

## Welsh Statutory Instrument 2004 No. 105 (W.12)

### **The Organic Farming Scheme (Wales) (Amendment) Regulations 2004**

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#### STATUTORY INSTRUMENTS

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### **2004 No. 105 (W.12)**

#### **AGRICULTURE, WALES**

### **The Organic Farming Scheme (Wales) (Amendment) Regulations 2004**

*Made*

*20th January 2004*

*Coming into force*

*26th January 2004*

The National Assembly for Wales, being designated<sup>[1]</sup> 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 upon it by the said section 2(2), hereby makes the following Regulations:

### **Title and Commencement**

1. These Regulations may be cited as the Organic Farming Scheme (Wales) (Amendment) Regulations 2004 and come into force on 26th January 2004.

### **Amendment of the Organic Farming Scheme (Wales) Regulations 2001**

2. The Organic Farming Scheme (Wales) Regulations 2001[3] shall be amended in accordance with regulations 3 to 12 of these Regulations.

3. In regulation 1 after the word "Wales", in the second place where it occurs, there shall be inserted the words "and in relation to holdings in respect of which the National Assembly is the relevant competent authority".

4. In paragraph (1) of regulation 2 (Interpretation) -

(a) in the definition of "application" after the word "aid" there shall be inserted the words "pursuant to regulation 3 or regulation 5A as the case may be";

(b) in the definition of "certificate of registration" after the word "specifying" there shall be inserted the words ",where applicable,";

(c) in the definition of "date of acceptance" after the words "regulation 3" there shall be inserted the words "or regulation 5A as the case may be";

(d) the following definition shall be inserted after the definition of "plan" -

" "relevant competent authority" ("*awdurdod cymwys perthnasol*") means the authority which is the relevant competent authority within the meaning of the Integrated Administration and Control Regulations 1993[4];";

(e) for the definition of "specified period" the following definition shall be substituted -

" "specified period" ("*cyfnod penodedig*") means:

(i) in relation to an application under regulation 3, the period beginning with the date of acceptance and ending on the expiry of the period of five years from the date upon which the first payment becomes payable in respect of the last organic parcel which is subject of that application; or

(ii) in relation to an application under regulation 5A, the period beginning with the date of acceptance of an application for payment and ending on the expiry of the period of five years from the date upon which such payments became payable in respect of the organic parcel or parcels which are the subject of that application.".

5. After regulation 5, the following regulations shall be inserted -

**" Organic Stewardship Aid**

**5A.** - (1) Subject to the provisions of regulations 5B and 5C, the National Assembly may make annual payments of aid, known as Organic Stewardship aid, in respect of an organic parcel, to any person who is a beneficiary in respect of that organic parcel, 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 may direct to be supplied.

(2) Payments under paragraph 1 shall be made to those applicants who satisfy the conditions of eligibility set out in regulation 5B.

(3) The rate and duration, of payments referred to in paragraph (1), shall be determined in accordance with regulation 5C.

(4) Regulations 6 to 20 of these regulations shall, where applicable, apply to Organic Stewardship aid payable pursuant to paragraph (1).

**Conditions of Eligibility**

**5B.** - (1) The conditions of eligibility referred to in regulation 5A(2) are as follows -

(i) that applicants are able to satisfy the National Assembly, or will be able to satisfy it by the time any payment of aid is due to be made, that the land comprised in their application satisfies the requirements of paragraph (2);

(ii) that an application for Organic Stewardship aid shall be made in respect of not less than one hectare of land;

(iii) that at the date of an application for Organic Stewardship aid the applicant is the owner or tenant of the land which is the subject of the application and is in lawful occupation of that land;

(iv) that the applicant is not disqualified from eligibility to participate in an agri-environment scheme under either Council Regulation 1257/1999 or under the Commission Regulation;

(v) that in the case of applicants who have previously been beneficiaries of aid under regulation 3, the conditions of eligibility for aid under that regulation have previously been complied with to the satisfaction of the National Assembly;

(vi) the applicant gives the undertakings mentioned in paragraph (3) in support of the application.

(2) The requirements referred to in paragraph (1)(i) concerning the land comprised in an application for Organic Stewardship aid are:

(i) that all such land is fully organic and has been fully

organic continuously since completion of its original conversion; and

(ii) that where the process of the conversion of such land has previously attracted aid under regulation 3, all such aid has ceased.

(3) The undertakings referred to in paragraph (1)(vi) are -

(i) before claiming Organic Stewardship aid in respect of any organic parcel, to furnish the National Assembly with a certificate of registration in respect of that organic parcel;

(ii) in respect of each organic parcel comprised in an application under regulation 5A(1), to retain a valid certificate of registration and to maintain the fully organic status, of those parcels, for the duration of the specified period;

(iii) to farm the land that is the subject of the application, for the duration of the specified period, in accordance with the proposals set out in the application under regulation 5A(1) and with UKROFS standards and the standards set out in Schedule 2;

(iv) to ensure that any organic livestock or livestock undergoing conversion which are kept on the land comprised in an application under regulation 5A(1) are kept, for the duration of the specified period, in accordance with UKROFS standards; and

(v) where at the date of the application under regulation 5A(1) the applicant has introduced organic farming on a part of the holding other than the part which is subject of the application, to ensure that other part conforms, for the duration of the specified period, to UKROFS standards and to continue with organic farming on that other part of the holding in accordance with UKROFS standards and the standards set out in Schedule 2.

#### **Determination of amount of Organic Stewardship aid and periods for which aid is paid**

**5C.** - (1) In respect of each organic parcel which is the subject of an application under regulation 5A (1) payments shall be made in respect of the specified period.

(2) Organic Stewardship aid shall not be payable in respect of an application in respect of any period before the date of acceptance.

(3) An application for Organic Stewardship aid 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) Payments under regulation 5A(1) shall be calculated in accordance with Part 1A of Schedule 1."

**6.** In regulation 6 (Restrictions on the acceptance of applications), in paragraph 1, after the word "application" there shall be inserted the following words "under regulation 3".

**7.** In regulation 7 (Restrictions on payment of aid), in paragraph (4), after the word "Aid" there shall be inserted the words "under regulation 3".

**8.** In regulation 10 (Power to vary undertakings), in paragraph (1), after the alphanumeric reference "5(1)(d)", there shall be inserted the alphanumeric reference "5B(1)(vi)".

**9.** In regulation 12 (Change of occupation) -

(a) in paragraph 3(b), after the alphanumeric reference "5(1)(a), (b) and (c)" there shall be inserted the words, and alphanumeric reference "and in regulation 5B(1)";

(b) in paragraph 4, before the word "Providos", there shall be inserted the following words "Insofar as they relate to aid payable under regulation 3";

(c) in paragraph 6(c), after the alphanumeric reference "5(1)(a), (b)(ii) and (d)" there shall be inserted the following words and alphanumeric reference "and in regulation 5B(1)(ii), (iv) and (vi)".

**10.** In regulation 16 (Withholding and recovery of aid, termination and exclusion) -

(a) in paragraph (1), for the words "in relation to this scheme" there shall be substituted the words "under these Regulations";

(b) in paragraph (2), for the words "this scheme" there shall be substituted the words "these Regulations".

**11.** In Part 1 of Schedule 1 (Payment in Respect of an Organic Parcel) -

(a) in paragraph 1 (AAPS eligible land and permanent crops), in the lines indicated by the Roman numerals "(iv)" and "(v)", the figure of "£35" shall be substituted for the figure of "£20";

(b) in paragraph 2 (Enclosed land), in the lines indicated by the Roman numerals "(iv)" and "(v)", the figure of "£35" shall be substituted for the figure of "£15";

(c) in paragraph 3 (Unenclosed land and grazed woodland), in the lines indicated by the Roman numerals "(iii)", "(iv)" and "(v)", the figure of "£10" shall be substituted for the figure of "£5";

(d) after the table in paragraph 3, the following table shall be inserted -

" PART 1A

Annual Organic Stewardship Aid in respect of Organic Parcels

1. AAPS eligible land and permanent crops	- £35 per hectare
2. Enclosed land	- £35 per hectare
3. Unenclosed land and grazed woodland	- £10 per hectare".

(e) in the following line after "In Part 1" there is inserted "and Part 1A".

**12.** In Schedule 2:

(a) after the words and alphanumeric reference "regulation 5(2)(b)(ii), (iv) and (v)" there shall be inserted the words and alphanumeric reference "and regulation 5B(3)(iii) and (v)".

(b) the following paragraph shall be substituted for paragraph 10 -

" **10.** The beneficiary shall abide by the terms of the following Codes of Good Agricultural Practice<sup>[5]</sup>:

(i) The Code of Good Agricultural Practice for the Protection of Air (1992, (revised 1998)), published by the Ministry of Agriculture, Fisheries and Food and the Welsh Office Agriculture Department<sup>[6]</sup>;

(ii) The Code of Good Agricultural Practice for the Protection of Water (1991 (revised 1998)), published by the Ministry of Agriculture, Fisheries and Food and the Welsh Office Agriculture Department<sup>[7]</sup>;

(iii) The Code of Good Agricultural Practice for the Protection of the Soil (1992 (revised 1998)), published by the Ministry of Agriculture, Fisheries and Food and the Welsh Office Agriculture Department<sup>[8]</sup>;

(iv) The Code of Good Agricultural Practice for the Safe Use of Pesticides on Farms and Holdings 1998, published by the Ministry of Agriculture, Fisheries and Food and The Health and Safety Commission<sup>[9]</sup>".

Signed on behalf of the National Assembly for Wales under section 66(1) of

the Government of Wales Act 1998[10].

*D. Elis-Thomas*

The Presiding Officer of the National Assembly.

20th January 2004

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 26th January 2004, amend the Organic Farming Scheme (Wales) Regulations 2001 ("the principal Regulations") so as to introduce additional aid, known as Organic Stewardship Aid ("Stewardship aid"), to be payable to eligible applicants in respect of land which has completed its organic conversion but in respect of which the applicant has provided a commitment to continue farming organically.

Regulation 3 amends the principal regulations so as to provide for their application to cross border holdings which include land situated outside of Wales.

Regulation 5 inserts provisions into the principal Regulations which:

- (a) enable the National Assembly to make payments of Stewardship aid subject to specified conditions;
- (b) specify the conditions of eligibility;
- (c) specify the rate and duration of Stewardship aid;
- (d) provide for the administrative and enforcement provisions of the principal Regulations to apply to Stewardship aid.

Regulations 4, 6, 7, 8, 9, 10 and 12 provide amendments to the principal Regulations consequent upon, and incidental to, the introduction of Stewardship aid.

The Regulations also amend the principal Regulations so as to increase the payment rate for organic farming aid payable under regulation 3 of the principal Regulations in respect of the fourth, fifth (and in respect of unenclosed land and grazed woodland), third, year of claim (regulation 11(a), (b) and (c)).

Regulation 11(d) inserts into the principal Regulations a new part, ("Part 1A"), to Schedule 1, which sets out the payment rates for Stewardship aid.

A Regulatory Appraisal has been prepared and deposited in the Library of the National Assembly. A copy may be obtained from the Food and Farming Development Division, Welsh Assembly Government, 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] S.I. 2001/424 (W.18).[back](#)

[4] S.I. 1993/1317, amended by S.I. 1994/1134, 1997 /1148, 1999/1820 and 2000/2573.[back](#)

[5] All Codes are available free of charge from the National Assembly for Wales, Agriculture and Rural Affairs Department, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ.[back](#)

[6] Reference number PB 0618.[back](#)

[7] Reference number PB 0587.[back](#)

[8] Reference number PB 0617.[back](#)

[9] Reference number PB 3528.[back](#)

[10] 1998 c.38.[back](#)

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