
STATUTORY INSTRUMENTS

1995 No. 2095

AGRICULTURE

**The Nitrate Sensitive Areas
(Amendment) (No. 2) Regulations 1995**

<i>Made</i>	- - - -	<i>8th August 1995</i>
<i>Laid before Parliament</i>		<i>9th August 1995</i>
<i>Coming into force</i>	- -	<i>30th August 1995</i>

The Minister of Agriculture, Fisheries and Food, being a Minister 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 Community, in exercise of the powers conferred by the said section 2(2) and all other powers enabling him in that behalf, hereby makes the following Regulations—

Title, commencement and extent

1.—(1) These Regulations may be cited as the Nitrate Sensitive Areas (Amendment) (No. 2) Regulations 1995 and shall come into force on 30th August 1995.

(2) These Regulations shall extend to England only.

Amendment of the Nitrate Sensitive Areas Regulations 1994

2.—(1) The Nitrate Sensitive Areas Regulations 1994⁽³⁾ shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 5 (“Land which is eligible for aid”), in paragraph (3)—

- (a) after the words “or D”, there shall be inserted “or the set-aside Option”;
- (b) at the end of subparagraph (b), the word “and” shall be deleted;
- (c) at the end of subparagraph (c), for the full stop there shall be substituted a semicolon and “and” added; and
- (d) after subparagraph (c), the following subparagraph shall be added—

(1) [S.I. 1972/1811](#).

(2) [1972 c. 68](#).

(3) [S.I. 1994/1729](#); amended by [S.I. 1995/1708](#).

- “(d) where the undertakings given or to be given include undertakings to comply with the requirements specified in the set-aside Option of Schedule 4, the conditions in paragraph (8) are satisfied.”.
- (3) In regulation 5, after paragraph (7), the following paragraph shall be added—
- “(8) the conditions referred to in subparagraph (d) of paragraph (3) are—
- (a) during the preceding 12 months the land has been—
 - (i) cultivated with the intention of producing a crop, or
 - (ii) set-aside land, or
 - (iii) subject to a premium scheme agreement; and
 - (b) on 31st December 1991, the land was not permanent grassland or woodland and was not being used for the production of a permanent crop or for any purpose other than agriculture.”.
- (4) In regulation 7 (“Undertakings by farmer”)—
- (a) in paragraph (1)(b)(ii), after the words “D or E”, there shall be inserted “or the set-aside Option”;
 - (b) in each of paragraphs (2) and (5), after the words “paragraph (1) shall”, there shall be inserted a comma followed by the words “subject to paragraph (8),”;
 - (c) in paragraph (6), after “improving”, there shall be added “or renewing”; and
 - (d) after paragraph (7), there shall be added the following paragraphs—

“(8) Paragraphs (2) and (5) shall not apply where the application is for aid under the premium arable scheme and the undertakings given or to be given include undertakings to comply with the requirements specified in the set-aside Option of Schedule 4.

(9) Where—

 - (a) the application is for aid under the premium arable scheme and the undertakings given or to be given include undertakings to comply with the requirements specified in the set-aside Option of Schedule 4;
 - (b) the land has been subject to a premium scheme agreement which included the obligations in Option A, B or C of Schedule 2 to the 1990 Order; and
 - (c) the application is made in the year in which the premium scheme agreement expires,

the farmer shall also undertake to comply with the requirement in paragraph (10) below.

(10) The requirement referred to in paragraph (9) is that the farmer will not, during the period beginning when the premium scheme agreement referred to in paragraph (9)(c) expires and ending when the undertakings referred to in paragraph (1) commence, apply nitrogen fertiliser to the land or take any other action which is likely to damage the grass sward.”.
- (5) In regulation 8 (“Restrictions on acceptance of applications for aid”)—
- (a) in paragraph (1), for “The Minister”, there shall be substituted the words “Subject to paragraphs (5) and (7), the Minister”;
 - (b) after paragraph (5), there shall be added the following paragraphs—

“(6) Where the application is for aid under the premium arable scheme and the undertakings given or to be given include undertakings to comply with the requirements specified in the set-aside Option of Schedule 4, the Minister may refuse an application for aid under these Regulations where he is not satisfied that the farmer has farmed the land

in respect of which the application is made throughout the period of 2 years immediately preceding the date when the undertakings are to commence.

(7) Where the application is for aid under the premium arable scheme and the undertakings given or to be given include undertakings to comply with the requirements specified in the set-aside Option of Schedule 4, paragraph 1(a) of this regulation shall have effect as if—

- (a) for the words ‘whole field or fields’, there were substituted the words ‘whole field or fields which, in each case, is of not less than 0.3 hectares or is bounded by a permanent boundary such as one or more of a wall, hedgerow or watercourse’; and
- (b) for the words ‘part field or part fields of not less than four hectares in each case’, there were substituted the words ‘part field or part fields which, in each case, is of not less than four hectares and is a minimum width of 20 metres throughout’.

(6) In regulation 12 (“Upgrading of scheme”), for paragraph (1)(b), there shall be substituted the following paragraph—

“(b) where a date is specified in column (2) of Schedule 7 corresponding to the original undertakings, the application is made before the date so specified;”.

(7) In Schedule 4 (“REQUIREMENTS UNDER THE PREMIUM ARABLE SCHEME”)—

- (a) in paragraph (3)(c), at the beginning, there shall be inserted the words “subject to compliance with any requirement under the set-aside Option;”;
- (b) in paragraph (3)(f), for the words “C and D”, there shall be substituted “C, D and E and the set-aside Option”; and
- (c) after the requirements in relation to “Option E”, there shall be added the following—

“Set-aside Option

- (i) The farmer shall not apply nitrogen fertiliser to the grassland or land planted with grass seed;
- (ii) the farmer shall not cut the grass during the period commencing on 1st April and ending on 15th July in any year;
- (iii) the farmer shall cut the grass to an average length of no more than 10 centimetres during the period commencing on 15th July and ending on 15th August in any year and shall ensure that the grass cuttings from that cut are not used for any commercial or agricultural purpose or (except with the previous consent in writing of the Minister) removed from the land;
- (iv) the farmer shall not allow the grass to be grazed;
- (v) the farmer shall use a seeds mixture typical for the soil type and locality approved by the Minister prior to sowing;
- (vi) the farmer shall not use the land for any non-agricultural use which is intended to produce a return (whether in money or otherwise and whether to the farmer or another person).”.

(8) In Schedule 6 (“RATES OF PAYMENT”), after paragraph 6A (“Option E— conversion of arable land to grassland with woodland”), there shall be inserted the following additional paragraph—

“Set-aside Option

6B Where the undertakings given by a farmer include undertakings to comply with the requirements set out in the set-aside Option in Schedule 4, payments under these Regulations for each hectare of land shall be at the rate of £390 per year.”

- (9) In Schedule 7 (“UPGRADING OF UNDERTAKINGS”), in the table—
- (a) in Column (3), in the entry corresponding to the entry in Column (1) for the Basic scheme, for the words “any option”, there shall be substituted the words “options A, B, C, or D”;
 - (b) in Column (1), after the entry in respect of the Premium arable scheme—Option D, there shall be inserted the following entry—

“Premium arable scheme—set-aside Option”; and
 - (c) in Column (3), corresponding to the entry in Column (1) in respect of the Premium arable scheme, set-aside Option, there shall be inserted the following entry—

“Premium arable scheme—Options A, B C, or D”.

8th August 1995

Angela Browning
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Nitrate Sensitive Areas Regulations 1994 (“the 1994 Regulations”). In addition to minor and drafting amendments, they enable rights to be enjoyed by virtue of Council Regulation (EC) No. 1460/95 (OJ No. L144, 28.6.95, p.1) amending Regulation (EEC) 1765/92 establishing a support system for producers of certain arable crops (OJ No. L181, 1.7.92, p.12; Regulation as last amended by the 1994 Act of Accession and Regulation (EC) 3290/94—OJ No. L349, 31.12.94, p.105). Article 1(2) of Council Regulation 1460/95 makes provision whereby land subject to schemes made pursuant to Council Regulation (EEC) 2078/92 (OJ No. L215, 30.7.92, p.85) may be counted as being set aside for the purposes of the set-aside requirement of Article 7(1) of Council Regulation (EEC) 1765/92. The schemes established by the 1994 Regulations have effect pursuant to Council Regulation 2078/92 but the existing options of the “premium arable scheme” do not satisfy the conditions of Council Regulation 1460/95.

2. Regulation 2 of these Regulations amends the 1994 Regulations so as to add a further option — “the set-aside Option”—to the “premium arable scheme” established by the 1994 Regulations. It provides conditions for eligibility for the set-aside Option, undertakings to be given by applicants for aid under that option, grounds on which the Minister may refuse applications, payment rates, and possibilities of upgrading to other options of the premium arable scheme.