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STATUTORY INSTRUMENTS

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**1994 No. 947**

**The Arable Area Payments Regulations 1994**

**Title, extent and commencement**

1. These Regulations may be cited as The Arable Area Payments Regulations 1994, shall apply throughout Great Britain and shall come into force on 18th April 1994.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—  
“agricultural land” has—

- (a) in relation to land in England and Wales, the same meaning as in section 1(4) of the Agricultural Holdings Act 1986(1), and
- (b) in relation to land in Scotland, the same meaning as in section 1(2) of the Agricultural Holdings (Scotland) Act 1991(2),

“agricultural parcel” means a cultivated plot referred to in Article 2(1)(e) of Commission Regulation 2294/92 or in Article 2(e) of Commission Regulation 2295/92 or a separate piece of an area referred to in Article 4(3) of Commission Regulation 2780/92;

“arable compensatory payment” means a compensatory payment other than a compensatory payment made in respect of set-aside land;

“authorised person” means any person who is authorised by the Minister, either generally or specially, to act in matters arising under these Regulations;

“collector” has the same meaning as in Article 1 of Commission Regulation 334/93;

“combinable crop” means any crop commonly harvested using a combine harvester;

“Commission Regulation 2293/92” means Commission Regulation (EEC) No. 2293/92 laying down detailed rules for the application of Council Regulation 1765/92 with regard to the set-aside scheme referred to in Article 7(3) as amended by Regulation (EEC) No.1379/93(4) and further amended by Commission Regulation (EEC) No. 2594/93(5);

“Commission Regulation 2294/92” means Commission Regulation (EEC) No. 2294/92 on detailed rules for the application of the support system for producers of the oilseeds referred to in Council Regulation 1765/92(6), as amended by Commission Regulation (EEC) No.2890/92(7), Commission Regulation (EEC) No.819/93(8), Commission Regulation (EEC) No.1664/93(9) Commission Regulation (EEC) No.2776/93(10) and Commission Regulation (EC) 243/94(11);

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(1) 1986 c. 5.  
(2) 1991 c. 55.  
(3) OJ No. L221, 6. 8. 92, p. 19.  
(4) OJ No. L136, 5. 6. 93, p. 17.  
(5) OJ No. L238, 232. 9. 93, p. 19.  
(6) OJ No. L221, 6. 8. 92, p. 22.  
(7) OJ No. L288, 3. 10. 92, p. 10.  
(8) OJ No. L85, 6. 4. 93, p. 13.  
(9) OJ No. L158, 30. 6. 93, p. 19.  
(10) OJ No. L252, 9. 10. 93, p. 7.

“Commission Regulation 2295/92” means Commission Regulation (EEC) No. 2295/92 on detailed rules for the application of the support system for producers of the protein crops referred to in Article 6 of Council Regulation 1765/92(12), as amended by Commission Regulation (EEC) No.2891/92(13), Commission Regulation (EEC) No. 1664/93 and Commission Regulation (EC) No.3347/93(14);

“Commission Regulation 2780/92” means Commission Regulation (EEC) No. 2780/92 on the conditions for the grant of compensatory payments under the support system for products of certain arable crops(15);

“Commission Regulation 334/93” means Commission Regulation (EEC) No. 334/93 laying down detailed implementing rules for the use of land set aside for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption(16);

“Commission Regulation 2595/93” means Commission Regulation (EEC) No. 2595/93 laying down detailed rules as regards the use of land set aside for the production of multiannual raw materials for the manufacture within the Community of products not intended for human or animal consumption(17);

“compensatory payment” means a compensatory payment under Article 2(2) of Council Regulation 1765/92;

“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(18);

“Council Regulation 1765/92” means Council Regulation (EEC) No. 1765/92 establishing a support system for producers of certain arable crops(19), as amended by Council Regulations (EEC) Nos. 364/93(20) and 1552/93(21) and Council Regulations (EC) Nos.231/94(22) and 232/94(23), as read with Commission Regulation (EEC) No.3738/92(24);

“Council Regulation 3508/92” means Council Regulation (EEC) No. 3508/92 establishing an integrated administration and control system for certain Community aid schemes(25);

“eligible land” means land—

- (a) for which aid has been granted under Title I of Council Regulation (EEC) No.2328/91(26) or in respect of which an application for direct payments has been accepted under Council Regulation (EEC) No.3766/91(27); or
- (b) not under permanent pasture (as defined in the Annex to Commission Regulation 2780/92), permanent crops (as defined in the same Annex), forest or non-agricultural uses on 31 December 1991;

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(11) OJ No. L30, 3. 2. 94, p. 41.  
(12) OJ No. L221, 6. 8. 92, p. 28.  
(13) OJ No. L288, 3. 10. 92, p. 12.  
(14) OJ No. L300, 7. 12. 93, p. 5.  
(15) OJ No. L281, 25. 9. 92, p. 5.  
(16) OJ No. L38, 16. 2. 93, p. 12.  
(17) OJ No. L238, 23. 9. 93, p. 21.  
(18) OJ No. L198, 22. 7. 91, p. 1.  
(19) OJ No. L181, 1. 7. 92, p. 12.  
(20) OJ No. L42, 19. 2. 93, p. 3.  
(21) OJ No. L154, 25. 6. 93 p. 19.  
(22) OJ No. L30, 3. 2. 94, p. 2.  
(23) OJ No. L30, 3. 2. 94, p. 7.  
(24) OJ No. L380, 24. 12. 92, p. 24.  
(25) OJ No. L355, 5. 12. 92, p. 1.  
(26) OJ No. L218, 6. 8. 91, p. 1.  
(27) OJ No. L356, 24. 12. 91, p. 17.

“farmer” means a farmer within the meaning of Article 1(4) of Council Regulation 3508/92 who applies to the Minister for a compensatory payment;

“farm-saved rapeseed” means seed conforming to the provisions of Article 3(1)(b) of Commission Regulation 2294/92;

“green cover” means a green cover established or, as the case may be, falling to be established in accordance with Part III of Schedule 2 of this regulation;

“green cover season” means the period commencing on 15th January and ending on 30th April;

“holding” has the same meaning as in Article 1(4) of Council Regulation 3508/92;

“land set aside for non-food purposes” means land set aside for the provision of raw materials for the manufacture within the European Community of products not primarily intended for human or animal consumption, in accordance with either Commission Regulation 334/93 or Commission Regulation 2595/93;

“legal requirement”, in relation to a farmer, means an obligation which the Minister is satisfied is legally binding on the farmer;

“the Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to Wales or Scotland, the Secretary of State for Wales or Scotland as the case may be;

“non-rotational set-aside land” means land set aside in accordance with the provisions of Article 3a(1) of Commission Regulation 2293/92;

“organic waste” means any waste material produced by or from animals or plants as a by-product of agricultural production, including animal bedding;

“permitted agricultural production” means—

- (a) the production of products for non-food purposes in accordance with Commission Regulation 334/93 or Commission Regulation 2595/93; or
- (b) during the period commencing on 1st September and ending on 14th January only and to the extent not prohibited by Article 3(3) of Commission Regulation 2293/92, the use of set-aside land for keeping animals and feeding animals and the harvesting of crops from that land provided that no payments or benefit in kind is received by the farmer in respect of such use or harvesting;

“processor” means a processor referred to in Article 11 of Commission Regulation 334/93;

“production region” has the same meaning as in Article 3 of Council Regulation 1765/92;

“rotational set-aside land” means land, other than non-rotational set-aside land, set aside in order to satisfy the conditions specified in Article 3(4) of Commission Regulation 2293/92;

“seed crop” means a crop grown so that the seed of the crop may be harvested and sown to establish a further crop;

“set aside” means withdraw from agricultural production other than permitted agricultural production;

“set-aside compensatory payment” means a compensatory payment made in respect of set-aside land, as provided for in Article 7(5) of Council Regulation 1765/92;

“set-aside land” means non-rotational set-aside land or rotational set-aside land;

“set-aside period” means the period commencing on 15th January and ending on 31st August during which rotational set-aside land must remain set aside in accordance with Article 3(4) of Commission Regulation 2293/92;

“shallow cultivate” means cultivate to a depth of no more than 7 centimetres;

“sharefarming agreement” means an agreement for the use of agricultural land for the purposes of a farming enterprise, made between the owner of that land (including a person entitled for a term of years certain or other limited estate) and a farmer who does not have a right to exclusive possession of that land or any legal interest or charge in or over it, under which—

- (a) the relationship between the contracting parties is not of partnership or employer and employee or landlord and tenant;
- (b) the respective liabilities of the contracting parties for the farming enterprise remain separate and defined in the agreement;
- (c) the contracting parties have joint responsibility for planning and managing the farming enterprise; and
- (d) each contracting party’s reward for participation in the farming enterprise is an agreed share of the output from that enterprise, including agricultural produce of all kinds produced on or from the land and, in any case where produce is sold on behalf of each party to the sharefarming agreement, revenues from such sale;

“specified control measure” means any check, test, verification, inspection, investigation, control or other operation in relation to arable land which a Member State is required to carry out under Council Regulation 3508/92 or Title IV of Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(28);

“specified raw materials” means the raw materials, listed in Annex I to Commission Regulation 334/93 and in Annex I to Commission Regulation 2595/93, produced on land set aside for non-food purposes;

“vernacular building” means a building of a design or style traditional in its locality;

“waste” means any type of agricultural, industrial or domestic waste.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

### **Production regions**

**3.** For the purposes of Article 3 of Council Regulation 1765/92, the production regions in Great Britain shall be—

- (a) England;
- (b) land in Wales which is included in the list of less-favoured farming areas adopted by the Council of the European Communities under Article 2(2) of Council Directive 75/268/EEC(29) on mountain and hill farming in less-favoured areas, which list is contained in Council Directive 84/169/EEC(30), as amended by Commission Decision 91/25/EEC(31) made as provided by Article 2(3) of Council Directive 75/268/EEC as amended by Council Directive 80/666/EEC(32);
- (c) all other land in Wales;
- (d) land in Scotland which is included in the list described in paragraph (b) above; and
- (e) all other land in Scotland.

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(28) OJ No. L391, 31. 12. 92, p. 36.

(29) OJ No. L128, 19. 5. 75, p. 1.

(30) OJ No. L82, 26. 3. 84, p. 67.

(31) OJ No. L16, 22. 1. 91, p. 25.

(32) OJ No. L180, 14. 7. 80, p. 34.

### **Calculation of projected regional reference amount**

4. For the purposes of Article 5(1)(c) of Council Regulation 1765/92, the projected regional reference amount shall be calculated by comparing the oilseeds yield for each production region with the average oilseeds yield for the Community of 2.36 tonnes per hectare.

### **Minimum size of agricultural parcel**

5.—(1) Subject to paragraph (2) below, for the purposes of Article 2(1)(e) of Commission Regulation 2294/92, Article 2(e) of Commission Regulation 2295/92 and Article 4(3) of Commission Regulation 2780/92, the minimum size of an agricultural parcel for which an arable compensatory payment may be made shall be 0.10 hectare.

(2) In the case of a plot of land used for seed production or research, the minimum size of an agricultural parcel for which an arable compensatory payment may be made shall be 0.01 hectare.

### **Derogation from requirement to have farmed for two years land set aside**

6. For the purposes of Article 3(4) of Commission Regulation 2293/92, the special cases where a farmer shall be entitled to claim set-aside compensatory payment on land which he has not farmed for the two years prior to the commencement of the set-aside period, shall be—

- (a) in relation to land in England or Wales, those specified in Schedule 1, Part I; and
- (b) in relation to land in Scotland, those specified in Schedule 1, Part II.

### **Derogation from requirement to set aside land in the production region where the related arable land is situated**

7.—(1) For the purposes of the first paragraph of Article 4(2) of Commission Regulation 2293/92, paragraphs (2), (3) and (4) below shall apply where a farmer farms land in more than one production region.

(2) Where a farmer would be required (but for this provision) to set aside up to 2 hectares of land in any particular production region, he may set aside the required area of land in any one or more of the production regions in which he farms.

(3) Where a farmer would be required (but for this provision) to set aside land in any particular production region, and part or all of the land he farms in another production region is contiguous to any land he farms in the first production region, he may set aside the required area of land or any part of it anywhere in that contiguous area of land.

(4) Where a farmer would be required (but for this provision) to set aside land in any particular production region and the cereals yield in that region and in any other production region or regions in which he farms is the same, he may set aside the required area of land in any one or more of those production regions.

(5) For the purposes of paragraph (4) above, the cereals yield of a production region is the cereals yield calculated in accordance with Article 3(2) of Council Regulation 1765/92.

### **Requirements in relation to set-aside land**

8.—(1) A farmer shall, subject to paragraphs (3) and (4) below, comply with the requirements set out in Part I of Schedule 2 in relation to his rotational set-aside land, and with the requirements set out in Part II of Schedule 2 in relation to his non-rotational set-aside land.

(2) Part III of Schedule 2 has effect for the purposes of supplementing Parts I and II thereof.

(3) If a farmer uses set-aside land for the provision of specified raw materials he—

- (a) shall not be required to comply with any provision of Schedule 2, but

(b) shall comply with the requirements set out in Schedule 3, in relation to that land.

(4) A farmer shall be exempt from any requirement set out in Schedule 2 or 3 in relation to particular set-aside land, if he satisfies the Minister that he should not be required to comply with it for any of the following reasons:

- (a) to facilitate research into the effect of the observance of particular methods of managing set-aside land;
- (b) for environmental reasons;
- (c) in the case of an educational establishment, to facilitate the fulfilment of its educational purpose;
- (d) because during the set-aside period—
  - (i) a pipeline, cable or pylon is or will be laid through, or constructed on or across, the particular set-aside land and the farmer cannot reasonably prevent that laying or construction, provided that, in the case of land set aside as rotational set-aside land, laying or construction was not already in progress on the date on which the land was set aside;
  - (ii) maintenance of a pipeline, cable or pylon which the farmer cannot reasonably prevent is or will be carried out on the particular set-aside land; or
  - (iii) an archaeological excavation is or will be carried out on the particular set-aside land;
- (e) for reasons of human or animal health or safety; or
- (f) because, at the time at which compliance with that requirement would otherwise be required, it is likely that the cost or difficulty of complying with that requirement would be disproportionately high in comparison with the environmental benefit which compliance with that requirement would yield.

(5) The Minister may specify that any exemption granted pursuant to paragraph (4) above shall be effective only until a date, or the occurrence of a particular event, specified in the exemption.

### **Requirements in relation to rapeseed**

9.—(1) A farmer who sows farm-saved rapeseed on his holding shall not be entitled to receive compensatory payments in respect of the land sown with that seed unless that seed is qualifying seed and has been cleaned and dressed separately from any farm-saved rapeseed of a different variety produced on that holding and from seed not produced on that holding.

(2) For the purposes of paragraph (1) above seed is qualifying seed if it was harvested—

- (a) during the pre-sowing harvest; or
- (b) subject to paragraph (3) below, during the harvest immediately preceding the pre-sowing harvest.

(3) Seed harvested during the harvest immediately preceding the pre-sowing harvest is qualifying seed for the purposes of paragraph (1) above only if—

- (a) climatic conditions during the pre-sowing harvest were such that it was either not possible to harvest farm-saved rapeseed or not possible to clean and dress it as specified in paragraph (1) above or to obtain the results of the mandatory analysis, before the time at which it would be necessary to sow seed in order to obtain a successful crop; and
- (b) the farmer has informed the seed sampler, before sowing such seed, that he intended to sow it because the conditions of sub-paragraph (a) above were satisfied.

(4) A farmer—

- (a) who sows—
  - (i) a crop of high erucic acid rapeseed within 100 metres of a previously sown crop of OO rapeseed, or
  - (ii) a crop of OO rapeseed within 100 metres of a previously sown crop of high erucic acid rapeseed, shall not be regarded as having sown the crop sown later; and
- (b) who, where sub-paragraph (a) applies, sowed both crops, shall not be regarded as having sown either crop,

in accordance with locally recognised standards as required by Article 2(1)(d) of Commission Regulation 2294/92.

- (5) For the purpose of this regulation;
  - (a) the “pre-sowing harvest” is the harvest immediately preceding the autumn or spring in which the seed is sown;
  - (b) the “seed sampler” is an appointed agent of the Minister whom the Minister has authorised by letter to take the samples required for mandatory analysis;
  - (c) a “mandatory analysis” is the analysis required by Annex III of Commission Regulation 2294/92 to ensure that farm-saved rapeseed to which Article 3(1)(b) of that Regulation applies conforms to the minimum quality criterion specified in that Annex; and
  - (d) “OO rapeseed” is any variety of oilseed rape listed in Annex II to Commission Regulation 2294/92.

#### **Keeping and retention of records by a farmer**

**10.**—(1) A farmer shall keep all invoices, seed labels, sales and delivery notes relating to seed planted on land in respect of which he makes an application for compensatory payment, and retain them for 4 years from the end of the year of harvest relating to that seed.

(2) A farmer who sows farm-saved seed shall keep and retain for 4 years from the end of the year of harvest relating to that seed—

- (a) all invoices, seed labels, sales and delivery notes relating to the seed which produced the crop from which the farm-saved seed was obtained; and
- (b) all invoices and delivery notes relating to the cleaning and dressing of the farm-saved seed.

(3) Where a farmer claims a compensatory payment in respect of land set aside for non-food purposes, he shall keep all delivery notes relating to the crop grown on that land and retain them for 4 years from the end of the year of harvest relating to that crop.

(4) For the purposes of this regulation—

- (a) the year of harvest relating to seed is the calendar year in which the crop grown from that seed is harvested, destroyed or otherwise removed from the land, and the year of harvest relating to any crop is the calendar year in which that crop is harvested, destroyed or otherwise removed from the land; and
- (b) “farm-saved seed” is seed which is the product of a harvest on the holding on which it is sown.

#### **Keeping and retention of records by a collector and by a processor**

**11.**—(1) This regulation applies where a farmer claims a compensatory payment in respect of land set aside for non-food purposes, other than non-rotational set-aside land used for the production of multiannual raw materials in accordance with the provisions of Commission Regulation 2595/93.

(2) A collector shall keep records of the quantity of all specified raw materials produced on that land, which he has purchased and sold for processing, and the names and addresses of all subsequent buyers or processors to whom he has sold those specified raw materials.

(3) A collector shall retain the records referred to in paragraph (2) above for the shorter of—

- (a) three years from the date on which he delivers to a processor the specified raw materials to which those records relate, with a view to their being processed to obtain one or more of the products mentioned in Annex II to Commission Regulation 334/93; or
- (b) seven years from the date of creation of those records.

(4) A processor shall keep records showing on a daily basis in relation to specified raw materials so produced—

- (a) the quantity of all specified raw materials purchased by him for processing;
- (b) the quantity of specified raw materials processed by him together with the quantity and type of products and by-products obtained from the processing;
- (c) the losses of specified raw materials resulting from processing;
- (d) the quantity of specified raw materials destroyed, if any, together with the reason for such destruction;
- (e) the quantity and type of products and by-products sold or otherwise disposed of by him and the price obtained; and
- (f) the names and addresses of all subsequent buyers or processors to whom he sells the specified raw materials or products or by-products of processing.

(5) A processor shall retain the records referred to in paragraph (4) above for two years from the date on which he processes, destroys, sells or otherwise disposes of, as the case may be, specified raw materials to which those records relate.

### **Reduction of compensatory payments for breach of Schedule 2 and 3**

**12.**—(1) In the event of a breach by a farmer of any requirement referred to in Schedule 2, other than the requirements referred to in paragraph 11 of Part I of Schedule 2 and paragraph 20 of Part II of Schedule 2, the set-aside compensatory payment shall be reduced by £100 for each hectare of land in respect of which any requirement is breached.

(2) In the event of a breach by a farmer of the requirements referred to in paragraph 11 of Part I of Schedule 2, paragraph 20 of Part II of Schedule 2 or paragraph 1 of Schedule 3, the set-aside compensatory payment he shall be entitled to receive shall be reduced by £100 for each feature referred to in that paragraph which he destroys, damages or removes.

(3) In the event of a breach by the farmer of any requirement referred to in paragraphs 2 to 4 of Schedule 3, no set-aside compensatory payment shall be paid in respect of the land no longer to be used for the provision of specified raw materials.

### **Rate of interest where compensatory payments fall to be returned**

**13.**—(1) This regulation applies where any compensatory payment is paid to a farmer by the Minister and, by virtue of Article 14(1) of Commission Regulation (EEC) No.3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes, the farmer is required to reimburse all or part of that payment.

(2) Except where the Minister recovers from any person any compensatory payment made as a result of the error of that Minister, interest shall be charged at the rate of one percentage point above LIBOR on a day to day basis for the period specified in that Article on the amount falling to be so reimbursed.



(3) For the purposes of paragraph 2 above, LIBOR has the same meaning as in Schedule 1 to the Fossil Fuel Levy Regulations 1990(33).

### **Powers of authorised persons**

**14.**—(1) An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of—

- (a) carrying out any specified control measure; or
- (b) ascertaining whether an offence under these Regulations has been or is being committed.

(2) An authorised person may enter any premises, other than premises used only as a dwelling, which are, or which such person has reasonable cause to believe to be, occupied by, or in the possession of, a farmer, collector or processor or an employee or agent of a farmer, collector or processor.

(3) An authorised person who has entered any premises by virtue of this regulation may—

- (a) inspect all or any part of the land farmed or set aside by a farmer;
- (b) inspect any crops growing on that land or kept on it.

(4) An authorised person may—

- (a) require any farmer, collector or processor or any employee or agent of a farmer, collector or processor to produce any record and to supply such additional information in that person's possession or under his control relating to an application for a compensatory payment as the authorised person may reasonably request;
- (b) inspect any such record and, where any such record is kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with that record;
- (c) require that copies of, or extracts from, any such record be produced;
- (d) seize and retain any such record which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such record is kept by means of computer, require it to be produced in a form in which it may be taken away.

(5) An authorised person entering any premises by virtue of this regulation may take with him such other persons as he considers necessary and sub-paragraphs (2), (3) and (4) above shall apply to such persons, when acting under the instructions of an authorised person, as if they were an authorised person.

### **Assistance to authorised persons**

**15.** A farmer, collector or processor or any employee or agent of a farmer, collector or processor shall give to an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred upon him by regulation 14.

### **Offences and penalties**

**16.**—(1) If any person fails to comply with an obligation imposed on him by regulation 10 or 11 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person—

- (a) intentionally obstructs an authorised person (or any person accompanying him and acting under his instructions) in the exercise of a power conferred by regulation 14; or
- (b) fails without reasonable excuse to comply with a request made under regulation 15,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any person for the purpose of obtaining the whole or any part of a compensatory payment or in purported compliance with any requirement imposed in accordance with regulation 14(4) knowingly or recklessly makes a statement which is false or misleading in a material respect, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Proceedings for an offence under paragraph (1), (2) or (3) above may, subject to paragraph (5) below, in England and Wales be brought, and in Scotland commenced, within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings came to his knowledge.

(5) No proceedings under paragraph (2) or (3) above shall be brought, or commenced, by virtue of this regulation more than 12 months after the commission of the offence.

(6) A certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive of that fact.

(7) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(8) In relation to proceedings in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975<sup>(34)</sup> (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

(9) Where an offence under this regulation which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(10) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (9) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(11) In paragraphs (9) and (10) above references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director or other officer of a body corporate is a reference to a partner.

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

L.S.

24th March 1994.

*Gillian Shephard*  
Minister of Agriculture, Fisheries and Food

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(34) 1975 c. 21.

24th March 1994

*Hector Monro*  
Parliamentary Under Secretary of State, Scottish  
Office