

*This Statutory Instrument supersedes S.I. 1991/1399 published on 21st June 1991 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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## STATUTORY INSTRUMENTS

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**1991 No. 1590**

### **AGRICULTURE**

#### **The Crop Residues (Restrictions on Burning) (No. 2) Regulations 1991**

<i>Made</i>	- - - -	<i>10th July 1991</i>
<i>Laid before Parliament</i>		<i>11th July 1991</i>
<i>Coming into force</i>	- -	<i>12th July 1991</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, in exercise of the powers conferred on them by section 152 of the Environmental Protection Act 1990(1), hereby make the following Regulations:

#### **Title, extent and commencement**

1. These Regulations may be cited as the Crop Residues (Restrictions on Burning) (No. 2) Regulations 1991, shall extend to England and Wales and shall come into force on 12th July 1991.

#### **Interpretation**

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

“A-road” means any principal road so classified under section 12 of the Highways Act 1980(2) to which is assigned in common usage an identifying number with the prefix “A”;

“district council” includes the Council of the Isles of Scilly;

“dual carriageway” means a road part of which consists of a central reservation to separate a carriageway to be used by vehicles proceeding in one direction from a carriageway to be used by vehicles proceeding in the opposite direction;

“fire authority” means an authority discharging the functions of a fire authority under the Fire Services Act 1947(3);

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(1) 1990 c. 43; section 152(3)(c) is to be read with section 37 of the Criminal Justice Act 1982 (c. 48) and S.I. 1984/447.

(2) 1980 c. 66.

(3) 1947 c. 41. See the Local Government Act 1985 (c. 51), Schedule 11, paragraph 2, in relation to the fire authorities for Greater London and the metropolitan counties.

“fire-break” means an area of ground of which the surface consists wholly or mainly of substances other than combustible material;

“motorway” means a special road within the meaning of section 142(1) of the Road Traffic Regulation Act 1984(4) which has been declared open for use under section 1(4) of that Act; and

“scheduled monument” has the meaning assigned to that expression in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979(5).

(2) Any reference in these Regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

### **Restrictions on burning**

**3.** No person engaged in agriculture shall, on agricultural land, burn any crop residue of a kind specified in Schedule 1 remaining on the land after harvesting of the crop grown thereon, otherwise than in accordance with the restrictions and requirements set out in Schedule 2.

### **Offence**

**4.—(1)** A person who contravenes regulation 3 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 5 on the standard scale.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th July 1991.

L.S.

*Trumpington*  
Minister of State, Ministry of Agriculture,  
Fisheries and Food

*Nicholas Bennett*  
Parliamentary Under Secretary of State, Welsh  
Office

10th July 1991

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(4) 1984 c. 27.  
(5) 1979 c. 46.

## SCHEDULE 1

Regulation 3

### SPECIFIED CROP RESIDUES

Cereal straw

Cereal stubble

Residues of any of the following:

Field beans harvested dry

Linseed

Oil-seed rape

Peas harvested dry

## SCHEDULE 2

Regulation 3

### RESTRICTIONS AND REQUIREMENTS IN ACCORDANCE WITH WHICH SPECIFIED CROP RESIDUES MAY BE BURNED

1. No crop residue may be burned—
  - (a) during the period between one hour before sunset and the following sunrise; or
  - (b) on any Saturday, Sunday or bank-holiday.
2. No crop residue may be burned if the area to be burned extends, in the case of cereal straw or cereal stubble, to more than 10 hectares, and in any other case to more than 20 hectares.
3. No crop residue may be burned unless—
  - (a) the area to be burned is surrounded by a fire-break, which borders on that area and which, in the case of cereal straw or cereal stubble, shall be at least 10 metres wide and in any other case at least 5 metres wide;
  - (b) any building, structure or other thing mentioned in paragraph 4(b) or (c) below which lies within the area to be burned is surrounded by a fire-break of the relevant width referred to in sub-paragraph (a) above which borders on any crop residues which are to be burned; and
  - (c) in the case of any land (“intervening land”) between a fire-break to be established in accordance with sub-paragraph (a) or (b) above and any other land or any building, structure or other thing mentioned in paragraph 4(b), (c) or (d) below which lies within the relevant distance there mentioned of the area to be burned or, as the case may be, of any crop residues within that area—
    - (i) the intervening land is cleared of all crop residues, or
    - (ii) all crop residues on the intervening land are incorporated into the soil before burning takes place.
4. No crop residue may be burned—
  - (a) if the area to be burned is less than 150 metres from any other area in which crop residues are being burned;
  - (b) in the case of cereal straw or cereal stubble, less than 15 metres, and in any other case less than 5 metres from—
    - (i) the trunk of any tree (including any tree in coppice or scrubland);
    - (ii) any hedgerow;

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- (iii) any fence not the property of the occupier of the land upon which the burning is carried out;
- (iv) any pole which is or may be used to carry telegraph or telephone wires;
- (v) any electricity pole, pylon or substation;
- (c) in the case of cereal straw or cereal stubble, less than 50 metres, and in any other case less than 15 metres from—
  - (i) any residential building;
  - (ii) any structure having a thatched roof;
  - (iii) any building, structure, fixed plant or machinery which could be set alight or damaged by heat from the fire;
  - (iv) any scheduled monument which could be set alight by the fire;
  - (v) any stack of hay or straw;
  - (vi) any accumulation of combustible material other than crop residues removed in the making of a fire-break;
  - (vii) any mature standing crop;
  - (viii) any woodland or land managed as a nature reserve;
  - (ix) any building or structure containing livestock;
  - (x) any oil or gas installation on or above the surface of the ground; or
- (d) less than 100 metres from—
  - (i) any motorway;
  - (ii) any dual carriageway;
  - (iii) any A-road;
  - (iv) any railway line.

**5.** No crop residue may be burned unless all persons concerned in the burning operation are familiar with the provisions of these Regulations and, except where an emergency arising during the operation renders it impracticable, each area to be burned is supervised by at least two responsible adults, one of whom having experience of burning crop residues shall be in general control of the operation.

**6.** No crop residue may be burned unless, so far as is reasonably practicable, notice thereof has been given at least one hour but not more than twenty-four hours before the commencement of the burning, to—

- (a) the fire authority for the area in which the burning is to take place;
- (b) the environmental health department of the district council in whose district the burning is to take place;
- (c) the occupiers of all premises adjacent to the area to be burned; and
- (d) the air traffic control at any aerodrome with a perimeter fence within 800 metres of the area to be burned.

**7.** No crop residue may be burned unless there is available at the area being burned—

- (a) not less than 1,000 litres of water in one or more mobile containers together with means of dispensing the water for fire-fighting purposes in a spray or jet at a rate of 100 litres per minute; and
- (b) not fewer than five implements suitable for use in fire-beating.

8. No crop residue may be burned unless every vehicle used in connection with the burning is equipped with a suitable and serviceable fire extinguisher.

9. No crop residue may be burned unless reasonable precautions have been taken to ensure that the fire will not cross a fire-break.

10. Ashes of burnt cereal straw or cereal stubble shall not, without reasonable excuse, be allowed to remain on the soil for longer than 24 hours after the time of commencement of the burning, but shall be incorporated into the soil—

- (a) within that period, or,
- (b) in a case where to do so would be likely, having regard to wind conditions, to cause nuisance, as soon as conditions allow.

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## EXPLANATORY NOTE

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

These Regulations, which apply to England and Wales, impose restrictions on burning of certain crop residues on agricultural land (regulation 3). The crop residues to which the Regulations apply (Schedule 1) are:—

- (a) cereal straw,
- (b) cereal stubble, and
- (c) the residues of—
  - field beans harvested dry,
  - linseed,
  - oil-seed rape, and
  - peas harvested dry.

The Regulations impose restrictions and requirements (Schedule 2) in relation to:—

- (a) the time when residues may be burned,
- (b) the area which may be burned,
- (c) the prevention of the spread of fire,
- (d) the supervision of the burning,
- (e) the giving of notice of the burning,
- (f) the incorporation of the ash after burning.

The Regulations also create an offence of burning in contravention of the Regulations, punishable on summary conviction by a fine not exceeding level 5 on the standard scale (currently £2,000) (regulation 4).

The Regulations take the place of the Crop Residues (Restrictions on Burning) Regulations 1991 (S.I. 1991/1399) which, purporting to be made under section 152 of the Environmental Protection Act 1990 before the coming into force of that section, have no effect.

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