

2006 No. 200

AGRICULTURE

The Common Agricultural Policy Single Payment and Support Schemes (Set-aside) (Amendment) Regulations (Northern Ireland) 2006

Made - - - - *26th April 2006*

Coming into operation - *15th May 2006*

The Department of Agriculture and Rural Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community and in relation to the promotion of rural development, in exercise of the powers conferred on it by the said section 2(2) and every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Common Agricultural Policy Single Payment and Support Schemes (Set-aside) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 15th May 2006.

Interpretation

2.—(1) In these Regulations, “the Principal Regulations” means the Common Agricultural Policy Single Payment and Support Schemes (Set-aside) Regulations (Northern Ireland) 2005(c).

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of regulation 2 of the Principal Regulations

3. In regulation 2(1) of the Principal Regulations—

- (a) the entry defining “the Cross Compliance Regulations 2005” shall be omitted; and
- (b) for the entry defining “green cover” shall be substituted: ““green cover” means a ground covering of vegetation established or, as the case may be, falling to be established in accordance with any of the management options referred to in Paragraph 1(1) of Schedule 1”.

(a) S.I. 2000/2812 to which there are amendments not relevant to the subject matter of these Regulations and S.I. 2000/3238
(b) 1972 c. 68
(c) S.R. 2005 No. 310
(d) 1954 c. 33 (N.I.)

Amendment of regulation 4 of the Principal Regulations

4. In regulation 4(3) of the Principal Regulations, for the words “Cross Compliance Regulations 2005” there shall be substituted the words “Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) Regulations (Northern Ireland) 2005”(a).

Amendment of regulation 6 of the Principal Regulations

5. In regulation 6(5) of the Principal Regulations, for the words “31st January” there shall be substituted the words “9th February”.

Amendment of Schedule 1 to the Principal Regulations

6.—(1) Schedule 1 to the Principal Regulations shall be amended in accordance with the provisions of this paragraph.

(2) In paragraph 1(5)—

after the definition of “the following year” insert—

““herbicide” means any substance, preparation or organism prepared or used for destroying any undesired plant.”.

(3) In paragraph 7—

at the end of the paragraph insert—

“(4) In each field or part of a field to which any of the options mentioned in paragraph 1(1) is applied, a farmer shall by virtue of this provision be treated as exempt from a requirement to establish a green cover by the start of the current green cover season in any of the circumstances specified in sub-paragraphs (5) to (7).

(5) The first circumstance is where—

- (a) the farmer took all reasonable steps to establish a green cover by the start of the green cover season;
- (b) the green cover failed and the farmer could not reasonably have prevented that failure; and
- (c) the farmer establishes a green cover by means of natural regeneration after the start of the green cover season.

(6) The second circumstance is where the farmer—

- (a) sowed a crop on that land before 1st October in the previous year for harvesting on or after that date;
- (b) harvested that crop on or after that date and before the start of the green cover season; and
- (c) establishes a green cover by means of natural regeneration after the start of the green cover season.

(7) The third circumstance is where—

- (a) the farmer sowed a crop on that land before 1st October in the previous year for harvesting on or after that date;
- (b) the crop failed such that it was incapable of yielding a harvest before the start of the green cover season and the farmer could not reasonably have prevented that failure; and
- (c) the farmer establishes a green cover by means of natural regeneration after the start of the green cover season.

(a) S.R. 2005 No. 6

(8) A farmer shall, in respect of the field or part of a field where he allowed natural regeneration as referred to in sub-paragraphs (5) to (7), comply with the conditions set out in this Part which relate to the natural regeneration option.

(9) Where a farmer is treated as exempt by virtue of sub-paragraph (4) he may nevertheless establish a green cover after the start of the green cover season by sowing—

- (a) seed of a relevant kind; or
- (b) a relevant mixture of seed.

(10) Such a farmer shall, in respect of the field or part of a field where such green cover is established, comply with such of the conditions set out in this Part which relate—

- (a) where the seed sown is seed of a relevant kind, to the sown green cover option; and
- (b) where the seed sown is a relevant mixture of seed, to the wild bird cover option.”.

(4) In paragraph 9—

for the number “15” substitute the number “17”; and

(5) Substitute paragraph 12 with the following—

“**12.**—(1) Subject to sub-paragraph (2), a farmer may at any time on or after 1st July cultivate the land set aside from production for the purposes of controlling weeds.

(2) A farmer may at any time on or after 1st May cultivate organic land set aside from production for the purpose of controlling weeds.

(3) In this paragraph—

“Compendium of UK Organic Standards” means—

- (a) the Compendium of UK Organic Standards, July 2005 Edition published by the Department for Environment, Food and Rural Affairs(a); and

“Council Regulation (EEC) No. 2092/1991” means Council Regulation (EEC) No. 2092/1991(b) on organic production of agricultural products and foodstuffs as last amended by Council Regulation (EC) No. 592/2006(c);

“Organic land” means land which—

- (a) is managed in accordance with the organic production method under Council Regulation (EEC) No. 2092/1991 as it relates to land which is fully organic, or land which is in conversion under that Council Regulation, as read (in both cases) with any additional provisions set out in the Compendium of UK Organic Standards; and
- (b) is subject to the inspection system under Article 9 of Council Regulation (EEC) No. 2092/1991.”

(6) In paragraph 13, omit sub-paragraph (4).

(7) In paragraph 14(2)(a), for the words “paragraphs 11(3) and 13(4)” substitute the words “paragraph 11(3)”.

(8) After paragraph 15 insert—

“Application of pesticides to land set aside from production

16.—(1) Subject to sub-paragraph (2), a farmer shall not apply pesticides to land set aside from production during the current set-aside period.

(2) A farmer may at any time on or after 15th July apply pesticides for the purpose of making preparations for sowing.

(a) available on the Defra website; the edition specified in the substituted paragraph 12(3) is that which was available on the Defra website immediately before the coming into operation of these Regulations
(b) O.J. No. L198, 22.7.1991, p.1
(c) O.J. No. L104, 13.4.2006, p. 13

(3) In this paragraph—

- (a) “pesticide” means any substance, preparation or organism prepared or used for destroying any pest; and
- (b) “pest” means any organism harmful to plants or to wood or other plant products, and any harmful creature.

Application of herbicides to land set aside from production

17.—(1) A farmer shall not before 15th April apply a herbicide to land set aside from production unless—

- (a) it is of a type which either—
 - (i) is absorbed into a plant primarily through the leaves and stem; or
 - (ii) has been approved under regulation 5 of the Control of Pesticides Regulations (Northern Ireland) 1987(a) or under regulations 5, 7, 8 or 11 of the Plant Protection Products Regulations (Northern Ireland) 2005(b) and its application is in accordance with that approval; and
- (b) the application of it—
 - (i) is not likely to damage significantly the green cover on the land; or
 - (ii) is done prior to replacing a green cover in accordance with paragraph 13(1); or
 - (iii) is done by a spot treatment or with a wick application; or
 - (iv) is done in order to create a strip of land on which a farmer need not establish a green cover by virtue of paragraph 7(2), or to keep such a strip bare.

(2) A farmer may at any time on or after 15th April in the current year apply herbicide to land set aside from production.”.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 26th April 2006



David Small

A senior officer of the Department of Agriculture and Rural Development

(a) S.R. 1987 No. 414 as amended by S.R. 1997 No. 469
(b) S.R. 2005 No. 526

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Common Agricultural Policy Single Payment and Support Schemes (Set-aside) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 310) (“the Principal Regulations”).

The Principal Regulations make provision in Northern Ireland for the administration of Council Regulation (EC) No. 1782/2003 (O.J. No. L270, 21.10.2003, p. 1), Commission Regulation (EC) No. 795/2004 (O.J. No. L141, 30.4.2004, p. 1) and Commission Regulation (EC) No. 1973/2004 (O.J. No. L345, 20.11.2004, p. 1) in relation to the obligation to set aside land under the Single Farm Payment Scheme for farmers (“the Scheme”). The Scheme came into force on 1st January 2005.

In particular these Regulations amend Schedule 1 to the Principal Regulations in relation to the good agricultural and environmental conditions that apply to land set aside under the Scheme as follows—

- (i) they add further exemptions from the requirement to establish a green cover by the commencement of the current green cover season (regulation 6(3));
- (ii) they add a provision allowing farmers to cultivate land set aside from production on or after 1st May which is organic land, for the purposes of controlling weeds (regulation 6(5));
- (iii) they remove the restriction on grazing after the set-aside period where the green cover has been replaced (regulation 6(6)); and
- (iv) they add two new paragraphs prohibiting the use of pesticides and herbicides on land set aside from production except in the circumstances set out (regulation 6(8)).

These Regulations also make some minor and technical amendments to the Principal Regulations.