

**2015 No. 191**

**AGRICULTURE**

**The Common Agricultural Policy Basic Payment and Support Schemes Regulations (Northern Ireland) 2015**

*Made* - - - - *27th March 2015*

*Coming into operation* - *30th April 2015*

The Department of Agriculture and Rural Development is 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 Union and in relation to matters relating to the promotion of rural development.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred on it by section 2(2) of that Act.

**Title, commencement and interpretation**

1.—(1) These Regulations may be cited as the Common Agricultural Policy Basic Payment and Support Scheme Regulations (Northern Ireland) 2015 and shall come into operation on 30th April 2015.

(2) The Interpretation Act (Northern Ireland) 1954 (c) shall apply to this Order as it applies to an Act of the Assembly.

**Interpretation**

2.—(1) In these Regulations—

“the Direct Payments Delegated Regulation” means Commission Delegated Regulation (EU) No.639/2014 supplementing the Direct Payments Regulation(d);

“the Direct Payments Implementing Regulation” means Commission Implementing Regulation (EU) No.641/2014 laying down rules for the application of the Direct Payments Regulation(e);

“the Direct Payments Regulation” means Regulation (EU) No. 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(f);

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(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) 1954 c.33 (NI).

(d) O.J. No. L 181, 20.6.2014, p.1.

(e) O.J. No. L 181, 20.6.2014, p. 74.

(f) O.J. No. L 347, 20.12.2013, p. 608, as amended by Regulation (EU) No. 1310/2013 of the European Parliament and of the Council (OJ No. L 347, 20.12.2013, p. 865).

“the European Regulations” means—

- (a) the Direct Payments Regulation;
- (b) the Direct Payments Delegated Regulation;
- (c) the Direct Payments Implementing Regulation; and
- (d) the Horizontal Implementing Regulation;

“the Horizontal Implementing Regulation” means Commission Implementing Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance<sup>(a)</sup>;

“Bank Holiday” means a day specified in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971<sup>(b)</sup>;

“working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(2) Terms used in these Regulations that are also used in any of the European Regulations have the meaning they bear in those Regulations.

## PART 1

### Basic Payment Scheme

#### Regions

3.—(1) For the purposes of Article 23(1) of the Direct Payments Regulation, Northern Ireland will be a single region.

#### Payment entitlements

4.—(1) For the purposes of Article 8(1) of the Direct Payments Implementing Regulation, the period within which the transferor of payment entitlements must notify the Department of the transfer is—

- (a) on or before 2nd May 2016, if 2016 is the first calendar year in which the transferee may include those entitlements in the transferee’s application for direct payments; or
- (b) otherwise from 3rd May of the preceding calendar year to 2nd May (both those dates included) of the first calendar year where the first calendar year is 2017 or a subsequent year in which the transferee may include those entitlements in the transferee’s application for direct payments.

(2) If, for the purposes of paragraph (1), 2nd May is not a working day, the deadline for notification is the next working day.

(3) For the purposes of Article 22(1) of the Horizontal Implementing Regulation, applications for the allocation of payment entitlements must be submitted on or before 15th May of the relevant calendar year.

#### Allocation of Payment Entitlements

5. Article 21(3) of the Direct Payments Regulation shall not be applied.

6. Article 24(1)(c) of the Direct Payments Regulation shall be applied with the exception of the last sentence of that paragraph.

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(a) O.J. No. L 227, 31.7.2014, p.69.

(b) 1971, c.80.

7. The limitations referred to in Article 24(3) of the Direct Payments Regulation shall not be applied.

8. In accordance with Article 25(4) of the Direct Payments Regulation payment entitlements with an initial unit value lower than 100% of the regional unit value in 2019 shall for claim year 2019 have their unit value increased by 71.4% of the difference between their initial unit value and 100% of the regional unit value in 2019.

9. The decrease referred to in Article 25(7) of the Direct Payments Regulation shall be applied in a linear fashion each year.

10. The initial unit value of payment entitlements as referred to in Article 26 of the Direct Payments Regulation shall be calculated in accordance with paragraph 3 of that Article.

### **Active farmers**

11.—(1) For the purposes of Article 9(4) of the Direct Payments Regulation, the maximum amount is EUR 5,000.

(2) For the purposes of point (b) of the third sub-paragraph of Article 9(2) of the Direct Payments Regulation and in accordance with the third sub-paragraph of Article 13(1) of the Direct Payments Delegated Regulation, agricultural activities are not insignificant if the eligible area of the holding for which payments are claimed or due to be granted to the person or group of persons concerned under the Basic Payment Scheme as referred to in Annex I of the Direct Payments Regulation is at least 26 hectares.

### **Minimum eligible area of holding**

12. For the purposes of Article 10(1) and (2) of the Direct Payments Regulation, no direct payments may be granted to a farmer where the eligible area of the holding for which the payments are claimed or due to be granted in accordance with Article 10(1)(b) is less than three hectares.

13. For the purposes of Article 24(9) of the Direct Payments Regulation, the minimum size per holding in respect of which a farmer may apply for an allocation of payment entitlements shall be 3 hectares.

### **Date on which eligible land must be at farmer's disposal**

14. In relation to any year in which the farmer makes a declaration in respect of parcels pursuant to Article 33(1) of the Direct Payments Regulation, the date on which those parcels must be at the farmer's disposal is 15th May.

### **Reductions**

15. For the purposes of Article 11(1) of the Direct Payments Regulation, where the direct payments to be granted to a farmer pursuant to Chapter 1 of Title III of that Regulation for a given calendar year exceed EUR 150,000, the sum in excess of that amount must be reduced by 100%.

### **Short rotation coppice**

16. For the purposes of Article 4(1)(k) and (2)(c) of the Direct Payments Regulation—

- (a) the list of planted tree species is—
  - (i) Alder (*Alnus* spp);
  - (ii) Birch (*Betula* spp);
  - (iii) Hazel (*Corylus avellana*);
  - (iv) Ash (*Fraxinus excelsior*);

- (v) Lime (*Tilia cordata*);
  - (vi) Sweet chestnut (*Castanea sativa*);
  - (vii) Sycamore (*Acer pseudoplatanus*);
  - (viii) Willow (*Salix* spp); and
  - (ix) Poplar (*Populus* spp);
- (b) the maximum harvest cycle is 5 years.

## PART 2

### Young farmer scheme

#### Young farmer

17.—(1) The payment for young farmers as referred to in Annex I of the Direct Payments Regulation shall be calculated in accordance with Article 50(8) of that Regulation.

(2) For the purposes of Article 50(9) of the Direct Payments Regulation, a single maximum limit of 90 hectares is applicable to the number of payment entitlements activated by the farmer.

## PART 3

### Greening

#### Calculation of greening payment

18. For the purposes of Article 43(9) of the Direct Payments Regulation, the payment for agricultural practices beneficial for the climate and the environment (greening payment) as referred to in Annex I of that Regulation shall be calculated in accordance with sub-paragraph 3 of that Article as a percentage of the total value of the payment entitlements that the farmer has activated in accordance with Article 33(1) of that Regulation.

#### Crop diversification

19. For the purposes of the first sub-paragraph of Article 40(1) of the Direct Payments Delegated Regulation, the most relevant part of the cultivation period in any year is 1st June to 31st July (both those dates included).

#### Environmentally sensitive permanent grassland

20.—(1) For the purposes of the first sub-paragraph of Article 45(1) of the Direct Payments Regulation, permanent grasslands in areas to which the Conservation Directives apply are designated as permanent grasslands which are environmentally sensitive.

(2) In paragraph (1)—

“the Conservation Directives” means—

- (a) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>(a)</sup>; and
- (b) Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds<sup>(b)</sup>;

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(a) O.J. No. L 206, 22.7.1992 p.7

(b) O.J. No. L 20, 26.1.2010, p.7. This instrument codifies, with minor amendments, Council Directive 1979/409/EEC as amended.

### **Ecological focus areas**

21.—(1) For the purposes of the first sub-paragraph of Article 46(2) of the Direct Payments Regulation, the areas mentioned in points (a) (land lying fallow), (e) (agro-forestry), (g) (short rotation coppice), (h) (afforested areas) and (j) (areas with nitrogen-fixing crops) and, subject to paragraph (2), point (c) (landscape features) are considered to be ecological focus areas.

(2) Landscape features which are considered to be ecological focus areas shall be limited to those features which have been specified by the Department as landscape features under GAEC 7 as referred to in the second sub-paragraph of Article 45(4) of the Direct Payments Delegated Regulation.

(3) For the purposes of Article 45(10) of the Direct Payments Delegated Regulation, nitrogen-fixing crops are those listed in the Schedule.

(4) In paragraph (2), the reference to “GAEC 7” is to the relevant standard for good agricultural and environmental condition as referred to in Annex II to Regulation (EU) No. 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the Common Agricultural Policy.

### **Revocations and savings**

22.—(1) The Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2010 (a) are revoked.

(2) Notwithstanding paragraph (1), the Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2010 as in force immediately before 2015 continue to apply in respect of aid applications relating to 2014 and earlier claim years.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 27th March 2015.



*David Small*  
A senior officer of the  
Department of Agriculture and Rural Development

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(a) S.R. 2010 No. 161

## SCHEDULE 1

Regulation 21(3)

### Ecological focus areas: Nitrogen-fixing crops for the purposes of Article 45(10) of the Direct Payments Delegated Regulation

Beans (*Vicia faba*)

Cowpeas (*Vigna*)

Green beans (*Phaseolus*)

Blue Lupin (*Lupinus angustifolius*)

Yellow Lupin (*Lupinus luteus*)

White Lupin (*Lupinus albus*)

Peas (*Pisum*)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in Northern Ireland for the administration of Regulation (EU) No.1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (OJ No. L347, 20.12.2013, p. 608) (“the Direct Payments Regulation”) and the three other associated Regulations referred to in the regulation 2(1).

Regulation 3 provides for one region in Northern Ireland for the purposes of the basic payment scheme. Regulation 4 makes provision for the period within which a transferor must notify the Department of a transfer of payment entitlements and the deadline for submitting applications for the allocation of payment entitlements from the regional reserve.

Regulations 5, 6, 7, 8, 9 and 10 detail how the European Direct Payments Regulation will be implemented in Northern Ireland, including those Articles which will not apply here.

Regulation 11 provides detail for tests to rebut the presumption that certain businesses are not entitled to receive direct payments.

Regulations 12 and 13 define the minimum eligible area for allocating entitlements and claiming payments under the Basic Payment Scheme as 3 hectares.

Regulation 14 fixes the date on which parcels used as the basis for a claim under the basic payment scheme must be at the disposal of farmers.

Regulation 15 provides for the reduction by 100% of the part (if any) of any basic payment granted to a farmer which exceeds EUR 150,000.

Regulation 16 designates the short rotation coppice trees eligible under the basic payment scheme and sets the maximum harvest cycle. Regulation 17 provides for the basis on which an increase in direct payments to qualifying farmers aged 40 or less and participating in the young farmer scheme must be calculated.

Regulation 18 sets out how greening payments will be calculated.

Regulation 19 sets out the period to be taken into account for the purposes of determining whether crop diversification requirements have been met. Regulation 20 provides for the designation of permanent grasslands which are environmentally sensitive.

Regulation 21 sets out the areas which are to be ecological focus areas (“EFAs”) and details as to the scope of the EFAs relating to landscape features and areas with nitrogen-fixing crops.

Regulation 22 revokes the Regulations which provide in Northern Ireland for the administration of the European Single Payment and Support Scheme but with a saving provision for the continued application for the Common Agricultural Policy Single Payment and Support Scheme Regulations 2010 in respect of aid applications relating to claim years before 2015.

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