
STATUTORY INSTRUMENTS

1992 No. 695

AGRICULTURE

The Oilseeds Producers (Support System) Regulations 1992

<i>Made</i>	- - - -	<i>11th March 1992</i>
<i>Laid before Parliament</i>		<i>13th March 1992</i>
<i>Coming into force</i>	- -	<i>3rd April 1992</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2) 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 Oilseeds Producers (Support System) Regulations 1992, shall apply in Great Britain and shall come into force on 3rd April 1992.

Interpretation

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

“authorised officer” means any person (whether or not an officer of that authority) who is authorised by the competent authority, either generally or specially, to act in matters arising under these Regulations;

“the Commission Regulation” means Commission Regulation (EEC) No 615/92 laying down detailed rules for a support system for producers of soya beans, rape seed, colza seed and sunflower seed⁽³⁾;

“the competent authority”—

- (a) in relation to England, means the Minister of Agriculture, Fisheries and Food;
- (b) in relation to Scotland or Wales, means the Secretary of State;

(1) S.I.1972/1811.

(2) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48), with section 52(4) of the Criminal Justice Act 1988 (c. 33), and with S.I. 1984/447, and as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982 and amended by section 66(2) of the Criminal Justice (Scotland) Act 1987 (c. 41), and with S.I. 1984/526.

(3) OJ No. L67, 12.3.92, p.11.

“the Council Regulation” means Council Regulation (EEC) No 3766/91 establishing a support system for producers of soya beans, rape seed and colza seed and sunflower seed(4);

“oilseeds” means soya beans, rape seed, colza seed and sunflower seed;

“specified control measure” means any check, test, verification, inspection, investigation, control or other operation a Member State is required to carry out under Article 4(5) or 9 of the Council Regulation or Article 4, 6(2), 10, 11, 12, 13, 14, 16 or 17 of the Commission Regulation.

(2) Other expressions used in these Regulations have, insofar as the context admits, the same meanings as in the Council Regulation and the Commission Regulation.

(3) In these Regulations any reference to a numbered regulation shall be construed as a reference to the regulation so numbered in these Regulations.

Minimum plot size

3.—(1) Subject to paragraph (2) below, for the purposes of Article 3(1)(ii)(b) of the Commission Regulation, the minimum plot size shall be 0.1 hectares.

(2) Where seed of a type specified in Article 6(1)(d) of the Commission Regulation is sown the minimum plot size shall be 0.01 hectares.

Latest date for lodging applications for direct payment

4.—(1) For the purposes of Article 3(1)(iv) of the Commission Regulation, the latest date for the lodging of an application for a direct payment shall be the date specified for that purpose in Annex I to that Regulation.

(2) For the purposes of Article 5 of the Commission Regulation, the latest date for the lodging of a harvest declaration shall be the date specified for that purpose in Annex I to that Regulation.

Powers of authorised officers

5.—(1) An authorised officer 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 regulation 9(3) has been or is being committed.

(2) An authorised officer may enter any land, other than land used only as a dwelling, which is, or which such officer has reasonable cause to believe to be, a production holding occupied by, or in the possession of, a producer or any employee, servant or agent of a producer.

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

- (a) inspect all or any part of the land farmed by a producer;
- (b) inspect any oilseeds growing on that land or kept on it and;
- (c) where the producer’s application states that he has sown seed of a type specified in Article 6(1)(b) of the Commission Regulation, remove a sufficient quantity of seed of the type sown in order to carry out the analysis referred to in Annex V or Annex VI of that Regulation.

(4) An authorised officer entering any land by virtue of this regulation may take with him such other persons as he considers necessary.

(4) OJ No. L356, 24.12.91, p.17.

- (5) An authorised officer may—
- (a) require any producer or any employee, servant or agent of a producer to produce any record and to supply such additional information in that person's possession or under his control relating to an application for direct payment as the authorised officer 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 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 a computer, require it to be produced in a form in which it may be taken away.

Assistance to authorised officers

6. A producer or any employee, servant or agent of a producer shall give to an authorised officer such assistance as the authorised officer may reasonably request so as to enable the authorised officer to exercise any power conferred upon him by regulation 5.

Rate of interest

7. For the purposes of Article 14(6) of the Commission Regulation, interest shall be calculated at the rate of two percentage points above the sterling three months London Interbank Offered Rate on a day to day basis for the period specified in that Article.

Recovery of payments

8. A competent authority may recover from any person any payment that person is required to return under Article 14 of the Commission Regulation together with interest thereon as specified in paragraph (6) of that Article.

Offence and Penalties

9.—(1) If any person—

- (a) intentionally obstructs an authorised officer (or a person accompanying him and acting under his instructions) in the exercise of a power conferred by regulation 5; or
- (b) fails without reasonable excuse to comply with a request made under regulation 6,

he shall be guilty of an offence.

(2) A person guilty of an offence under paragraph 1 above 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 direct payment or in purported compliance with any requirement imposed in accordance with regulation 5(5)—

- (a) furnishes information which he knows to be false or misleading in a material particular; or
- (b) recklessly furnishes information which is false or misleading in a material particular,

he shall be guilty of an offence.

(4) A person guilty of an offence under paragraph 3 above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Proceedings in England and Wales for an offence under paragraphs (1) and (3) above may be brought within a period of six months from the date on which evidence sufficient in the opinion

of the competent authority to justify proceedings comes to its knowledge, and in any case within twelve months from the commission of the offence.

(6) Summary proceedings in Scotland for an offence under paragraphs (1) and (3) above may be commenced within a period of six months from the date on which evidence sufficient in the opinion of the procurator fiscal to justify proceedings comes to his knowledge, and in any case within twelve months from the commission of the offence, and proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such a warrant is executed without undue delay.

(7) A certificate purporting to be signed—

- (a) for the purposes of paragraph (5) above, by or on behalf of the competent authority, or
- (b) for the purposes of paragraph (6) above, by the procurator fiscal, shall be conclusive evidence of the date on which evidence sufficient to justify proceedings came to the knowledge of the competent authority or the procurator fiscal (as the case may be).

(8) 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.

(9) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (8) 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.

(10) In paragraphs (8) and (9) 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.

Prosecutions

10. Proceedings for an offence under these Regulations shall not, in England and Wales, be instituted except by a competent authority.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 11th March 1992.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

10th March 1992

Strathclyde
Secretary of State for Scotland

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which come into force on 3rd April and apply in Great Britain, supplement Council Regulation (EEC) No. 3766/91 establishing a support system for producers of soya beans, rape seed and colza seed and sunflower seed (OJ No. L356, 24.12.91, p.17) (“Council Regulation”) and Commission Regulation (EEC) No. 615/92 laying down detailed rules for a support system for producers of soya beans, rape seed, colza seed and sunflower seed (OJ No. L67, 12.3.92, p.11) (“Commission Regulation”).

The Council Regulation makes provision for the payment to producers of soya beans, rape seed, colza seed and sunflower seed (“oilseeds”) of payments calculated according to the area cultivated and subject to the conditions specified in that Regulation and the Commission Regulation.

These Regulations—

- (a) specify the minimum plot size in respect of which producers will be eligible for direct payments (regulation 3);
- (b) specify the latest dates for the lodging of an application for a direct payment and of a harvest declaration (regulation 4);
- (c) confer on authorised officers powers of entry, inspection, seizure and retention of records and require that they be given such assistance as they may reasonably request (regulations 5 and 6);
- (d) specify the rate of interest applicable when producers of oilseeds are required to repay payments made to them (regulation 7);
- (e) empower the competent authorities to recover payments made by them to producers (regulation 8);
- (f) create offences and penalties and provide that in England and Wales prosecutions can be brought by a competent authority only (regulations 9 and 10).