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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 607**

**Moorland (Livestock Extensification) (Amendment  
No. 2) Regulations (Northern Ireland) 1996**

**Amendments to the Moorland (Livestock Extensification) Regulations (Northern Ireland) 1995**

2.—(1) The Moorland (Livestock Extensification) Regulations (Northern Ireland) 1995<sup>(1)</sup> shall be amended as provided by paragraphs (2) to (6).

(2) In regulation 2(2) (Interpretation)—

(a) before the definition of “application” there shall be inserted the following definition—

““agri-environment scheme” means an arrangement which is—

(a) regulated by a statutory provision providing for the payment of aid to persons who give an undertaking or enter an agreement by reference to that statutory provision; and

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

(b) after the definition of “beneficiary” there shall be inserted the following definition—

““Commission Regulation 746/96” means Commission Regulation (EC) No. 746/96<sup>(2)</sup> laying down detailed rules for the application of Council Regulations 2078/92”;

(c) after the definition of “compensatory allowance” there shall be inserted the following definition—

“Council Regulation 2078/92” means Council Regulation (EEC) No. 2078/92<sup>(3)</sup> on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside; and

(d) in the definition of “eligible person” after sub-paragraph (b) there shall be added—

“; and

(c) is not prohibited from providing an undertaking pursuant to an agri-environment scheme either by application of a penalty pursuant to Article 20(2) of Commission Regulation 746/96 (which requires member states to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings), or by application of Article 20(3) of Commission Regulation 746/96 (which requires a person who, intentionally or by reason of gross

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(1) S.R. 1995 No. 239 as amended by S.R. 1996 No. 505

(2) O.J. No. L102, 25.4.96, p. 19

(3) O.J. No. L215, 30.7.92, p. 85 as last amended by Commission Regulation (EC) No. 2772/95 O.J. No. L288 1.12.95, p. 35, as rectified by Commission Regulation (EC) No. 1962/96, O.J. No. L259, 12.10.96, p. 7

negligence, makes a false declaration, to be excluded from all aid under Council Regulation 2078/92”;

(3) In regulation 7 (Change of occupation)—

(a) after paragraph (2) there shall be inserted the following paragraph—

“(2A) The Department shall not accept an undertaking referred to in paragraph (1)(b) unless it is satisfied that the new occupier is not prohibited from providing an undertaking pursuant to an agri-environment scheme by application of Article 10 of Commission Regulation 746/96 (which restricts duplication of aid payments), by application of penalty consequent upon Article 20(2) of Commission Regulation 746/96 (which requires member states to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings) or by application of Article 20(3) of Commission Regulation 746/96 (which requires a person who, intentionally or by reason of gross negligence, makes a false declaration, to be excluded from all aid under Council Regulation 2078/92)”;

(b) for paragraph (7) there shall be substituted—

“(7) The foregoing provisions of this Regulation shall be subject to Article 11 of Commission Regulation 746/96 (which governs transfers of holdings) and Article 12 of Commission Regulation 746/96 (force majeure)”;

(c) in paragraph (8), after the word “Where” there shall be inserted “a change of occupation of a holding or part of a holding is the result of the compulsory purchase of that holding or part, and”.

(4) In regulation 8 (Amounts of aid and claims) for paragraph (1) there shall be substituted—

“Subject to the provisions of these Regulations, of Article 20(3) of Commission Regulation 746/96 (which requires a person who, intentionally or by reason of gross negligence, makes a false declaration, to be excluded from all aid under Council Regulation 2078/92) and, in respect of an application made on or after 1st January 1997, of Article 10 of Commission Regulation 746/96 (which restricts duplication of aid payments), payments of aid shall be made in respect of each year of the extensification period”.

(5) For regulation 10 (Withholding and recovery of aid and termination) there shall be substituted the following regulation—

**“Withholding and recovery of aid, termination and exclusion**

**10.—**(1) Where any person, with a view to obtaining the payment of aid under these Regulations to himself or any other person, makes any statement or furnishes any information which is false or misleading, the Department may withhold the whole or any part of any aid payable to that person or to such other person and may, subject to the provisions of Article 20 of Commission Regulation 746/96 (which provides for recovery of wrongful payments with interest, a penalty system and exclusion for false declarations), recover the whole or any part of any aid already paid to that person or to such other person.

(2) Where a beneficiary—

(a) fails to comply with any of the extensification obligations;

(b) fails without reasonable excuse to permit entry and inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 9; or

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

the Department 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 and may also, in so far as is

permitted by Article 20(2) of Commission Regulation 746/96 (which requires member States to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings), require him to pay to the Department a sum equal to no more than 10% of the aid paid or payable to the beneficiary.

(3) Where the Department takes any step specified in paragraph (1) or (2) it may also treat as terminated the undertakings given by the beneficiary under these Regulations.

(4) Where under paragraph (3) the Department treats the undertakings given by the beneficiary as terminated, in connection with any step taken under paragraph (1) or (2) it may also insofar as is consequent upon Article 20(2) of Commission Regulation 746/96, by notice in writing to the beneficiary prohibit him from providing a new undertaking or entering a new agreement under an agri-environment scheme for such period (not exceeding two years) from the date of that termination as is specified in the notice.

(5) The Department may treat the undertakings given by any beneficiary as terminated where the beneficiary receives or is entitled to receive any assistance out of moneys provided by or under any statutory provision or by the European Community and the Department is satisfied that such assistance would duplicate the payment of aid under these Regulations.

(6) Subject to Article 10 of Commission Regulation 746/96 (which applies to undertakings given after 1st January 1997 and, inter alia, prohibits duplication of aid for an undertaking) and Article 20(1) of Commission Regulation 746/96 (which requires wrongful payments to be reimbursed with interest), nothing in paragraph (5) entitles the Department to withhold any aid payable or to recover any aid already paid in respect of a period before the Department acted under that paragraph.

(7) Before taking any step specified in paragraph (2), (3) or (4) by reference to paragraph (2) (a) or any step specified in paragraph (5) the Department shall—

- (a) give to the beneficiary a written explanation of the reasons for the step proposed to be taken;
- (b) afford the beneficiary the opportunity of appearing before and being heard by a person appointed for that purpose by the Department; and
- (c) consider the report by the person so appointed and supply a copy of the report to the beneficiary”.

(6) After regulation 10 (withholding and recovery of aid and termination) there shall be added the following regulations—

#### **“Recovery of interest**

**10A.—**(1) Where a payment of aid is paid to a beneficiary by the Department and, by virtue of Article 20(1) of Commission Regulation 746/96 (which provides for recovery of wrongful payments with interest), the beneficiary is required to reimburse all or part of the payment with interest, the rate of interest shall be one percentage point above 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 20(1) of Commission Regulation 746/96.

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

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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### **Recovery of payments**

**10B.** In any case, where an amount falls to be paid to the Department by virtue of (or by virtue of action taken under) these Regulations or Commission Regulation 746/96 insofar as it relates to land subject to extensification obligations the amount so falling to be paid shall be recoverable as a civil debt”.