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STATUTORY INSTRUMENTS

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**2004 No. 3327 (N.I. 23)**

The Agriculture (Northern Ireland) Order 2004

- - - - - 16th December 2004

PART I  
INTRODUCTORY

**Title and commencement**

- 1.—(1) This Order may be cited as the Agriculture (Northern Ireland) Order 2004.
- (2) The following provisions of this Order come into operation one month after the date on which this Order is made—
- (a) this Part;
  - (b) Article 8 and Schedule 2;
  - (c) Part III;
  - (d) Article 12;
  - (e) paragraphs 1, 2 and 3 of Schedule 3, and Article 10(2) so far as relating thereto; and
  - (f) Article 13 and Schedule 4, so far as relating to the Queen's University of Belfast Act (Northern Ireland) 1928 (c.21) and the Horticulture Act (Northern Ireland) 1966 (c.15).
- (3) The remaining provisions of this Order come into operation on such day or days as the Department may by order appoint.

**Subordinate Legislation Made**

P1 [Art. 1\(3\)](#) power fully exercised: 1.4.2006 appointed by [{S.R. 2006/172}](#), art. 2

**Interpretation**

- 2.—(1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.
- (2) In this Order—
- “agriculture” has the same meaning as in the Agriculture Act (Northern Ireland) 1949 (c.2);
  - “the appointed day” means the day appointed under Article 1(3) for the coming into operation of Article 4;

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“the Department” means the Department of Agriculture and Rural Development;

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“the Institute” has the meaning given by Article 3(1);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33).

(3) Any power of giving directions or making determinations conferred by any provision of this Order includes power to vary or revoke any direction or determination given or made under that provision.

## PART II

### THE AGRI-FOOD AND BIOSCIENCES INSTITUTE

VALID FROM 01/04/2006

#### **The Agri-food and Biosciences Institute**

3.—(1) There shall be a body corporate to be known as the Agri-food and Biosciences Institute (in this Order referred to as “the Institute”).

(2) The function of the Institute is to undertake scientific work in the fields of—

- (a) agriculture;
- (b) animal health and welfare;
- (c) food;
- (d) fisheries;
- (e) forestry;
- (f) the natural environment; and
- (g) rural development and enterprise.

(3) In this Part references to scientific work are references to scientific work in any of those fields; and “scientific work” includes—

- (a) research and development;
- (b) the testing or analysis of any matter;
- (c) the provision of advice and information on scientific matters; and
- (d) the dissemination or application of the results of scientific research.

(4) The Department may by order amend paragraphs (2) and (3).

(5) Schedule 1 (which makes provision about the Institute) shall have effect.

VALID FROM 01/04/2006

#### **Scientific work assigned by the Department**

4.—(1) The Institute shall carry out such scientific work as may be assigned to it by the Department.

(2) Any scientific work carried out by the Institute by virtue of this Article is referred to in this Part as its “assigned work”.

VALID FROM 01/04/2006

### **Commercial activities**

5.—(1) In addition to its assigned work, the Institute may carry out any scientific work for any person (including the Department or any other government department) on such terms and conditions as may be agreed between the Institute and that person.

(2) Anything done by the Institute by virtue of this Article is referred to in this Part as its “commercial activities”.

VALID FROM 01/04/2006

### **Programme of work and directions**

6.—(1) The Institute and the Department—

- (a) shall for each financial year agree a programme of the Institute's proposed activities in that year in carrying out its assigned work; and
- (b) may by agreement at any time amend that programme;

and references below to the Institute's work programme for a financial year are references to the programme for that year as for the time being in force.

(2) As respects each financial year, it shall be the duty of the Institute—

- (a) to carry out the assigned work in its work programme for that year in accordance with that programme; and
- (b) not to undertake any commercial activities which would prejudice the carrying out of its work programme for that year.

(3) The functions of the Institute shall be exercised in accordance with such directions of a general or specific nature as the Department may give to the Institute in writing.

(4) But directions shall not be given in relation to any commercial activity of the Institute which would require the Institute to act in breach of any obligation owed to a person by virtue of an agreement under Article 5(1).

(5) Before giving any directions under paragraph (3), the Department shall consult the Institute.

(6) A transaction between a person and the Institute acting in purported exercise of its powers under this Order shall not be void by reason only that it was carried out in contravention of paragraph (2) or a direction given under paragraph (3), and such a person shall not be concerned to see or enquire whether—

- (a) the Institute is complying with paragraph (2); or
- (b) a direction under paragraph (3) has been given or complied with.

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VALID FROM 01/04/2006

### **General powers of the Institute**

- 7.—(1) The Institute may do anything which it thinks is—
- (a) appropriate for facilitating; or
  - (b) incidental or conducive to,
- the exercise of any of its functions.
- (2) In particular the Institute may—
- (a) acquire by agreement or dispose of land and other property;
  - (b) form or participate in the formation of companies;
  - (c) enter into arrangements with any other person for the carrying out by that other person of any assigned work of the Institute;
  - (d) co-operate and enter into arrangements with other persons or bodies engaged in scientific work (whether in Northern Ireland or elsewhere); and
  - (e) accept gifts, grants or other financial assistance in connection with its scientific work.
- (3) But the Institute may not, except with the approval of the Department and the Department of Finance and Personnel—
- (a) borrow money;
  - (b) dispose of land; or
  - (c) form or participate in the formation of companies.
- (4) The Institute may not enter into any such arrangement as is mentioned in paragraph (2) (c) without the approval of the Department.
- (5) An approval under this Article may be given subject to such terms and conditions as the Department or, as the case may be, the Department of Finance and Personnel thinks appropriate.

### **Transfer to the Institute of certain property, rights, liabilities and staff of Department**

8. Schedule 2 (which makes provision for the transfer to the Institute of certain property, rights, liabilities and staff of the Department) shall have effect.

VALID FROM 01/04/2006

### **Power to dissolve the Institute**

- 9.—(1) The Department may, by order made with the approval of the Department of Finance and Personnel, make provision for, and in connection with, the dissolution of the Institute.
- (2) An order under paragraph (1) may—
- (a) provide for the transfer of the functions, property, rights, liabilities and staff of the Institute to any other body or person;
  - (b) make such amendments or repeals in any statutory provision (including this Order) as appear to the Department to be necessary or expedient for giving full effect to the provisions of the order.

## Dissolution of Agricultural Research Institute

10.—(1) On the appointed day the Agricultural Research Institute of Northern Ireland is dissolved.

(2) Schedule 3 (which makes provision for the transfer of the property, rights, liabilities and staff of the Agricultural Research Institute of Northern Ireland and contains other transitional provisions relating to the Institute) shall have effect.

### Commencement Information

- II** [Art. 10](#) wholly in force at 1.4.2006; [art. 10\(2\)](#) in force for certain purposes at 17.1.2005 see [art. 1\(2\)\(e\)](#); [art. 10](#) in force at 1.4.2006 in so far as not already in force by [S.R. 2006/172](#), [art. 2](#)

## PART III

### EDUCATION AND RESEARCH IN AGRICULTURE AND RELATED SUBJECTS

#### Education and research in agriculture and related subjects

11.—(1) Section 2 of the Queen's University of Belfast Act (Northern Ireland) 1928 (c.21) (which requires the payment to the governing body of the Queen's University of Belfast in respect of each financial year of sums for defraying certain costs of the Agricultural Faculty in that year) shall cease to have effect in relation to any financial year beginning after the coming into operation of this Article.

(2) Section 5 of the Agriculture Act (Northern Ireland) 1949 (c.2) (provision for education and instruction and undertaking of research) is amended as follows.

(3) For subsections (1) to (2A) substitute—

“(1) The Department may provide, equip and maintain colleges and other institutions for the purpose of instructing persons in agriculture and related subjects.

(2) The Department may—

- (a) provide instruction in agriculture and related subjects;
- (b) arrange for the provision by others of such instruction;

and arrangements under paragraph (b) may include the provision by the Department of financial or other assistance.” .

(4) For subsection (4) substitute—

“(4) The Department may—

- (a) undertake research in agriculture and related subjects for such purposes as the Department thinks appropriate;
- (b) assist such research in any manner it thinks fit, including by the provision of financial assistance.” .

(5) At the end add—

“(5) In this section—

“financial assistance” means assistance by way of grants or loans on such conditions (including conditions as to repayment) as the Department may, with the approval of the Department of Finance and Personnel determine;

“related subjects” includes (in so far as they do not fall within the definition of agriculture)—

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- (a) the manufacture, processing, packaging, marketing and supply of food;
- (b) veterinary science and the keeping and care of animals;
- (c) the use of equipment, technology and business practices in the carrying on of agricultural activities;
- (d) the protection of the natural rural environment;
- (e) rural development and enterprise;
- (f) forestry;
- (g) fisheries;
- (h) any science or applied science relating to any of the above; and
- (i) any other subject appearing to the Department to conduce to a knowledge of the science and practice of agriculture.” .

## PART IV SUPPLEMENTARY

### Orders

**12.**—(1) No order shall be made under Article 3(4) or 9(1) unless a draft of the Order has been laid before, and approved by resolution of, the Assembly.

(2) An order under this Order may—

- (a) contain such incidental, consequential, transitional, saving or supplementary provisions as appear to the Department to be necessary or expedient for giving full effect to the provisions of the order; and
- (b) provide for a person to exercise a discretion in dealing with any matter.

(3) The Statutory Rules (Northern Ireland) Order 1979 (NI 12) shall not apply to an order under paragraph 1(1) or 2(1)(b) of Schedule 2 or paragraph 3(1) of Schedule 3.

*Article 13—Repeals*

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## SCHEDULES

VALID FROM 01/04/2006

### SCHEDULE 1

Article 3

#### THE INSTITUTE

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### SCHEDULE 2

Article 8

#### TRANSFER TO THE INSTITUTE OF CERTAIN PROPERTY, RIGHTS, LIABILITIES AND STAFF OF DEPARTMENT

##### *Transfer of certain property, rights and liabilities of the Department*

1.—(1) The Department may by order provide for the transfer to the Institute on the appointed day of any property, rights and liabilities to which the Department is entitled or subject immediately before the appointed day.

(2) Sub-paragraph (1)—

- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by virtue of that sub-paragraph; but
- (b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 2).

(3) The following sub-paragraphs apply in relation to property, rights and liabilities transferred by an order under sub-paragraph (1) and in those sub-paragraphs “the transfer” means the transfer effected by the order under sub-paragraph (1).

(4) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, the Department shall, so far as may be necessary for the purposes of the transfer, be construed as a reference to the Institute.

(5) The transfer does not affect the validity of anything done by, or in relation to, the Department before the appointed day.

(6) Anything which before the appointed day was done by or in relation to the Department shall, if in effect immediately before that date, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the Institute.

(7) Anything (including any legal proceedings) in the process of being done by or in relation to the Department immediately before the appointed day may be continued by or in relation to the Institute.

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### *Transfer of certain staff of the Department*

- 2.—(1) This paragraph applies to a person who—
- (a) immediately before the appointed day is employed in the Northern Ireland civil service wholly or mainly for the purposes of functions of the Department corresponding to those exercisable after that day by the Institute; and
  - (b) is designated by order made by the Department for the purposes of this paragraph.
- (2) The contract of employment of a person to whom this paragraph applies shall have effect from the appointed day as if originally entered into between that person and the Institute.
- (3) Without prejudice to sub-paragraph (2)—
- (a) all the rights, powers, duties and liabilities of the Department under or in connection with the contract of employment are by virtue of this paragraph transferred to the Institute on the appointed day; and
  - (b) anything done before that day by or in relation to the Department in respect of that contract or the employee is to be treated from that day as having been done by or in relation to the Institute.
- (4) If a person informs the Department that he objects to the transfer of his contract of employment under this paragraph—
- (a) sub-paragraphs (2) and (3) do not apply in relation to him; and
  - (b) his employment with the Department is terminated immediately before the appointed day.
- (5) A person is not to be treated for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) as having been dismissed by the Department by reason of—
- (a) his transfer under this paragraph; or
  - (b) the termination of his contract of employment under sub-paragraph (4).
- (6) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.
- (7) An order under this paragraph may designate a person either individually or as a member of a class or description of employees.
- (8) Before making any order under this paragraph the Department shall consult—
- (a) in the case of an order designating a person individually, that person; and
  - (b) in the case of an order designating a class or description of employees, such persons as appear to the Department to be representative of the class or description of employees concerned.
- (9) For the purposes of this paragraph where a person is employed as mentioned in sub-paragraph (1) on terms which do not constitute a contract of employment—
- (a) he shall be regarded as employed by the Department by virtue of a contract of employment;
  - (b) the terms of his employment shall be regarded as constituting the terms of that contract; and
  - (c) the reference in sub-paragraph (5) to dismissal is to termination of his employment.



SCHEDULE 3

Article 10

TRANSFER OF PROPERTY, RIGHTS, LIABILITIES AND STAFF OF ARINI, ETC.

*Introductory*

1. In this Schedule “ARINI” means the Agricultural Research Institute of Northern Ireland.

*Extinguishment of certain rights of ARINI*

2. References in this Schedule to the rights of ARINI do not include references to any rights in relation to the occupation of land conferred by the agreements set out in the Schedules to the Agricultural Research Station Act (Northern Ireland) 1927 (c.1) and the Agricultural Research Station Act (Northern Ireland) 1931 (c.20); and those rights are extinguished on the appointed day.

*Transfer of certain property of ARINI to Department*

- 3.—(1) At any time before the appointed day, the Department may by order transfer any property to which ARINI is entitled, and any rights and liabilities to which ARINI is entitled or subject in connection with that property, to the Department.

- (2) Sub-paragraph (1)—

- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but
- (b) does not apply to rights and liabilities under a contract of employment.

- (3) The following sub-paragraphs apply in relation to property, rights and liabilities transferred by an order under sub-paragraph (1) and in those sub-paragraphs—

“the transfer” means the transfer effected by the order under sub-paragraph (1); and

“the transfer date” means the date on which the transfer takes effect.

- (4) In the construction and for the purposes of any statutory provision or other document passed or made before the transfer date, any reference to, or which is to be construed as a reference to, ARINI shall, so far as may be necessary for the purposes of the transfer, be construed as a reference to the Department.

- (5) The transfer does not affect the validity of anything done by, or in relation to, ARINI before the transfer date.

- (6) Anything which before the transfer date was done by or in relation to ARINI shall, if in effect immediately before that date, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the Department.

- (7) Anything (including any legal proceedings) in the process of being done by or in relation to ARINI immediately before the transfer date may be continued by or in relation to the Department.

VALID FROM 01/04/2006

*Transfer of property, rights and liabilities  
of ARINI to the Institute on appointed day*

- 4.—(1) All property, rights and liabilities to which ARINI is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this sub-paragraph vest in, the Institute.

- (2) Sub-paragraph (1)—

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- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but
  - (b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 5).
- (3) The following sub-paragraphs apply in relation to property, rights and liabilities transferred to the Institute under sub-paragraph (1).
- (4) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, ARINI shall, so far as may be necessary for the purposes of this paragraph, be construed as a reference to the Institute.
- (5) Nothing in this paragraph affects the validity of anything done by, or in relation to, ARINI before the appointed day.
- (6) Anything which before the appointed day was done by or in relation to ARINI shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the Institute.
- (7) Anything (including any legal proceedings) in the process of being done by or in relation to ARINI immediately before the appointed day may be continued by or in relation to the Institute.

VALID FROM 01/04/2006

### *Transfer of staff of ARINI*

- 5.—(1) Subject to sub-paragraphs (2) and (3), this paragraph applies to a person who immediately before the appointed day is employed by ARINI.
- (2) This paragraph does not apply to a person if his contract of employment terminates on the day immediately before the appointed day.
- (3) Where a person—
- (a) has, prior to the appointed day, entered into a contract of employment with ARINI which is to come into effect on or after that day; and
  - (b) would, if the contract had come into operation before that day, have been a person to whom this paragraph applies,
- he shall be treated as if he were a person to whom this paragraph applies.
- (4) A contract of employment between a person to whom this paragraph applies and ARINI shall have effect from the appointed day as if originally entered into between that person and the Institute.
- (5) Without prejudice to sub-paragraph (4)—
- (a) all the rights, powers, duties and liabilities of ARINI under or in connection with the contract of employment are by virtue of this paragraph transferred to the Institute on the appointed day; and
  - (b) anything done before that day by or in relation to ARINI in respect of that contract or the employee is to be treated from that day as having been done by or in relation to the Institute.
- (6) If a person informs ARINI that he objects to the transfer of his contract of employment under this paragraph—
- (a) sub-paragraphs (4) and (5) do not apply in relation to him; and

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(b) his contract of employment with ARINI is terminated immediately before the appointed day.

(7) A person is not to be treated for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) as having been dismissed by ARINI by reason of—

(a) his transfer under this paragraph; or

(b) the termination of his contract of employment under sub-paragraph (6).

(8) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.

VALID FROM 01/04/2006

*Accounts and reports for ARINI: transitional arrangements*

6.—(1) The Institute shall make arrangements for—

(a) a statement of accounts to be prepared in relation to ARINI; and

(b) a report to be prepared on the activities of ARINI,

for the period from the end of the last complete financial year of ARINI to the day before the appointed day.

(2) The statement of accounts and report shall—

(a) be in such form; and

(b) contain such information,

as the Department may direct.

(3) The Institute shall, within such period after the appointed day as the Department may direct—

(a) have the statement of accounts audited by an auditor approved by the Department of Finance and Personnel; and

(b) publish that statement, together with the report of the auditor thereon and the report prepared under sub-paragraph (1)(b).

*Schedule 4—Repeals*

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