

SCHEDULE 2

Regulation 9(1)

MANAGEMENT REQUIREMENTS IN RELATION TO SET-ASIDE LAND

PART A

MANAGEMENT OPTIONS FOR SET-ASIDE LAND

Management options for set-aside land

1.—(1) Subject to sub-paragraphs (2) to (4) below, in respect of each field or part field which is set-aside land in a particular scheme year, a farmer shall, during that particular scheme year, comply with the conditions applicable to a management option specified in one of the following paragraphs of this sub-paragraph as are indicated in the brackets following the description of the management option concerned—

- (a) the Grassland Option (the applicable conditions are set out in paragraph 2 below);
- (b) where—
 - (i) the field or part field was used to produce a herbage seed crop or combinable crop (other than a crop including maize or legumes) in the calendar year immediately preceding the calendar year during which the current scheme year commenced, or
 - (ii) the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Natural Regeneration Option and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season,the Natural Regeneration Option (the applicable condition are set out in paragraph 3 below);
- (c) the Wild Bird Cover Option (the applicable conditions are set out in paragraph 4 below);
- (d) where part only of a field is set aside, the Field Margins Option (the applicable conditions are set out in paragraph 5 below); or
- (e) where a field or part field is penalty set-aside land, or where there was a crop in a field or part field on 1st October immediately prior to the commencement of the current scheme year, the Penalty Set-Aside/Existing Crop Option (the applicable conditions are set out in paragraph 6 below).

(2) Where a field or part field is environmental transferred set-aside land which lies within a nitrate sensitive area (as described in regulation 10(3)(b)) then a farmer shall comply with the conditions applicable to the Grassland Option which are set out in paragraph 2 below in respect of that field or part field.

(3) Where a field or part-field is guaranteed set-aside land in England or Wales and is managed otherwise than in accordance with the conditions applicable to the Wild Bird Cover Option which are set out in paragraph 4 below, then notwithstanding the provisions of the following paragraphs, a green cover may not be established in that field or part field by sowing the seed of clover, lucerne or sainfoin or a seed mixture which contains one or more of those crops.

- (4) Where—
 - (a) a farmer applies in writing to the Minister for permission to manage set-aside land in accordance with a management plan set out in his application; and
 - (b) the written consent of the Minister to this plan is obtained,

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the farmer, following the grant of that consent, need not comply with the conditions set out in one of the following paragraphs of this Schedule which are applicable to any of the management options listed in paragraph (1) above, but shall instead manage the land in accordance with that management plan.

- (5) For the purposes of this Schedule—
- (a) the particular scheme year referred to in sub-paragraph (1) above shall be known as “the current scheme year”, the set-aside period during that scheme year shall be known as “the current set-aside period”, the green cover season during that scheme year shall be known as “the current green cover season” and expressions such as “the previous scheme year” and “the following scheme year” shall be construed accordingly; and
 - (b) during the current scheme year it is to be taken to be the case that guaranteed set-aside land is to be set aside in the following scheme year.

The Grassland Option

2.—(1) In respect of each field or part field to be managed in accordance with the Grassland Option referred to in paragraph 1(1)(a) above, a farmer shall—

- (a) subject to paragraph 8 below, establish a green cover by the start of the current green cover season by sowing—
 - (i) grass seed,
 - (ii) a mixture of grass seed and the seed of native broad-leaved plants not commonly used for agricultural production (which mixture, unless the farmer is an accepted organic farmer, shall not contain more than 5 per cent by weight of legumes), or
 - (iii) mustard seed,(which seed shall be sown, where a crop was harvested from the field or part-field in the calendar year immediately preceding the calendar year during which the current scheme year commenced, as soon as is practicable following the harvest of that crop), unless the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Grassland Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;
- (b) subject to paragraphs 9, 14 and 15 below, maintain the green cover thereafter—
 - (i) where the field or part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season, or
 - (ii) where the field or part field is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes), to the end of the current scheme year; and
- (c) cut or destroy the green cover in accordance with paragraph 7 below.

(2) For the purposes of sub-paragraph (1) above, breeder's, pre-basic or basic seed may not be sown in order to establish a green cover.

(3) For the purposes of sub-paragraph (2) above, seed is breeder's, pre-basic or basic seed if it is so classified in any Regulations made under the Plant Varieties and Seeds Act 1964⁽¹⁾ which is in force at the time the seed intended to establish the green cover is sown.

(1) 1964 c. 14.

The Natural Regeneration Option

3. In each field or part field to be managed in accordance with the Natural Regeneration Option (referred to in paragraph 1(1)(b) above), a farmer—

- (a) subject to paragraph 8 below, shall establish a green cover by the start of the current green cover season by allowing natural regeneration of the herbage seed crop or combinable crop (other than a crop including maize or legumes) (as referred to in paragraph 1(1)(b)(i) above) unless the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Natural Regeneration Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season,
- (b) subject to paragraphs 9, 14 and 15 below, maintain the green cover thereafter—
 - (i) where the field or part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season, or
 - (ii) if the field or part field is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes), to the end of the current scheme year; and
- (c) shall cut or destroy the green cover in accordance with paragraph 7 below.

The Wild Bird Cover Option

4.—(1) In each field or part field to be managed in accordance with the Wild Bird Cover Option (referred to in paragraph 1(1)(c) above), a farmer—

- (a) shall, subject to paragraph 8 below either—
 - (i) where practicable, establish a green cover by the start of the current green cover season by allowing natural regeneration of the herbage seed crop or combinable crop (other than a crop including maize or legumes) produced in that field or part field in the calendar year immediately preceding the calendar year during which the current scheme year commenced, or
 - (ii) where that is not practicable, establish a green cover by the start of the current green cover season by sowing a cover comprising a mixture of crops of different types which—
 - (aa) produces a mixture of crops which it would not be practicable to harvest separately,
 - (bb) is not a mixture only of different types of cereal or of different types of brassica,
 - (cc) is not a mixture only of one type of crop and legumes, a mixture only of cereals and legumes, or a mixture only of brassicas and legumes, and
 - (dd) unless the farmer is an accepted organic farmer, does not contain more than 5 per cent by weight of legumes,unless the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Wild Bird Cover Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;
- (b) shall, where a green cover was established by the start of the current green cover season in accordance with paragraph (a)(i) above—

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- (i) maintain that green cover until it is replaced in accordance with sub-paragraph (ii) below, and
 - (ii) replace that green cover by sowing a new green cover in accordance with paragraph (a)(ii) above as early as is practicable after the start of the current green cover season;
- (c) shall, subject to sub-paragraphs (d) and (e) below and paragraphs 9, 14 and 15 below, maintain the green cover established under paragraph (a)(ii) or (b)(ii) above thereafter—
- (i) where the field or part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season, or
 - (ii) where the field or part field is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes), to the end of the current scheme year;
- (d) may, where the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Wild Bird Cover Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover period, replace the existing green cover by sowing a new green cover in accordance with paragraph (a)(ii) above as early as is practicable in the current green cover season;
- (e) shall, where the field or part field was set aside in the previous two scheme years, was managed during each of those scheme years in accordance with the Wild Bird Cover Option, a green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season and the green cover was not replaced in the previous scheme year (whether in accordance with paragraph (d) above or otherwise), replace the existing green cover by sowing a new green cover in accordance with paragraph (a)(ii) as early as is practicable in the current green cover season; and
- (f) shall cut or destroy the cover in accordance with paragraph 7 below, unless—
- (i) the field is to be set aside in the following scheme year; and
 - (ii) the farmer does not, in the current scheme year, harvest any of the green cover or permit any of it to be harvested or grazed.
- (2) A farmer shall ensure, when replacing the green cover pursuant to sub-paragraph (1)(c), (d) or (e) above, that the requirements of paragraph 15(1)(a) to (c) below are satisfied.

The Field Margins Option

5.—(1) In each part field to be managed in accordance with the Field Margins Option (referred to in paragraph 1(1)(d) above), a farmer—

- (a) shall, subject to paragraph 8 below, establish a green cover by the start of the current green cover season—
 - (i) by sowing—
 - (aa) grass seed,
 - (bb) a mixture of grass seed and the seed of native broad-leaved plants not commonly used for agricultural production (which mixture, unless the farmer is an accepted organic farmer, shall not contain more than 5 per cent by weight of legumes), or
 - (cc) mustard seed.

which seed shall be sown, where a crop was harvested from the part-field in the calendar year immediately preceding the calendar year during which the current scheme year commenced, as soon as is practicable following the harvest of that crop, or

- (ii) where the field or part field was used to produce a herbage seed crop or combinable crop (other than a crop including maize or legumes) in the calendar year immediately preceding the calendar year during which the current scheme year commenced, by allowing natural regeneration of that crop,

unless the part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Field Margins Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;

- (b) subject to paragraphs 9, 14 and 15 below, maintain the green cover thereafter—
 - (i) where the part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season, or
 - (ii) where the part field is to be set aside in the following scheme year (but is not to be used as land set-aside for non-food purposes), to the end of the current scheme year;
- (c) shall cut the green cover at least once during the current scheme year, except that he may leave uncut a strip of green cover up to 2 metres wide adjacent to any hedge or woodland; and
- (d) shall not harvest any of the green cover or permit any of it to be harvested or grazed unless—
 - (i) he has previously notified the Minister of his intention to use the green cover for permitted agricultural production; and
 - (ii) he cuts the green cover to an average length of no more than 10 centimetres at least once between 15th July and 15th August prior to the end of the current set-aside period if he wishes to harvest the green cover, or permit it to be harvested or grazed in the current scheme year,

in which case he may use the green cover for permitted agricultural production.

(2) For the purposes of sub-paragraph (1)(a)(i) above, breeder's, pre-basic or basic seed may not be sown in order to establish a green cover.

(3) For the purposes of sub-paragraph (2) above, seed is breeder's, pre-basic or basic seed if it is so classified in any Regulations made under the Plant Varieties and Seeds Act 1964 which is in force at the time the seed intended to establish the green cover is sown.

The Penalty Set-Aside/Existing Crop Option

6. In each field or part field to be managed in accordance with the Penalty Set-Aside/Existing Crop Option (referred to in paragraph 1(1)(e) above) a farmer shall—

- (a) subject to paragraphs 9, 14 and 15 below, maintain throughout the current green cover season any natural cover which develops on that land; and
- (b) cut or destroy any natural cover which develops on the land in accordance with paragraph 7.

Cutting or destruction of the green cover

7.—(1) In each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6 above, a farmer shall either—

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- (a) (subject to sub-paragraph (2) below), cut the green cover to an average length of no more than 10 centimetres between 15th July and 15th August during the current set-aside period; or
 - (b) where he is not required to maintain the green cover after the end of the current set-aside period, destroy the green cover between 1st July and 31st August during the current set-aside period.
- (2) A farmer may (where he cuts the green cover in a field or part field in accordance with paragraph (1)(a) above)–
- (a) leave a strip of green cover up to 2 metres wide uncut adjacent to any hedge or woodland; and
 - (b) in the case of a field which is to be set aside in the following scheme year, leave a further 25% of the area set aside in that field uncut provided that any area left uncut in accordance with this paragraph which has also been left uncut in the previous two scheme years in accordance with this paragraph is cut in accordance with sub-paragraph (1) in the following scheme year.

Exemptions from the requirement to establish a green cover on set-aside land

8.—(1) In relation to each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6 above, a farmer shall by virtue of this provision be treated as having been exempted from a requirement to establish a green cover by the start of the current green cover season where he satisfies the Minister that for climatic reasons it was not practicable for there to be such a green cover by that time, in which case he shall establish a green cover as soon as reasonably possible thereafter.

(2) In relation to each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6 above, a farmer need not establish a green cover on–

- (a) a strip of land up to 1 metre wide at the edge of the land set aside, where the land set aside adjoins land planted with a crop other than a seed crop;
- (b) a strip of land up to 2 metres wide at the edge of land set aside, where the land set aside adjoins land planted with a seed crop; or
- (c) a strip of land up to 5 metres wide at the edge of the land set aside in any place where vehicular access to that land from a road or track adjacent to that land may be possible, provided that the strip is ploughed and left as bare fallow.

Exemptions from the requirement to maintain a green cover on set-aside land

9.—(1) In each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6 above, a farmer shall be exempt from a requirement to maintain a green cover on set-aside land (except for guaranteed set-aside land and environmental transferred set-aside land) where that green cover is destroyed following the application of herbicide to the land on or after 15th April in the current scheme year in accordance with paragraph 20(1) below, which exemption shall run from the time of the application until (where the land is to be set aside in the following scheme year but is not to be used as land set aside for non-food purposes) the commencement of the following green cover season.

(2) In respect of each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6 above, the Minister shall on the application of a farmer treat him as having been exempted from a requirement to maintain a green cover, where he provides evidence sufficient to satisfy the Minister that the green cover which he established failed and he could not reasonably have prevented such failure, such exemption lasting from the time of the failure until the end of the current scheme year.

(3) In each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6 above, and where a farmer has chosen not to establish a green cover on a strip of land pursuant to paragraph 8(2) above, he need not maintain any green cover which nevertheless subsequently becomes established on that strip.

PART B

GENERAL MANAGEMENT CONDITIONS APPLYING TO ALL SET-ASIDE LAND

Application of conditions to all set-aside land

10. The provisions in paragraphs 11 to 21 of this Schedule shall apply to all set-aside land managed by a farmer in accordance with any of the provisions of paragraphs 1 to 9 above.

Restriction on cutting the green cover

11.—(1) In relation to set-aside land situated in England and Wales, where a farmer has applied a non-selective herbicide to that set-aside land during the current set-aside period but not earlier than 15th April and not later than 30th June during that period, then he shall not subsequently cut any green cover on that set-aside land before the 1st July prior to the end of that period.

(2) In relation to set-aside land situated in Scotland, a farmer shall neither cut any green cover on that set-aside land nor apply any herbicide to that set-aside land between the dates 1st May to 15th July inclusive during the current set-aside period unless he is an accepted organic farmer.

Prohibition on sowing and preparation for sowing a crop on the set-aside land and cultivation of the set-aside land

12. Subject to paragraphs 13 and 14 below, prior to the end of the current set-aside period, a farmer shall not sow or carry out any preparation for sowing a crop on the set-aside land concerned, nor shall he otherwise cultivate the set-aside land.

Exemptions from the prohibition on sowing and preparation for sowing a crop on the set-aside land

13.—(1) Subject to sub-paragraph (2) below, a farmer may make preparations for sowing and sow any arable crop, temporary grass ley, traditional forage crop or other permitted crop on or after 15th July prior to the end of the current set-aside period.

(2) A farmer may neither sow nor make preparations for sowing an arable crop, temporary grass ley, traditional forage crop or other permitted crop, as otherwise permitted by sub-paragraph (1) above—

- (a) in any field or part field which is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes);
- (b) in relation to a crop of a species or variety where, if the farmer followed standard agricultural practice in the locality in which that crop is sown, it would be expected that it would be harvested within the same scheme year as it is sown; or
- (c) where the farmer intends to harvest any crop so sown during the current scheme year.

(3) For the purposes of this paragraph and regulation 11(4)(a), a traditional forage crop is a crop of a type commonly sown in the locality of the set-aside land for the purpose of being grazed by animals.

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(4) For the purposes of this paragraph and regulation 11(4)(a), “other permitted crop” shall mean a crop which consists of one or more of the following—

- (a) ornamental bulbs (which phrase shall be taken not to include onions or garlic),
- (b) field grown trees or shrubs,
- (c) cane fruits, or
- (d) strawberries.

Conditions regarding the cultivation of the set-aside land

14. A farmer may cultivate the land (except where the land is guaranteed set-aside land or environmental transferred set-aside land) for the purpose of controlling weeds—

- (a) where he is not an accepted organic farmer—
 - (i) where the land is situated in England and Wales, at any time on or after 1st July prior to the end of the current set-aside period, or
 - (ii) where the land is situated in Scotland, at any time during the current set-aside period other than between the dates 1st May to 15th July inclusive during that period; and
- (b) where he is an accepted organic farmer, at any time on or after 1st May prior to the end of the current set-aside period.

Replacement of the green cover and changing management options

15.—(1) Subject to sub-paragraphs (2) and (3) below, in any period during which a farmer is required to maintain a green cover in a field or part field, he may nevertheless replace that green cover with another provided that—

- (a) seed sufficient to sow a replacement green cover is stored on land which the farmer farms as a single unit with the land set aside before replacement of the existing green cover is commenced;
- (b) it is likely, having regard to the condition of the soil and expected climatic conditions, that sowing the stored seed at this time will result in the successful growth of a green cover;
- (c) this seed is sown as soon as is practicable after the destruction of the existing green cover; and
- (d) where the land is managed in accordance with a management plan approved by the Minister under paragraph 1(4) above, his consent is obtained before the farmer commences replacement of the green cover.

(2) The seed to be sown to establish a replacement green cover shall, subject to sub-paragraph (3) of paragraph 1 above—

- (a) be seed of a type listed in one of sub-paragraphs (i), (ii) or (iii) of paragraph 2(1)(a) above;
- (b) be seed comprising a mixture of crops of different types which complies with the requirements of paragraphs (aa) to (dd) of paragraph 4(1)(a)(ii) above;
- (c) where the cover is to be replaced in part only of a field (and where no more of the field in which that part is situated is also set aside), be seed of a type listed in one of paragraphs (aa), (bb) or (cc) of paragraph 5(1)(a)(i) above; or
- (d) where the provisions of paragraph (d) of sub-paragraph (1) above apply, comply with the conditions in respect of such seed as are set out in the management plan referred to in that paragraph.

(3) A farmer shall, in respect of the field or part field where the green cover has been replaced, and subject to sub-paragraph (2) of paragraph 1 above, comply with the conditions set out in Part A of this Schedule as relate to one of the following management options—

- (a) where the seed sown complies with the requirements of sub-paragraph (2)(a) above, the Grassland Option referred to in paragraph 2 above;
- (b) where the seed sown complies with the requirements of sub-paragraph (2)(b) above, the Wild Bird Cover Option referred to in paragraph 4 above;
- (c) where the seed sown complies with the requirements of sub-paragraph (2)(c) above, the Field Margins Option referred to in paragraph 5 above; or
- (d) where the provisions of paragraph (d) of sub-paragraph (1) above apply, the provisions of the management plan referred to in that paragraph,

except that he shall not be required to establish a green cover (as required by paragraph 2(1)(a), 4(1)(a) or, as the case may be, 5(1)(a) above) different from the replacement green cover sown in accordance with the provisions of this paragraph.

(4) Where a farmer is exempted from a requirement to maintain a green cover pursuant to regulation 9, he shall (unless also exempted from the requirements of this sub-paragraph pursuant to that regulation) replace the green cover once destroyed in accordance with sub-paragraphs (1) to (3) above.

Use of the green cover

16.—(1) A farmer shall ensure that, subject to sub-paragraph (2) below, no green cover or cuttings produced by cutting any green cover used for any commercial or agricultural purpose.

(2) A farmer may use any such green cover or cuttings for permitted agricultural production.

(3) A farmer shall ensure that no green cover established in accordance with this Schedule is burnt, except with the prior consent of the Minister.

(4) A farmer shall ensure that no cuttings produced by cutting the green cover are removed from or burnt on the set-aside land concerned except in accordance with sub-paragraph (2) above or with the prior consent of the Minister.

Prohibition on the application of fertilisers, lime and waste to the set-aside land

17. A farmer shall not apply any fertiliser, lime or waste to the set-aside land concerned except in accordance with—

- (a) paragraph 18 below where the land is neither guaranteed set-aside land nor environmental transferred set-aside land;
- (b) paragraph 23 below where the land is guaranteed set-aside land; or
- (c) paragraph 25 below where the land is environmental transferred set-aside land.

Application of fertiliser, waste and lime to land which is neither guaranteed set-aside land nor environmental transferred set-aside land

18.—(1) A farmer may apply fertilisers to set-aside land if prior to such application he satisfies the Minister that the land is situated in an area known to be used as a feeding area by geese in winter and is to be managed as such an area.

(2) A farmer may apply organic waste to the set-aside land concerned if that organic waste was produced on land which he farms as a single unit with the set-aside land and he satisfies the Minister, before applying the waste to the land, that he would not otherwise be able to dispose of it satisfactorily.

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(3) A farmer may apply fertiliser to any agricultural parcel of land managed in accordance with paragraph 4 above during the current scheme year where a new green cover is being established in accordance with paragraph 4(1)(c) or (e) above in that scheme year, provided that the total nitrogen content of that fertiliser is not more than 30 kilograms per hectare of the land to which it is applied.

(4) A farmer shall not store, dump or otherwise dispose of any waste on the set-aside land concerned except that he may store organic waste in a field which forms all or part of the set-aside land where that organic waste is to be applied by him to that field in accordance with sub-paragraph (2) above.

(5) A farmer may apply lime to set-aside land where that land is to be cropped in the following scheme year.

Application of fungicides and insecticides to the set-aside land

19. A farmer shall not apply fungicides or insecticides to the set-aside land concerned.

Application of herbicides to the set-aside land

20.—(1) Subject to sub-paragraph (2) below, a farmer shall not apply herbicide to the set-aside land concerned unless—

- (a) it is of a type which either—
 - (i) is absorbed into a plant primarily through the leaves and stem, or
 - (ii) has been approved under regulation 5 of the Control of Pesticides Regulations 1986⁽²⁾ or under regulation 5, 7, 8 or 11 of the Plant Protection Products Regulations 1995⁽³⁾ and its application is not outside the coverage of the uses for which it has been approved, and
- (b) such application, if undertaken on guaranteed set-aside land or prior to 15th April in the current scheme year on any other form of set-aside land—
 - (i) is not likely significantly to damage green cover on the land,
 - (ii) is made prior to replacing green cover on the land in accordance with paragraph 15 above,
 - (iii) is undertaken using herbicide applied either as a spot treatment or with a wick applicator, or
 - (iv) is undertaken in order to create a bare fallow strip as permitted by paragraph 8(2) above, or to keep such a strip bare.

(2) The Minister shall on application from a farmer exempt him from the restriction imposed by sub-paragraph (1) above so as to permit him to apply any herbicides to set-aside land in order to create a bare fallow strip permitted by paragraph 8(2) above or keep such a strip bare, where the Minister is satisfied that the application of herbicides in accordance with sub-paragraph (1)(b)(iv) above has not been effective to prevent the growth of vegetation on that strip.

Retention of features on the set-aside land

21. A farmer shall not damage, destroy or remove—

- (a) any existing hedge or row of trees (including hedgerow trees);

(2) S.I.1986/1510.

(3) S.I. 1995/887.

- (b) any tree (not forming part of a hedge or row of trees) whose largest trunk, when measured 1.3 metres above the average ground level of the base of the tree, exceeds 25 centimetres in circumference;
- (c) any existing lake, loch, ditch, watercourse, pond or pool;
- (d) any existing vernacular building or stone wall; or
- (e) any archaeological feature or feature of historical importance,

which is situated on or adjacent to the set-aside land concerned unless he satisfies the Minister either that it should be damaged, destroyed or removed for environmental or for safety reasons or that he is obliged to do so to comply with a legal requirement.

PART C

SPECIAL CONDITIONS APPLYING TO GUARANTEED SET-ASIDE LAND

Application of conditions to guaranteed set-aside land

22. The provisions of paragraphs 23 and 24 below shall apply to guaranteed set-aside land.

Application of fertilisers, waste and lime to guaranteed set-aside land

23.—(1) Where guaranteed set-aside land is managed in accordance with paragraph 4 above, fertiliser may be applied to that land at any time between 1st March and 31st May inclusive during the current scheme year where a green cover is to be established in accordance with that paragraph during that scheme year, provided that the total nitrogen content of all fertiliser applied to any agricultural parcel of the land during that period shall no more than 30 kilogrammes per hectare of that parcel and that any fertiliser so applied contains no potassium or phosphorus in any form.

(2) A farmer may apply fertiliser to guaranteed set-aside land if he satisfies the Minister that the land is situated in an area known to be used as a feeding area by geese in winter and is to be managed as such an area.

(3) A farmer may (subject to sub-paragraph (4) below) apply organic waste to guaranteed set-aside land if that organic waste was produced on land—

- (a) which he farms as a single unit with the set-aside land and he satisfies the Minister before applying the waste to the land that were he prevented from so applying it—
 - (i) he could not reasonably otherwise deal with it except by applying it to the remainder of his holding; and
 - (ii) such application to the remainder of his holding would result in an application of a greater concentration of nitrogen than is compatible with good agronomic or environmental practice, and
- (b) in relation to which he observes such conditions or limitations (if any) as are imposed by the Minister in relation to any application so permitted.

(4) The application to any agricultural parcel during the current scheme year of organic waste with a nitrogen content greater than 250 kilogrammes per hectare of that parcel shall not be permitted.

(5) A farmer may apply lime to guaranteed set-aside land during the current scheme year where the current scheme year is the last one to which his undertaking to set aside the land (pursuant to Article 5 of Commission Regulation 762/94) is applicable and the land is to be cropped in the following scheme year.

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Permitted agricultural production

24.—(1) A farmer may undertake permitted agricultural production on guaranteed set-aside land only to such extent as does not result in overgrazing of that land.

(2) For the purposes of sub-paragraph (1) above, “overgrazing” means grazing or otherwise stocking land with livestock in such numbers as adversely to affect the growth, quality or species composition of vegetation on that land to a significant degree.

PART D

EXCEPTIONS RELATING TO ENVIRONMENTAL TRANSFERRED SET-ASIDE LAND

The application of organic waste and lime

25.—(1) A farmer may apply organic waste to an agricultural parcel of environmental set-aside land where that waste was created as a result of the maintenance of a tree, hedge, stream or ditch on or immediately adjoining that agricultural parcel.

(2) A farmer may apply lime to environmental transferred set-aside land where the land is to be cropped in the following scheme year.