

2003 No. 1235

AGRICULTURE, ENGLAND

The Organic Farming (England Rural Development Programme) Regulations 2003

Made - - - - - *6th May 2003*

Laid before Parliament *6th May 2003*

Coming into force - - *30th May 2003*

The Secretary of State, being a Minister 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, in exercise of the powers conferred upon her by that section, hereby makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Organic Farming (England Rural Development Programme) Regulations 2003, shall apply in England and shall come into force on 30th May 2003.

Interpretation

2.—(1) In these Regulations—

“application”, unless the context otherwise requires, means an application for a conversion or maintenance grant and “applicant” shall be construed accordingly;

“beneficiary” means—

- (a) a person whose application for a conversion or maintenance grant in respect of any land has been approved by the Secretary of State, or
- (b) any other person who has an interest in that land and who has agreed with the Secretary of State to comply with the undertakings given in support of that application;

“certificate of registration” means a certificate issued by a private inspection body which specifies land which is comprised in an organic-production unit, holding or stockfarm or which is being converted to such a unit, holding or stockfarm;

“conversion grant” means a grant for converting land to an organic-production unit, holding or stockfarm;

“Council Regulation” means Council Regulation (EEC) No. 2092/91(c) of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs, as last amended by Commission Regulation (EC) No. 599/2003(d);

“date of registration” means the date on which an applicant for a conversion grant first registered with a private inspection body;

(a) S.I 1972/1811.

(b) 1972 C. 68.

(c) OJ No. L198, 22.7.1991, p.1.

(d) OJ No. L85, 2.4.2003, p.15.

“first certificate of registration” means a certificate of registration issued for the period commencing with the date of registration in respect of land which is the subject of an application for a conversion grant;

“interest”, in relation to land, means a freehold or leasehold interest in it, or a contractual licence to occupy it;

“maintenance grant” means a grant for maintaining land as an organic-production unit, holding or stockfarm;

“organic farming methods” means the methods of farming which comply with the requirements of the Council Regulation;

“specified period” means the period of five years commencing—

(a) in relation to an application for a conversion grant, with the date of registration; and

(b) in relation to an application for a maintenance grant, with the date an application is made;

“top fruit” means apples (excluding cider apple varieties), cherries, pears and plums.

(2) Other expressions used in these Regulations have the same meaning as in the Council Regulation.

Applications for grant

3. An application for a grant shall be made at such time and in such form and shall contain or be accompanied by such information as the Secretary of State may require.

Approval of application

4. The Secretary of State may approve an application in respect of which the following conditions are satisfied in respect of all the land which is the subject of an application—

(a) the common conditions of eligibility specified in regulation 5; and

(b) the additional conditions of eligibility specified in regulation 6 in relation to, as the case may be, a conversion grant or a maintenance grant.

Common conditions of eligibility

5. The common conditions of eligibility are—

(a) the application is made in respect of not less than one hectare of land;

(b) in relation to an application for grant for top fruit orchards, the land is planted with at least 80 top fruit trees per hectare;

(c) at the date of his application, the applicant has an interest in the land; and

(d) the applicant gives the undertakings specified in regulation 7 in support of his application.

Additional conditions of eligibility

6.—(1) The additional conditions of eligibility for a conversion grant are—

(a) the land has not been fully organic at any time during the period beginning on 10th August 1993 and ending with the date of registration; and

(b) the first certificate of registration is received by the Secretary of State within 12 months of the date of registration, or such longer period as the Secretary of State may determine if the Secretary of State is satisfied that any delay was caused by circumstances outside the control of the applicant.

(2) The additional conditions of eligibility for a maintenance grant are—

(a) at the date the application is made, the land has been fully converted to an organic-production unit, holding or stockfarm, as the case may be; and

(b) the applicant is not a beneficiary of a conversion grant in relation to the land.

Undertakings

7. The undertakings referred to in regulation 5(d) are—

(a) to farm the land during the specified period by organic farming methods and in accordance with the obligations set out in Schedule 1;

- (b) to comply during the specified period with any relevant requirements of Council Regulation (EC) 1257/99(a) or Commission Regulation (EC) 445/2002(b); and
- (c) except in the case of the first certificate of registration, to send to the Secretary of State a certificate of registration for each year in respect of which grant is claimed so that it is received by the Secretary of State within 12 months of the date on which it was issued.

Amount of grant

- 8.—(1) The grant payable shall be determined as follows—
- (a) in relation to a conversion grant, the total of—
 - (i) an amount calculated for each year of the specified period at the rates set out in Part 1 of Schedule 2; and
 - (ii) where paragraph (2) applies, an amount for each of the first three years of the specified period as set out in Part 2 of Schedule 2 (“the training sum”); and
 - (b) in relation to a maintenance grant, an amount calculated for each year of the specified period at the rates set out in Part 3 of Schedule 2.
- (2) This paragraph applies where an applicant—
- (a) is not receiving, and has not received, any other grant under these Regulations or aid under the Organic Farming (Aid) Regulations 1994(c), the Organic Farming Regulations 1999(d) or the Organic Farming (England Rural Development Programme) Regulations 2001(e); and
 - (b) undertakes to incur expenditure, during the specified period, of an amount equal to, or greater than, the training sum in obtaining advice or training in relation to organic farming methods.

Claims for grant

9. Claims for payment of a grant shall be made at such time and in such manner as the Secretary of State may require.

Conditions of grant

10. A beneficiary’s entitlement to receive payment of a grant in relation to any application which has been approved shall be subject to the following conditions—
- (a) that he complies with the undertakings given in support of that application; and
 - (b) that he has an interest in the land which was the subject of that application.

Amendment of the England Rural Development Programme (Enforcement) Regulations 2000/3044

11. The England Rural Development Programme (Enforcement) Regulations(f) shall be amended by inserting in Part II of the Schedule, “The Organic Farming (England Rural Development Programme) Regulations 2003”.

Revocation

12.—(1) Subject to paragraph (2), the Organic Farming (England Rural Development Programme) Regulations 2001(g) (“the 2001 Regulations”) are hereby revoked.

(a) OJ No. L160, 26.6.1999, p.80.
 (b) OJ No. L74, 15.3.2002, p.1.
 (c) S.I. 1994/1721 as amended by S.I. 1996/3109 and 1998/1606.
 (d) S.I. 1999/590 as amended by S.I. 1999/2735 and 1999/2933.
 (e) S.I. 2001/432 as amended by S.I. 2000/3139.
 (f) S.I. 2000/3044 as amended by S.I. 2001/431.
 (g) S.I. 2001/432 as amended by S.I. 2001/3139.

(2) With the exception of regulation 7(4), the 2001 Regulations shall continue to apply in relation to any applications for aid under the 2001 Regulations which were received before the date on which these Regulations come into force.

6th May 2003

Michael Meacher
Minister of State
Department for Environment, Food and Rural Affairs

SCHEDULE 1

Regulation 7(a)

OBLIGATIONS

1. Not to plough, reseed or improve, by use of drainage, manures or liming agents, heathland, grassland of conservation value, including species-rich grassland, or rough grazing.
2. To avoid localised heavy stocking in the nesting season on areas of semi-natural vegetation, including heathland, species-rich grassland and rough grazing.
3. Not to carry out field operations, such as harrowing and rolling, on species-rich grassland or rough grazing during the nesting season.
4. Not to cultivate within 1 metre of any boundary features, such as fences, hedges or walls.
5. To carry out hedge trimming in rotation, but not between 1st March and 31st August, and to maintain any stockproof boundaries using traditional methods and materials.
6. To carry out ditch maintenance in rotation, but not between 1st March and 31st August.
7. To maintain streams, ponds and wetland areas.
8. To retain any copses, farm woodlands or groups of trees.
9. To ensure that, in farming the land, no feature of historical or archaeological interest, including any area of ridge or furrow, is destroyed or damaged.

SCHEDULE 2

Regulation 8

CALCULATION OF GRANT

PART 1

Conversion grant

| | |
|---|------------------|
| 1. Top fruit orchards: | |
| <i>Column 1</i> | <i>Column 2</i> |
| (a) in the first year | £600 per hectare |
| (b) in the second year | £600 per hectare |
| (c) in the third year | £600 per hectare |
| (d) in the fourth year | £30 per hectare |
| (e) in the fifth year | £30 per hectare |
| 2. AAPS-eligible land and land planted to permanent crops: | |
| (a) in the first year | £225 per hectare |
| (b) in the second year | £135 per hectare |
| (c) in the third year | £30 per hectare |
| (d) in the fourth year | £30 per hectare |
| (e) in the fifth year | £30 per hectare |
| 3. Other improved land: | |
| (a) in the first year | £175 per hectare |
| (b) in the second year | £105 per hectare |
| (c) in the third year | £23 per hectare |
| (d) in the fourth year | £23 per hectare |
| (e) in the fifth year | £23 per hectare |
| 4. Unimproved land: | |
| (a) in the first year | £25 per hectare |
| (b) in the second year | £10 per hectare |
| (c) in the third year | £5 per hectare |
| (d) in the fourth year | £5 per hectare |
| (e) in the fifth year | £5 per hectare |

PART 2

Training sum

| <i>Column 1</i> | <i>Column 2</i> |
|--------------------|-----------------|
| In the first year | £300 |
| In the second year | £200 |
| In the third year | £100 |

PART 3

Maintenance grant

| <i>Column 1</i> | <i>Column 2</i> |
|---|-----------------|
| Top fruit orchards | £30 per hectare |
| AAPS-eligible land and land planted to permanent crops: | £30 per hectare |
| Other improved land | £23 per hectare |
| Unimproved land | £5 per hectare |

In this Schedule —

“AAPS-eligible land” means land which is “eligible land” within the meaning of the Arable Area Payments Regulations 1996(a), other than managed land;

“heath” means an area of grass, shrubs or trees growing on acidic, sandy soil;

“managed land” means, in relation to any year of the specified period, any land which, at the beginning of that year, is subject to an agreement—

- (a) which was entered into before the start of the specified period; and
- (b) under which the applicant agreed to manage the land and not to apply over a period of five years more than the respective maximum quantities of inorganic and organic fertilisers;

“the maximum quantities”, in relation to inorganic fertilisers, means, in the case of nitrogen, 75 kilograms per hectare, in the case of the phosphate fertiliser P₂O₅, 35 kilograms per hectare, and, in the case of the potassium fertiliser K₂O, 35 kilograms per hectare, and, in relation to organic fertilisers, means 25 tonnes per hectare;

“moorland” means land covered by semi-natural upland vegetation;

“other improved land” means any land other than top fruit orchards, AAPS-eligible land, land planted to permanent crops or unimproved land;

“permanent crops” means any crops which occupy the soil for a period of five years or more and yield crops over several years; and

“unimproved land” means—

- (a) moorland or heath; or
- (b) land used for grazing—
 - (i) which is managed land; or
 - (ii) which is not AAPS-eligible land and which, in the five years preceding the date of the application, received total applications of less than the respective maximum quantities of inorganic and organic fertilisers.

(a) 1996/3142, amended by S.I. 1997/2969, S.I. 1998/3169 and S.I. 1999/8.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, implement Articles 22 to 24 and 43(2) of Council Regulation (EC) 1257/1999 (OJ No. L160, 26.6.1999, p.80) and provide for the payment of grant to farmers who undertake to introduce organic farming methods or, where a farmer is already farming organically, to continue farming organically.

In both cases the farmers must comply with certain environmental prescriptions.

The Regulations specify—

- (a) the conditions upon which an application for grant may be accepted by the Secretary of State (regulations 3-7); and
- (b) the rate at which grant may be paid, and the requirements relating to claims for grant and before a payment of grant can be made (regulations 8-10).

Penalties in respect of an over-declaration of land area are provided by Article 62 of Commission Regulation (EC) 445/2002 (OJ No. L74, 15.3.2002, p.1). The Secretary of State is given a power to recover in the event of a breach of an obligation by the England Rural Development Programme (Enforcement) Regulations 2000 (S.I. 2000/3044), which also create an offence of making false or misleading statements and of obstruction of an authorised person.

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

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Programme) Regulations 2003**

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