

Statutory Instrument 1994 No. 1712

The Organic Farming (Aid) Regulations 1994

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STATUTORY INSTRUMENTS

1994 No. 1712

AGRICULTURE

The Organic Farming (Aid) Regulations 1994

<i>Made</i>	<i>29th June 1994</i>
<i>Laid before Parliament</i>	<i>1st July 1994</i>
<i>Coming into force</i>	<i>22nd July 1994</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Community, acting jointly, in exercise of the powers conferred on them by that section, and of all other powers enabling them in that behalf, hereby make the following Regulations:

—
Title, extent and commencement

1. These Regulations may be cited as the Organic Farming (Aid) Regulations 1994, shall come into force on 22nd July 1994 and shall apply to England and Wales.

Interpretation

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

"aid" means the payments under the scheme for the granting of aid to farmers who undertake to introduce organic farming methods as specified in Article 2(1)(a) of Council Regulation 2078/92;

"application" means an application for aid made in accordance with regulation 5, and "applicant" and "apply" shall be construed accordingly;

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

"beneficiary" in relation to a holding means—

(a) a person whose application in relation to that holding has been accepted by the Minister; or

(b) a person who occupies that holding following a change of occupation of that holding and who has given an undertaking to comply with the obligations relating to that holding assumed by its previous occupier in relation to an application;

"conversion period" means the period, determined in accordance with regulation 3(4), during which organic farming is being introduced on a holding which at the date of commencement of such period is not cultivated by organic farming methods;

"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^[3] as amended^[4] ;

"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^[5] ;

"fully organic" in relation to a holding means that—

(a) notification having been given under Article 8 of Council Regulation 2092/91, details of such holding appear in the list referred to in that Article and made available by the inspection authority, and

(b) the conversion period in respect of that holding has been completed;

"holding" means land which is occupied as a unit for agricultural purposes and, except in regulations 4, 5 and 8, includes a part of such land;

"inspection authority" means the authority designated by the Organic Products Regulations 1992^[6] for the purposes of Article 8 (reception of notifications and making available updated lists with details of persons undertaking organic farming) or Article 9 (inspection system to which organic farming is subject) of Council Regulation 2092/91, as appropriate, and which has responsibility for carrying out such functions in relation to the holding in respect of which an application has been made;

"landlord" means, in relation to the tenant of a holding, any person who either solely or jointly owns or has a superior tenancy of that holding;

"less-favoured land" means land which is situated—

(a) within the area included in the list of less-favoured farming areas established under Article 2(2) of Council Directive 75/268/EEC on mountain and hill farming and farming in less-favoured areas^[7], as amended by Council Directive 80/6/EEC^[8], which list is contained in Council Directive 84/169/EEC^[9], as amended by Commission Decision 91/25/EEC^[10] ; and

(b) within the area shaded blue or shaded pink on the designated maps, as defined in regulation 2(a) of the Hill Livestock (Compensatory allowances) Regulations 1992^[11] .

"Minister" means in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Wales, the Secretary of State;

"organic farming" has the same meaning as in Article 2(1)(a) of Council

Regulation 2078/92;

"specified period" means—

- (a) the conversion period of the holding in respect of which an application is made, together with
- (b) the period of three years immediately following such conversion period;

"tenant" means a person who occupies a holding either—

- (a) under an agreement for the letting of land for a tenancy from year to year; or
- (b) under an agreement which has effect by virtue of section 2(1) of the Agricultural Holdings Act 1986^[12] as an agreement for the letting of land for a tenancy from year to year; or
- (c) under a contract of tenancy for a fixed term of years of which at least five years remain unexpired at the commencement of the specified period;

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

(2) Any reference in these Regulations to a numbered regulation or paragraph shall be construed as a reference to the regulation or paragraph so numbered in these Regulations.

Aid for Organic Farming

3.—(1) Subject to the provisions of these Regulations, the Minister may make payments of aid to an applicant who—

- (a) satisfies the conditions of eligibility specified in regulation 4; and
- (b) makes an application in accordance with regulation 5 and also complies with any requirements made by the Minister under that regulation.

(2) Payments of aid shall be restricted to—

- (a) subject to paragraphs (4) to (7) below, the specified period; and
- (b) 300 hectares per holding.

(3) Subject to paragraphs (4) to (7) below, the amount of aid payable to a beneficiary shall be calculated in accordance with the Schedule to these Regulations.

(4) For the purposes of these Regulations, the date of commencement and duration of the conversion period in relation to any holding in respect of which an application is made shall be determined by the inspection authority.

(5) Subject to paragraphs (6) and (7) below, aid shall be payable to an applicant from the date on which his application has been accepted by the Minister and notified to him in accordance with regulation 6.

(6) Subject to paragraph (7) below, where the conversion period of any holding has commenced on a date prior to the date on which the Minister has accepted an application in respect of such holding, the Minister may make payments of aid in respect of that holding from the date of commencement of the conversion period of that holding.

(7) Aid at the rate specified in the Schedule as payable for the conversion period shall not be payable in respect of any holding—

- (a) from a date prior to the date on which the application relating to that holding was received by the Minister;
- (b) for a period exceeding two years.

(8) Aid shall not be payable in respect of any holding which—

- (a) at the date of the making of an application in respect thereof, is fully organic; or
- (b) has been fully organic at any time after 9th August 1993 and before the date of the making of an application in respect thereof.

Conditions of eligibility

4.—(1) An applicant shall be eligible to make an application if—

- (a) at the date of his application, he is the lawful occupier of a holding and intends to remain in such occupation for the specified period;
- (b) at the date of his application, his holding is not less than one hectare; and
- (c) he complies with the following paragraphs of this regulation.

(2) The applicant shall—

- (a) give notification in accordance with Article 8(1)(a) of Council Regulation 2092/91 and submit his holding to inspection as required by Article 8(1)(b) of that Regulation; and
- (b) ensure that the organic farming of his holding conforms to UKROFS standards.

(3) If, at the date of his application, the applicant has introduced organic farming on a part only of his holding, he shall undertake to continue with such farming on that part of his holding for the specified period.

(4) If, at the date of his application, the applicant has not introduced organic farming on any part of his holding, he shall undertake to introduce organic farming on that holding or part thereof in respect of which he has made that application and which shall not be less than one hectare in extent, within a period of twelve months from the date of such application, or such longer period as the Minister may agree with the applicant and confirm to him in writing, and to continue with such farming on that holding or part for the specified period.

(5) Where a beneficiary who proposes to undertake organic farming on a part of his holding in addition to that referred to in paragraphs (3) and (4) above makes an application in relation to such additional part of his holding, he shall undertake—

- (a) to introduce organic farming on such additional part of his holding within a period of twelve months from the date of such application, or such longer period as the Minister may agree with that beneficiary and confirm to him in writing, and
- (b) to continue with organic farming on that part of the holding as well as any other part or parts of the same holding on which organic farming has been carried on at the date of such application, whether or not aid under the scheme has been or is being paid in respect of such other part or parts, for the specified period.

(6) Where an applicant proposes to introduce organic farming on his holding or part of such holding gradually over a period of time, he shall undertake—

- (a) to carry out such farming in accordance with a plan which has been approved by the inspection authority;
- (b) not to deviate from such plan without first obtaining the approval of the inspection authority to such deviation; and
- (c) to notify the Minister without delay of any approvals referred to in sub-paragraphs (a) and (b) above together with details of such plans and variations.

(7) The undertakings referred to in paragraphs (3), (4), (5) and (6) above shall be in writing and in such form as the Minister may prescribe.

Application for aid

5.—(1) An application shall be made in writing in such form as the Minister may prescribe and shall include—

- (a) a map drawn to a scale of not less than 1:10,000 clearly showing—
 - (i) the boundaries of the applicant's holding together with its internal field boundaries;
 - (ii) the area of land, if any, comprised in such holding, on which organic farming is carried on;
 - (iii) the area of land on which organic farming is to be introduced in accordance with an undertaking given under regulation 4(4), (5) or (6);
- (b) details of the total area of the applicant's holding and of the areas of land referred to in sub-paragraphs (a)(ii) and (iii) above, as appropriate;
- (c) documentary evidence of the applicant's estate or interest in the holding described in his application;
- (d) where aid is claimed in respect of a conversion period or part of such period, written confirmation or other documentary evidence furnished by the inspection authority of the date of commencement of the conversion period and duration of such period.

(2) An application by a beneficiary who proposes to undertake organic farming on an additional part of his holding as referred to in regulations 4(5) shall be made at such time and in such form as the Minister may prescribe and shall include such information as the Minister may reasonably require.

(3) An applicant shall furnish to the Minister such further information and evidence in relation to his application as the Minister may reasonably require.

Notification by the Minister

6. Following the receipt of an application made in accordance with regulation 5 and such information and evidence as the Minister may require under that regulation, if it appears to the Minister that the applicant is entitled to aid under these Regulations the Minister shall accept such application and notify the applicant in writing—

- (a) of such acceptance,
- (b) of any undertaking or other requirement under these Regulations which has yet to be furnished or complied with by the applicant and
- (c) the date from which aid shall become payable in respect of that application.

Restrictions on acceptance of applications

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

(2) The Minister may refuse to accept an application where the Minister is

satisfied that—

(a) the use of any land in accordance with the proposals contained in that application would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or by the European Community;

(b) payment of aid under these Regulations in respect of any land on which an applicant proposes to carry on organic farming would duplicate any assistance previously given or to be given out of money provided by Parliament or by the European Community.

Change of occupation

8.—(1) Where there is a change of occupation, during the specified period, of the whole or any part of a beneficiary's holding by reason of the devolution of that holding or part on the death of that beneficiary, or otherwise—

(a) the beneficiary (or, if he has died, his personal representatives) shall within three months notify the Minister in writing of the change of occupation, and shall supply to the Minister such information relating to that change of occupation in such form and within such period as the Minister may reasonably determine;

(b) subject to the provisions of this regulation, the new occupier of that holding or part may give an undertaking to the Minister to comply, for the remainder of the specified period, with the obligations assumed by the beneficiary under an application relating to that holding.

(2) Where there is a change of occupation of part of a holding, the Minister 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 original holding, and

(b) the use to which that part is put.

(3) The Minister shall not accept an undertaking from a new occupier of a holding or part of a holding to comply with obligations assumed by a beneficiary unless the Minister is satisfied that the new occupier occupies that holding or part as an owner or tenant, or as the personal representative of the beneficiary.

(4) A new occupier who gives an undertaking to comply with the obligations assumed by the beneficiary shall supply to the Minister such information in such form and within such period following the change of occupation as the Minister may reasonably determine.

(5) Where the Minister has accepted an undertaking from a new occupier to comply with the obligations undertaken by a beneficiary—

(a) the new occupier shall be deemed to be a beneficiary; and

(b) his undertaking to comply with the obligations undertaken by the original beneficiary shall be deemed to take effect on the date of the acceptance by the Minister of that undertaking.

(6) Where within three months from the date of change of occupation a new occupier has not given an undertaking to comply with the obligations assumed by the original beneficiary, the Minister may—

(a) withhold the whole or any part of any payments of aid due to the original

- beneficiary; and
- (b) recover from that original beneficiary or his personal representatives the whole or any part of any payments of aid already made to him.

(7) Paragraph (6) above shall not apply where the change of occupation of a holding or part of a holding is the result of—

- (a) the compulsory purchase of that holding or part; or
- (b) the death of the original beneficiary, and
 - (i) that original beneficiary occupied that holding or part as a tenant; and
 - (ii) following the death of that original beneficiary the tenancy or lease under which he occupied that holding or part was terminated by the landlord.

Aid payments to be made in arrear

9.—(1) Subject to paragraph (2) below, the Minister may make payments of aid to a beneficiary by way of four payments quarterly in arrear.

(2) Where any such payment is less than Five Hundred Pounds in any year the full amount may be paid annually in arrear.

Obligation to permit entry and inspection

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

- (a) carrying out any inspection of such holding 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, an application, with a view to verifying the accuracy of any particulars given in an application or in relation thereto;
- (b) ascertaining whether the applicant has duly complied with any undertaking given by him 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) at the request of an authorised person, accompany him in making the inspection of any land and identify any area of land which is concerned in any application or in any undertaking given by a new occupier under regulation 8 to comply with the obligations undertaken by the original beneficiary.

(3) In this regulation "applicant" includes a beneficiary.

Withholding and recovery of aid

11.—(1) Where any person with a view to obtaining the payment of aid to himself or any other person, makes any statement or furnishes any information which is false or misleading in a material respect, the Minister may withhold the whole or any part of any aid payable to that person or to such other person, and may recover the whole or any part of any such aid already paid to that person or to such other person.

(2) Where a beneficiary—

- (a) fails to comply with any of his obligations under these Regulations; or
- (b) fails without reasonable excuse to permit entry or inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 10;

the Minister may withhold the whole or any part of any aid payable to that beneficiary, and may recover the whole or any part of any aid already paid to him.

(3) Before withholding or recovering any aid under regulation 8(6), or paragraph (1) or (2) above, the Minister shall—

- (a) give to the beneficiary a written explanation of the reasons for the proposed withholding or recovery; and
- (b) afford the beneficiary an opportunity of appearing before and being heard by a person appointed for that purpose by the Minister; and
- (c) consider the report by the person so appointed and supply a copy of the report to the beneficiary.

False statements

12. If any person, for the purposes of obtaining for himself or any other person any aid, knowingly or recklessly makes a statement which is false in a material particular, that person 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

13.—(1) Where a body corporate is guilty of an offence under these Regulations, 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, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, "director", in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

Gillian Shephard

Minister of Agriculture, Fisheries and Food

29th June 1994.

Signed by authority of the Secretary of State for Wales

Wyn Roberts

Minister of State, Welsh Office

28th June 1994

Notes:

[3] OJ No. L198, 22.7.91, p.1.

[4] The relevant amending instruments are Commission Regulation (EEC) No. 1535/92 (OJ No. L162, 16.6.92, p.15) and Commission Regulation (EEC) No. 2608/93 (OJ No. L239, 24.9.93, p.10).

[5] OJ No. L215, 30.7.92, p.85.

[6] S.I. 1992/2111 to which there are amendments not relevant to these Regulations.

[7] OJ No. L128, 19.5.75, p.1.

[8] OJ No. L180, 14.7.80, p.34.

[9] OJ No. L82, 26.3.84, p.67.

[10] OJ No. L16, 22.1.91, p.25.

[11] S.I. 1992/269.

[12] 1986 c. 5.