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STATUTORY INSTRUMENTS

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**1996 No. 1480**

**AGRICULTURE**

**The Habitat (Water Fringe) (Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>6th June 1996</i>
<i>Laid before Parliament</i>		<i>7th June 1996</i>
<i>Coming into force</i>	- -	<i>30th June 1996</i>

The Minister of Agriculture, Fisheries and Food, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on him by that section, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Title and commencement and extent**

1. These Regulations may be cited as the Habitat (Water Fringe) (Amendment) Regulations 1996, shall come into force on 30th June 1996, and shall apply to England.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Habitat (Water Fringe) Regulations 1994<sup>(3)</sup>.

**Amendments to the principal Regulations**

3. The principal Regulations shall be amended in accordance with the following provisions of these Regulations.

**Amendments to regulation 2 of the principal Regulations**

4. In regulation 2(1) (interpretation) of the principal Regulations—

(a) after the definition of “arable land” there shall be inserted the following definition—

““area aid application” means the application provided for by Article 6(1) of Council Regulation (EEC) No. 3508/92 of 27th November 1992 establishing an

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(1) S.I.1972/1811.  
(2) 1972 c. 68.  
(3) S.I. 1994/1291.

- integrated administration and control system for certain Community aid schemes<sup>(4)</sup> as last amended by Council Regulation (EC) No. 3235/94 of 20th December 1994 amending, as a result of the accession of Austria, Finland and Sweden, certain regulations in the agricultural sector providing for part-financing of certain measures in favour of the new Member States<sup>(5)</sup>;
- (b) in the definition of “designated watercourse or lake” after the words “17 Smith Square, London SW1P 3JR” there shall be inserted the words “as amended by the maps marked “amending maps of the Habitat Scheme Water Fringe Areas”, dated 6th June 1996, signed by the Parliamentary Secretary to the Ministry of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at 17 Smith Square, London SW1P 3JR”;
- (c) for the definition of “eligible land” there shall be substituted the following definition—  
 ““eligible land” means an unbroken area of arable land or permanent grassland the whole or any part of the boundary of which is no more than twenty metres from an edge of a designated watercourse or lake;”
- (d) in the definition of “livestock unit”—  
 (i) the word “or” shall be deleted from the end of sub-paragraph (c);  
 (ii) at the end of sub-paragraph (d), for the word “old;” there shall be substituted the words “old, or”; and  
 (iii) after sub-paragraph (d) there shall be added the following sub-paragraph—  
 “(e) 4.35 farmed deer”;
- (e) after the definition of “the Minister” there shall be inserted the following definition—  
 ““overgrazing” means grazing land with livestock in such excessive numbers as adversely to affect the growth, quality or species composition of vegetation (other than vegetation normally grazed to destruction) on that land to a significant degree;”
- (f) after the definition of “permanent grassland” there shall be inserted the following definitions—  
 ““set-aside land” means an area of water fringe—  
 (a) which was arable land at the start of the management period;  
 (b) in relation to which an application was made on or after 28th June 1995; and  
 (c) in relation to which a beneficiary, in his application, declared that he intended to count it as being set aside for the purposes of the set-aside requirement;  
 “set-aside requirement” means the requirement indicated in Article 7(1) (dealing with the setting of areas aside) of Council Regulation (EEC) No. 1765/92 of 30th June 1992 establishing a support system for producers of certain arable crops<sup>(6)</sup>, as last amended by Council Regulation (EC) No. 2989/95<sup>(7)</sup>,”and
- (g) after the definition of “tenant” there shall be inserted the following definition—  
 ““undergrazing” means grazing land with livestock in such insufficient numbers as adversely to affect the growth, quality or species composition of vegetation on that land to a significant degree;”.

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(4) OJ No. L355, 5.12.92, p.1.

(5) OJ No. L338, 28.12.94, p.16.

(6) OJ No. L181, 1.7.1992, p.12.

(7) OJ No. L312, 23.12.1995, p.5.

### **Amendments to regulation 3 of the principal Regulations**

5. In regulation 3 (aid for water fringes) of the principal Regulations—
- (a) in paragraph (2)—
    - (i) after the words “an entire field” there shall be added the words “or strip”; and
    - (ii) after the words “bordering on that field” there shall be added the words “or strip”; and
  - (b) after paragraph (2) there shall be added the following paragraph—

“(3) Where—

    - (a) the application of an eligible person has been accepted in relation to a water fringe, and
    - (b) the Minister considers that the erection of stock-proof fencing on its boundary is expedient for the purpose of aiding compliance by the eligible person with any undertaking given by him under either of the preceding paragraphs of this regulation in connection with the application,

the Minister may for that purpose agree with the eligible person in advance of the erection of that fencing there the specification to which it is to be erected there and, in that event, may make a payment of aid to the eligible person in respect of the erection of that fencing there to that specification if the eligible person has undertaken that the fencing will be maintained in a stock-proof condition from the time of the payment for the remainder of the management period applicable to that water fringe.”

### **Amendment to regulation 4 of the principal Regulations**

6. In regulation 4 (applications for aid) of the principal Regulations—
- (a) at the end of paragraph (d), for the word “land.” there shall be substituted the words “land; and”; and
  - (b) after paragraph (d), there shall be added the following paragraph—

“(e) where the applicant intends to count an area of eligible arable land as being set aside for the purposes of the set-aside requirement, a declaration of the location and extent of that area.”

### **Amendments to regulation 7 of the principal Regulations**

7. In regulation 7 (amounts and payment of aid) of the principal Regulations—
- (a) in paragraph (1)(a)—
    - (i) for “£360” there shall be substituted “£485”; and
    - (ii) after the words “the requirements of Schedule 2 apply” there shall be added the words “and which is not set-aside land”;
  - (b) in paragraph (1)(c)—
    - (i) for “£260” there shall be substituted “£435”; and
    - (ii) after the words “an entire field” there shall be added the words “or strip”;
  - (c) in paragraph (1)(d)—
    - (i) after the words “an entire field” there shall be added the words “or strip”; and
    - (ii) at the end, for the word “apply.” there shall be substituted the words “apply; and”;
  - (d) after paragraph (1)(d) there shall be added the following paragraph:

- “(e) £405 per hectare of water fringe to which the requirements of Schedule 2 apply and which is set-aside land.”; and
- (e) after paragraph (2) there shall be added the following paragraph—
- “(3) Any payment of aid made under regulation 3(3) in respect of work on the erection of fencing shall be made at the rate of £1.20 per metre of fencing when the work has been carried out.”

### **Insertion of regulation 7A in the principal Regulations**

8. After regulation 7 of the principal Regulations, there shall be inserted the following regulation—

#### **“Changes to the area of set-aside land**

7A.—(1) If a beneficiary, in relation to an area of water fringe—

- (a) which is not set-aside land,
- (b) which was arable land at the start of the management period, and
- (c) in relation to which an application was made on or after 28th June 1995,

at the time he makes any claim for payment of aid under these Regulations declares that he intends, in his area aid application to be submitted during the year in which the claim for payment is made, to count that land as being set aside for the purposes of the set-aside requirement that land shall be treated as set aside land for the purposes of regulation 7 and paragraph (2) below, subject to any subsequent decision to the contrary under paragraph (2) below, for the remainder of the management period.

(2) Where, at the time he makes any claim for payment of aid under these Regulations, a beneficiary, in relation to an area of set-aside land, declares that he does not intend to count it as being set aside for the purposes of the set-aside requirement in his area aid application to be submitted during that year, the Minister may decide that the land shall not be treated as set aside land for the purposes of regulation 7 and paragraph (1) above and, if he so decides, the treatment of that land for those purposes shall operate in accordance with that decision, subject to any subsequent declaration to the contrary as referred to in paragraph (1) above, for the remainder of the management period.

(3) Any decision taken by the Minister pursuant to paragraph (2) shall be notified to the beneficiary in writing.”

### **Substitution of regulation 8 of the principal Regulations**

9. For regulation 8 (claims for aid) of the principal Regulations, there shall be substituted the following regulation—

#### **“Claims for aid**

8. Any claim for payment of aid under these Regulations shall—

- (a) where the beneficiary, in his area aid application to be submitted during the year in which the claim is being made, intends to count an area of water fringe as being set aside for the purposes of the set-aside requirement, contain a declaration of the location and extent of that area; and
- (b) be made at such time and in such form and contain such other information as the Minister reasonably may require.”

### **Amendment to regulation 10 of the principal Regulations**

**10.** In regulation 10 (withholding and recovery of aid and termination) of the principal Regulations, after paragraph (4), there shall be added the following paragraph—

“(5) Where a beneficiary, in his area aid application in any year, counts an area of water fringe which is arable land as being set aside for the purposes of the set-aside requirement and that land, on the date of the submission of the area aid application, is neither set-aside land nor land which is being treated as set-aside land pursuant to regulation 7A, the Minister may recover from that beneficiary an amount not exceeding the difference between the aid paid to that beneficiary under regulation 7 that year and the amount that would have been paid to him under regulation 7 that year if that land had been set-aside land.”

### **Amendments to Schedules to the principal Regulations**

**11.—(1)** In Schedule 2 (management requirements for strips of arable land not to be used for arable production), for paragraph (1) there shall be substituted the following—

“(1) the beneficiary shall—

- (a) establish a grassland sward within seven months of the start of the management period using seed from species agreed by him and the Minister; or
- (b) in accordance with an agreement between him and the Minister, re-seed existing grassland sward;”.

(2) In Schedule 5 (management requirements for entire fields of arable land where there is no undertaking not to use the land for agricultural production)—

- (a) in the heading, after the words “MANAGEMENT REQUIREMENTS FOR ENTIRE FIELDS” there shall be added the words “OR STRIPS”;
- (b) in the introduction, after the words “any entire field” there shall be added the words “or strip”;
- (c) for paragraph (1) there shall be substituted the following—

“(1) the beneficiary shall refrain from agricultural production and shall—

- (a) establish a grassland sward within seven months of the start of the management period using seed from a species agreed by him and the Minister; or
- (b) in accordance with an agreement between him and the Minister, re-seed an existing grassland sward;”;
- (d) in each of paragraphs (11) and (12), after the words “on the field” there shall be added the words “or strip”;
- (e) for paragraph (16) there shall be substituted the following—

“(16) the beneficiary—

- (a) subject to sub-paragraph (b) below, shall graze the land (to a level so as to prevent poaching, overgrazing or undergrazing) with—
  - (i) cattle, sheep or deer, or any combination thereof,
  - (ii) horses, ponies or a combination thereof in combination with livestock permitted under paragraph (i) above, or
  - (iii) any other species of livestock (with or without species referred to in paragraph (i) or (ii) above) by agreement with the Minister, and
- (b) in respect of the period from 1st April to 31st May in each year of the beneficiary’s management period—

- (i) shall agree with the Minister the appropriate maximum level (being, in any case where none of the livestock to be grazed on the land fall within sub-paragraph (a)(iii) above, a level within the range beginning at 0.75 livestock units per hectare and ending at 1.4 livestock units per hectare) at which the land should be grazed so as to protect or improve the habitat for wildlife on that water fringe, and
    - (ii) shall graze the land to a level no higher than that appropriate maximum level;”and
  - (f) after paragraph 19 there shall be added the following paragraph—
    - “(20) the beneficiary shall ensure that the land is surrounded by sufficient barriers to enable grazing to take place as required by paragraph (16) above.”
- (3) In Schedule 6 (management requirements for entire fields of permanent grassland where there is no undertaking not to use the land for agricultural production)—
  - (a) in the heading, after the words “MANAGEMENT REQUIREMENTS FOR ENTIRE FIELDS” there shall be added the words “OR STRIPS”;
  - (b) in the introduction, after the words “any entire field” there shall be added the words “or strip”;
  - (c) for paragraph (2) there shall be substituted the following—
    - “(2) the beneficiary—
      - (a) subject to sub-paragraph (b) below, shall graze the land (to a level so as to prevent poaching, overgrazing or undergrazing) with—
        - (i) cattle, sheep or deer, or any combination thereof,
        - (ii) horses, ponies or a combination thereof in combination with livestock permitted under paragraph (i) above, or
        - (iii) any other species of livestock (with or without species referred to in paragraph (i) or (ii) above) by agreement with the Minister,
      - (b) in respect of the period from 1st April to 31st May in each year of the beneficiary’s management period—
        - (i) shall agree with the Minister the appropriate maximum level (being, in any case where none of the livestock to be grazed on the land fall within sub-paragraph (a)(iii) above, a level within the range beginning at 0.75 livestock units per hectare and ending at 1.4 livestock units per hectare) at which the land should be grazed so as to protect or improve the habitat for wildlife on that water fringe, and
        - (ii) shall graze the land to a level no higher than that appropriate maximum level;”;
  - (d) in each of paragraphs (13) and (14), after the words “on the field” there shall be added the words “or strip”; and
  - (e) after paragraph (17) there shall be added the following paragraph—
    - “(18) the beneficiary shall ensure that the land is surrounded by sufficient barriers to enable grazing to take place as required by paragraph (2) above.”

6th June 1996

*Tim Boswell*  
Parliamentary Secretary, Ministry of Agriculture,  
Fisheries and Food

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These Regulations amend the Habitat (Water Fringe) Regulations 1994 (“the principal Regulations”) which implement in part Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p. 85) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside.

These Regulations make provision for beneficiaries under the Habitat (Water Fringe) Regulations 1994 who take advantage of the option in Article 1(2) of Council Regulation (EC) No. 1460/95 of 22 June 1995, amending Regulation (EEC) No. 1765/92 establishing a support system for producers of certain arable crops (OJ No. L144, 28.6.95, p. 1). That Article makes provision for allowing land which has been set aside pursuant to a scheme made under Council Regulation (EEC) No. 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside (OJ No. L215, 30.7.92, p. 85) to be counted as being set aside for the purposes of the set-aside requirement of Article 7(1) of Council Regulation (EEC) 1765/92 of 30 June 1992 establishing a support system for the producers of certain arable crops (OJ No. L181, 1.7.92, p. 12) as last amended by Council Regulation (EC) No. 2989/95.

These Regulations add a new payment rate for aid for set-aside land managed in accordance with the management obligations in the Habitat (Water Fringe) Regulations 1994 (regulation 7). The new payment rate applies to land which the beneficiary declared in his application form that he intended to count as being set-aside for the purposes of Article 7(1) of Council Regulation (EEC) 1765/92 (“set-aside land”). Provision is made for the beneficiary to alter the area of land to be counted as set-aside land during the management period (regulation 8). The requirements concerning the information to be included in the application and supplied at the time of the claim for payment of aid are also amended (regulations 6 and 9). The provisions regarding recovery are altered to give the Minister power to recover the difference between the new payment rate and the payment rate for land that was arable land at the start of the management period, if a beneficiary counts land as being set-aside for the purposes of Article 7(1) of Council Regulation (EEC) 1765/92, where that land is not set-aside land (regulation 10).

These Regulations also amend the payment rates for aid for land other than set-aside land managed in accordance with the management obligations in the principal Regulations (regulation 7), and introduce payments for fencing grants (regulations 5 and 7). These Regulations allow part fields to be entered into 10 year agreements and require them to be enclosed (regulation 11). These Regulations amend the management prescriptions to enable beneficiaries to graze additional species of livestock, to provide for greater flexibility in setting maximum spring stocking levels, and to allow beneficiaries to re-seed existing grass sward (also regulation 11). They also make drafting changes to the definition of “eligible land”(regulation 4(c)) and redefine “designated watercourse or lake” by reference to amending as well as original maps (regulation 4(b)).

No Compliance Cost Assessment in relation to these Regulations has been prepared.