not accept an application unless -

(a) the inspection authority has given a certificate of registration in respect of the first organic parcel or has confirmed to the National Assembly that a certificate will be issued; and

(b) the applicant makes a declaration 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) The National Assembly shall not accept an application from an applicant who occupies the holding that is the subject of the application as a tenant unless the applicant has satisfied the National Assembly that the immediate landlord has been notified in writing of the making of such application.

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 acceptance.

(2) The National Assembly may refuse or reduce aid which would duplicate any assistance previously given or to be given out of money provided by Parliament or by the European Community, 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 National Assembly has received a certificate of registration in respect of that organic parcel or confirmation from the inspection authority that a certificate will be issued.

(4) 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 on the date of receipt; or

(b) has been fully organic at any time during the period beginning on 1st January 1997 and ending on the date of receipt.

(5) 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.

(6) Aid shall not be payable on more than 300 hectares of the total area of AAPS eligible land, permanent crops and enclosed land on any holding which is the subject of an application.

Financial limits

8. - (1) If, in view of the total number of applications already accepted or received, the National Assembly is at any time of the opinion that the financial resources which are available for payment of aid under these Regulations during any financial year are insufficient to satisfy any further payment during that financial year, 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 but before the date of publication of a notice in the London Gazette in accordance with paragraph (4), until the the next financial year.

(2) No application shall be made between the date of publication in the London Gazette in accordance with paragraph (4) of a notice that the operation of the scheme has been suspended pursuant to paragraph (1), and the decision to re-open the scheme pursuant to paragraph (3) below.

(3) If the operation of the scheme has been suspended under paragraph (1) above, the National Assembly must decide the date in the following financial year on which the suspension is removed.

(4) Notice of a decision by the National Assembly under paragraph (1) or (3) shall be published in the London Gazette.

Form and content of application

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 National Assembly reasonably may direct.

Power to vary undertakings

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

(2) The National Assembly 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 that 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 deceased, the personal representatives) shall within 28 days of such change notify the National Assembly in writing of the change of occupation, and shall supply to the National Assembly the information relating to the change of occupation in the form and within the period the National Assembly 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 National Assembly to comply, with effect from the date on which that new occupier 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 that beneficiary's 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 National Assembly by regulation 16(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 that 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 that are conferred on the National Assembly by regulation 16(2) in respect of the beneficiary's obligations of reimbursement under Article 29 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 the beneficiary 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 the beneficiary remains in occupation, if an application had been made by him or her 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 National Assembly 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 National Assembly 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 that new occupier 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 the 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 National Assembly reasonably may direct, supply to the National Assembly such evidence and such supplementary information in such form as the National Assembly reasonably may direct to be supplied.

(9) Where the National Assembly 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 the 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 a beneficiary which has accrued prior to the date on which the undertaking given by the new occupier takes effect.

The application of earlier Regulations

13. - (1) Subject to the provisions of the Council Regulation and the Commission Regulation, the 1994 Regulations remain in force in relation to beneficiaries receiving payment under those Regulations on the date that these Regulations come into force.

(2) The 1999 Regulations are revoked and replaced by the corresponding provisions in these Regulations save that the option of transferring from the scheme of the 1994 Regulations shall cease.

(3) The provisions of these Regulations apply to beneficiaries receiving payment under the 1999 Regulations on the date that these Regulations come into force in place of the corresponding provisions in the 1999 Regulations.

(4) Undertakings given (or deemed to have been given) under the 1999 Regulations apply as if given under these Regulation, but with effect from the date they were originally given.

Duty to keep records

14. An applicant shall keep for the duration of the specified period any correspondence or other records relating to any document mentioned in regulation 9, and any records relating to the farming of any land in accordance with his or her undertakings under these Regulations.

Duty to permit entry and inspection

15. - (1) An applicant shall permit an authorised person, accompanied by such other persons acting under such instructions as appear to that authorised person to be necessary for the purpose, at all reasonable hours and on production of evidence of his or her authority, if so required, to enter upon any part of the applicant's holding for the purposes of -

(a) inspecting any land forming part of an organic unit or any document or record in the possession or under the control of the applicant relating to, or which the authorised person may reasonably suspect relates to, any document referred to in regulation 9, with a view to verifying the accuracy of any particulars given in it, or in relation to it; or

(b) ascertaining whether the applicant has duly complied with any undertaking given or (by virtue of regulation 13) to be treated as given by the applicant under these Regulations.

(2) An applicant shall render all reasonable assistance to an authorised person in relation to the matters mentioned in paragraph (1) above and in particular shall -

(a) produce such document or record as may be required by the authorised person for inspection; and

(b) accompany the authorised person, if so requested, in making an inspection of any land and identify any area of land to which any application or any undertaking relates.

(3) Paragraphs (1) and (2) above shall apply in relation to a beneficiary as they apply in relation to an applicant.

(4) Save in so far as is reasonably required for the purposes of inspecting a document or record as mentioned in paragraph (1)(a), paragraph (1) shall not apply in relation to any part of the holding which comprises a private dwelling.

Withholding and recovery of aid, termination and exclusion

16. - (1) Where any person, with a view to obtaining the payment of aid to himself or herself or to any other person, makes any statement or furnishes any information which is false or misleading in a material respect, the National Assembly may withhold the whole or any part of any aid payable to that person or to that other person in relation to this scheme and may recover the whole or any part of any such aid already paid to that person or to that other person.

(2) Where a beneficiary -

(a) fails to comply with any undertaking given, or (by virtue of regulation 13) to be treated as given, under these Regulations,

(b) fails without reasonable excuse to permit entry and inspection by an authorised person or to render all reasonable assistance to the authorised person as required by regulation 15(2), or

(c) fails to comply with any other requirement of these Regulations,

the National Assembly may withhold the whole or any part of any aid payable to that beneficiary under this scheme and may recover the whole or any part of any aid already paid and may also require the payment to the National Assembly of a sum not exceeding 10% of the aid paid or payable to the beneficiary.

(3) Where the National Assembly takes any step specified in paragraph (1) or (2), it may also treat as terminated any entitlement of the beneficiary to the payment of aid under these Regulations.

(4) Where under paragraph (3) the National Assembly treats the beneficiary's entitlement to aid as terminated, it may also by notice in writing to the beneficiary disqualify that beneficiary from participating in any agri-environment scheme for such period (not exceeding two years) from the date of that termination as may be specified in the notice.

(5) Before taking any step specified in paragraph (1), (2), (3) or (4), the National Assembly shall -

(a) give to the beneficiary a written explanation of the reasons for the step proposed to be taken and afford the beneficiary an opportunity to reply to the explanation in writing;

(b) afford the beneficiary the opportunity of appearing before and being heard by a person or persons appointed for that purpose by the National Assembly; and

(c) consider the report by the person or persons so appointed and supply a copy of the report to the beneficiary.

Recovery of interest

17. - (1) Where a payment of aid is made to a beneficiary by the National Assembly and, by virtue of Article 48(1) of the Commission Regulation (which provides for recovery of wrongful payments with interest) a reimbursement of all or part of the payment with interest is required, the rate of interest shall be one percentage point above the LIBOR on a day to day basis.

(2) For the purposes of this regulation, LIBOR means the sterling three month London interbank offered rate in force during the period specified in Article 48(1) of the Commission Regulation.

(3) In any proceedings relating to the recovery of interest in accordance with this regulation, a certificate of the National Assembly stating the LIBOR applicable during a period specified in the certificate shall be conclusive evidence of the rate applicable in the specified period if the certificate also states that the Bank of England notified the National Assembly of that rate.

Recovery of payments

18. In any case where an amount falls to be paid to the National Assembly by virtue of (or by virtue of action taken under) these Regulations or the Commission Regulation in so far as it relates to the holding of a beneficiary, the amount shall be recoverable as a debt.

False statements

19. If any person, for the purposes of obtaining any aid for himself or herself or for any other person, knowingly or recklessly makes a statement which is false in a material particular, the person who made the statement shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offences by bodies corporate

20. Where a body corporate is guilty of an offence under regulation 19 and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he or she, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[[11](#)].

D. Elis Thomas

The Presiding Officer of the National Assembly

15th February 2001

SCHEDULE 1

regulations 4(2) and 13

CALCULATION OF AID

PART I

PAYMENT IN RESPECT OF AN ORGANIC PARCEL

1. AAPS eligible land and permanent crops:	
(i) in the first year	£225 per hectare
(ii) in the second year	£135 per hectare
(iii) in the third year	£50 per hectare
(iv) in the fourth year	£20 per hectare
(v) in the fifth year	£20 per hectare
2. Enclosed land:	
(i) in the first year	£175 per hectare
(ii) in the second year	£105 per hectare
(iii) in the third year	£40 per hectare
(iv) in the fourth year	£15 per hectare
(v) in the fifth year	£15 per hectare
3. Unenclosed land and grazed woodland:	
(i) in the first year	£25 per hectare
(ii) in the second year	£10 per hectare
(iii) in the third year	£5 per hectare
(iv) in the fourth year	£5 per hectare
(v) in the fifth year	£5 per hectare

In Part I of this Schedule -

"AAPS eligible land" means land which is "eligible land" within the meaning of the

Arable Area Payments Regulations 1996^[12];

"coastal belt" means the strip of land between the high tide mark and the field boundary nearest to the sea;

"grazed woodland" means woodland used for grazing by livestock;

"moorland" means land represented by the areas coloured brown on the maps contained in the volume of maps marked "Moorland Map of Wales 1992", deposited at the offices of the National Assembly for Wales, Cathays Park, Cardiff;

"enclosed land" means any land other than AAPS eligible land and permanent crops which is fully enclosed by traditional field boundaries or fences and which, if it includes moorland, does not comprise more than 5 hectares of moorland;

"permanent crops" means any crops which occupy the soil for a period of five years or more and yield crops over several years;

"slate fence" means a fence comprising pieces of slate hammered vertically into the ground in a line and attached to each other using wire;

"traditional field boundaries" means structures such as hedges, stone walls, earth banks and slate fences customarily used to separate fields within a farm;

"unenclosed land" means land which is moorland or coastal belt, other than enclosed land.

PART II

PAYMENT IN RESPECT OF THE ORGANIC UNIT AS A WHOLE

In the first year	£300 per organic unit
In the second year	£200 per organic unit
In the third year	£100 per organic unit

SCHEDULE 2

regulation 5(2)(b)(ii), (iv) and (v)

STANDARDS TO BE OBSERVED

1. The beneficiary shall not plough, reseed or improve, by use of drainage, manures or liming agents, any heathland, grassland of conservation value, including species-rich grassland, or rough grazing. The beneficiary shall not graze any such semi-natural habitats so as to cause over-grazing or under-grazing affecting the conservation value of those habitats.

2. The beneficiary shall avoid localised heavy stocking in the nesting season on areas of semi-natural vegetation, including heathland, species-rich grassland and rough grazing.

3. The beneficiary shall not carry out field operations, such as harrowing or rolling, on species-rich grassland or rough grazing during the nesting season.
4. The beneficiary shall not cultivate or apply fertilisers to the land within 1 metre of any boundary features, such as fences, hedges or walls.
5. The beneficiary shall
 - (a) retain traditional farm boundary features, for example, hedges and walls;
 - (b) carry out hedge-trimming in rotation, but not between 1st March and 31st August in any year;
 - (c) maintain any stockproof boundaries, using traditional methods and materials.
6. Ditch maintenance shall be carried out in rotation, but not between 1st March and 31st August in any year.
7. The beneficiary shall maintain streams, ponds and wetland areas.
8. The beneficiary shall retain any copses, farm woodlands or groups of trees.
9. The beneficiary shall ensure that in farming the land he or she does not damage, destroy or remove any feature of historical or archaeological interest, including areas of ridge and furrow.
10. The beneficiary shall abide by the terms of the Codes of Good Agricultural Practice for the Protection of Soil, Air, Water and, where applicable, Pesticides, published from time to time by the National Assembly for Wales.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations, which apply in relation to Wales, provide for the payment of aid to farmers who undertake to introduce organic farming methods and to comply with certain environmental management conditions, pursuant to Article 22 of Council Regulation (EC) No. 1257/1999 (OJ No L160, 26.06.1999, p.80) ("the Rural Development Regulation").

The Organic Farming (Aid) Regulations 1994 made under earlier European legislation formerly provided for support for organic farming. The Organic Farming (Wales) Regulations 1999 closed the scheme under the 1994 Regulations for new applicants. They also provided that those receiving payment under the 1994 Regulations could continue to do so or could opt to receive payment under the 1999 Regulations.

That option will now cease and recipients under the 1994 Regulations will continue to do so until payment ceases in accordance with the provisions of those Regulations.

The current Regulations will replace the 1999 Regulations and will apply to those who have been receiving payment under the 1999 Regulations.

These Regulations implement certain provisions of Commission Regulation (EC)

No.1750/1999 (OJ No. L214, 13.08.1999, p.31) ("the Commission Regulation"), laying down detailed rules for the application of the Rural Development Regulation.

The Regulations -

- (a) enable the National Assembly to make payments of aid, subject to specified conditions, and specify the rate of aid (regulations 3 and 4, and Schedule 1);
- (b) specify the conditions of eligibility to be satisfied by applicants for aid (regulation 5 and Schedule 2), certain procedural and formal preconditions for the acceptance of applications for aid (regulations 6 and 9), and certain restrictions on the payment of aid (regulation 7); and
- (c) permit the National Assembly not to consider applications for aid in the event that financial resources available for aid under the Regulations are insufficient (regulation 8);
- (d) provide for variations of undertakings given by applicants for aid and for amendments to conversion plans (regulations 10 and 11);
- (e) provide for the payment of aid to a new occupant where there has been a change in the occupation of an organic unit or part of an organic unit due to the death of a beneficiary or otherwise (regulation 12);
- (f) end the ability of beneficiaries of aid under the 1994 Regulations to apply to be treated as entitled to aid under the 1999 Regulations and apply the current Regulations to those already receiving payment under the 1999 Regulations (regulation 13);
- (g) impose duties in respect of the keeping of records and confer powers of entry and inspection (regulations 14 and 15);
- (h) provide for the withholding or recovery of aid and the recovery of interest (regulations 16, 17 and 18);
- (i) provide for an offence of making a false statement, and make provision in relation to any such offence committed by a corporation (regulations 19 and 20).

The UKROFS standards (referred to in regulations 2(1) and 5 (2)) are published by and copies are available from the Office of the Secretary to UKROFS, Room G47, Nobel House, 17 Smith Square, London SW1P 3JR.

Copies of the Moorland Map of Wales 1992 may be inspected during office hours at the offices of the National Assembly for Wales at

Crown Buildings, Cathays Park, Cardiff;

Government Buildings, Penrallt, Caernarfon;

Government Buildings, Picton Terrace, Carmarthen; and

Government Buildings, Spa Road East, Llandrindod Wells.

Copies of the Codes of Good Agricultural Practice for the protection of Soil, Air, Water and Pesticides (referred to in paragraph 10 of Schedule 2) are available free of charge from The National Assembly for Wales, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ.

Notes:

[1] By virtue of the European Communities (Designation) (No.3) Order (S.I 1999/2788) ("the Order"). The National Assembly's power to make, as a body designated in relation to the common agricultural policy of the European Community, regulations which extend to holdings which include land situated within the United Kingdom but outside Wales is confirmed by paragraph 2(b) of Schedule 2 to the Order.[back](#)

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

[3] OJ No. L160, 26.06.1999, p.80.[back](#)

[4] S.I. 1994/1721; amended by S.I. 1996/3109 and S.I. 1998/1606.[back](#)

[5] S.I. 1999/2611; amended by S.I. 1999/3337 (W. 45).[back](#)

[6] OJ No. L214, 13.8.1999, p.31.[back](#)

[7] OJ No. L198, 22.7.1991, p.1.[back](#)

[8] S.I. 1992/2111; amended by S.I. 1994/2286.[back](#)

[9] 1986 c.5[back](#)

[10] 1995 c.8.[back](#)

[11] 1998 c.38.[back](#)

[12] S.I. 1996/3142, amended by S.I. 1997/2969[back](#)

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