

SCHEDULE 1

Regulations 2(1) and 4(1) and (4)

ADDITIONAL STANDARDS OF GOOD AGRICULTURAL AND ENVIRONMENTAL CONDITION THAT APPLY IN RELATION TO LAND SET ASIDE FROM PRODUCTION

PART A

Management options for land set aside from production

1.—(1) Subject to sub-paragraphs (2) to (4), in respect of each field or part of a field which is set aside from production in a particular calendar year, a farmer must, during that year, comply with the conditions applicable to one of the following management options (as set out in paragraphs 2, 3 and 4 respectively) —

- (a) the sown green cover option;
- (b) the natural regeneration option; or
- (c) the wild bird cover option.

(2) In 2005, in respect of each part of a field to which regulation 3 applies and which is set aside from production in that year, a farmer may instead comply with the conditions applicable to the under 10 metre strips option (as set out in paragraph 5).

(3) Where in 2006 or any year thereafter a farmer sets aside from production land to which regulation 3 applies, he or she must comply with the conditions applicable to the sown green cover option set out in paragraph 2 during that year.

(4) Where a farmer —

- (a) has applied in writing to the National Assembly for permission to manage land set aside from production in accordance with a management plan set out in his or her application, and
- (b) has obtained the written consent of the National Assembly to the plan,

the farmer must manage the land in accordance with that management plan instead of complying with the conditions set out in the following paragraphs of this Schedule that would otherwise be applicable.

(5) For the purposes of this Schedule —

“the current green cover season” (“*y tymor gorchudd glas cyfredol*”) means the green cover season during the current year;

“the current year” (“*y flwyddyn gyfredol*”) means the year referred to in sub-paragraph (1);

“the current set-aside period” (“*y cyfnod neilltuo cyfredol*”) means the set-aside period during the current year;

“the following year” (“*y flwyddyn ganlynol*”) means the calendar year immediately following the current year;

“the previous year” (“*y flwyddyn flaenorol*”) means the calendar year immediately preceding the current year;

“a relevant mixture of seed” (“*cymysgedd perthnasol o hadau*”) means a mixture of seed of crops of different types —

- (a) which is not a mixture only of different types of cereal seed or of different types of Brassica seed;
- (b) which is not a mixture only of one type of crop and legumes seed, a mixture only of cereals and legumes seed, or a mixture only of brassicas and legumes seed; and

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- (c) the crops from which it would not be practicable to harvest separately; and
- “seed of a relevant kind” (“*hadau o fath perthnasol*”) means —
 - (a) grass seed;
 - (b) a mixture of grass seed and the seed of native broad-leaved plants not commonly used for agricultural production (where such mixture does not contain more than 50 per cent by weight of legume seed);
 - (c) mustard seed; or
 - (d) phacelia seed.
- (6) In paragraphs 2(1)(b), 3(1)(b), 4(1)(c) and 5(1)(b), “the relevant period” (“*y cyfnod perthnasol*”) in relation to a field or part of a field (as the case may be) set aside from production means —
 - (a) where the farmer does not intend to set aside the field or part of a field (as the case may be) from production in the following year or intends to set it aside for a non-food purpose in the following year, the current green cover season; and
 - (b) where the farmer intends to set aside the field or part of a field (as the case may be) from production in the following year (but does not intend to set it aside for a non-food purpose), the current set-aside period.

The sown green cover option

2.—(1) In respect of each field or part of a field to be managed in accordance with the sown green cover option, a farmer must —

- (a) subject to sub-paragraph (2) and paragraph 7, establish a green cover by the start of the current green cover season by sowing seed of a relevant kind;
- (b) subject to paragraphs 8, 12 and 13, maintain the green cover thereafter until the end of the relevant period; and
- (c) cut or destroy the green cover in accordance with paragraph 6.
- (2) The requirement to establish a green cover in accordance with paragraph (1)(a) does not apply —
 - (a) in 2005, where —
 - (i) the field or part of a field was set aside in 2004 pursuant to Article 6 of Council Regulation 1251/1999 and was managed during that year in accordance with the grassland option set out in paragraph 2 of Schedule 2 to the Arable Area Payments Regulations 1996⁽¹⁾; and
 - (ii) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season; and
 - (b) in 2006 and in each year thereafter, where —
 - (i) the field or part of a field was set aside in the previous year and was managed during that year in accordance with the sown green cover option; and
 - (ii) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season in the year in question.

(1) S.I. 1996/3142, to which there are amendments not relevant to these Regulations.

The natural regeneration option

3.—(1) In each field or part of a field to be managed in accordance with the natural regeneration option, a farmer must —

- (a) subject to sub-paragraph (2) and paragraph 7, establish a green cover by the start of the current green cover season by allowing natural regeneration following the last crop produced in that field or part of a field in the previous year;
- (b) subject to paragraphs 8, 12 and 13, maintain the green cover thereafter until the end of the relevant period; and
- (c) cut or destroy the green cover in accordance with paragraph 6.

(2) The requirement to establish a green cover in accordance with paragraph (1)(a) does not apply —

- (a) in 2005, where —
 - (i) the field or part of a field was set aside in 2004 pursuant to Article 6 of Council Regulation 1251/1999 and was managed during that year in accordance with the natural regeneration option set out in paragraph 3 of Schedule 2 to the Arable Area Payments Regulations 1996(2); and
 - (ii) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season; and
- (b) in 2006 and in each year thereafter, where —
 - (i) the field or part of a field was set aside in the previous year and was managed during that year in accordance with the natural regeneration option; and
 - (ii) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season in the year in question.

The wild bird cover option

4.—(1) In each field or part of a field to be managed in accordance with the wild bird cover option, a farmer must —

- (a) subject to sub-paragraph (2) and paragraph 7, either —
 - (i) establish a green cover by the start of the current green cover season by allowing natural regeneration following the last crop produced in that field or part of a field in the previous year; or
 - (ii) establish a green cover by the start of the current green cover season by sowing a relevant mixture of seed.
- (b) where a green cover was established by the start of the current green cover season in accordance with sub-paragraph (a)(i) —
 - (i) maintain that green cover until it is replaced in accordance with sub-paragraph (ii); and
 - (ii) replace that green cover by sowing a new green cover comprising a relevant mixture of seed as early as is practicable after the start of the current green cover season and the destruction of the green cover that is to be replaced;
- (c) subject to paragraph 8, 12 and 13, maintain the green cover established under paragraph (a) (ii) or (b)(ii) until the end of the relevant period; and
- (d) cut or destroy the cover in accordance with paragraph 6, unless —

(2) S.I. [1996/3142](#), to which there are amendments not relevant to these Regulations.

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- (i) the field is to be set aside from production in the following year; and
 - (ii) the farmer has not harvested any of the green cover, or permitted any of it to be harvested or grazed, in the current year.
- (2) The requirement to establish a green cover in accordance with sub-paragraph (1)(a) does not apply —
 - (a) in 2005, where —
 - (i) the field or part of a field was set aside in 2004 pursuant to Article 6 of Council Regulation 1251/1999 and was managed during that year in accordance with the wild bird cover option set out in paragraph 4 of Schedule 2 to the Arable Area Payments Regulations 1996; and
 - (ii) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season; and
 - (b) in 2006 and in each year thereafter, where —
 - (i) the field or part of a field was set aside in the previous year;
 - (ii) the field or part of a field was managed during that year in accordance with the wild bird cover option; and
 - (iii) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season in the year in question.

The under 10 metre strips option

5.—(1) In each part of a field to be managed in accordance with the under 10 metre strips option, a farmer must —

- (a) subject to sub-paragraph (2) and paragraph 7, establish a green cover by the start of the current green cover season —
 - (i) by sowing seed of a relevant kind; or
 - (ii) by allowing natural regeneration following the last crop which was produced on that part of the field in question in the previous year;
 - (b) subject to paragraphs 8, 12 and 13, maintain the green cover until the end of the relevant period; and
 - (c) cut the green cover at least once during the current year.
- (2) The requirement to establish a green cover in accordance with sub-paragraph (1)(a) does not apply in 2005 where—
- (a) the field or part of a field was set aside in 2004 pursuant to Article 6 of Council Regulation 1251/1999 and was managed during that year in accordance with the field margins option set out in paragraph 5 of Schedule 2 to the Arable Area Payments Regulations 1996; and
 - (b) the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season.

Cutting or destruction of the green cover

6.—(1) In each field or part of a field to which one of the options mentioned in paragraph 1(1) is applied, a farmer must either —

- (a) subject to sub-paragraph (2), cut the green cover between 15 July and 15 August (inclusive) during the current set-aside period; or

- (b) destroy the green cover between 15 July and 31 August (inclusive) during the current set-aside period.

(2) A farmer may (where he cuts the green cover in a field or part of a field in accordance with sub-paragraph (1)(a)) in the case of a field which is to be set aside in the following year, leave uncut 25% of the area set aside in that field, provided that any area left uncut in accordance with this paragraph which has also been left uncut in the previous two years in accordance with this paragraph (or paragraph 7(2)(b) of Schedule 2 to the Arable Area Payments Regulations 1996) is cut in accordance with sub-paragraph (1) in the following year.

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

7.—(1) In each field or part of a field to which any of the options mentioned in paragraph 1(1) or (2) is applied, a farmer will by virtue of this provision be treated as exempt from a requirement to establish a green cover by the start of the current green cover season, where he or she satisfies the National Assembly that for climatic reasons it was not practicable for a green cover to be established by that time, and, where he or she is treated as exempt, he or she must establish a green cover as soon as reasonably possible after the start of the green cover season.

(2) In each field or part of a field to which any of the options mentioned in paragraph 1(1) or (2) is applied, a farmer need not establish a green cover on a strip of land forming part of the land set aside and bordering its edge, of a width up to —

- (a) 1 metre, where the strip of land set aside borders land planted with a crop other than a seed crop;
- (b) 2 metres, where the strip of land set aside borders land planted with a seed crop; or
- (c) 5 metres, 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.

(3) In sub-paragraph (2), “seed crop” means a crop grown so that the seed of the crop may be harvested and sown to establish a further crop.

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

8.—(1) In each field or part of a field to which any of the options mentioned in paragraph 1(1) or (2) is applied, a farmer is not required to maintain a green cover on the land set aside from production where that green cover is destroyed following the application of herbicide to the land on or after 15 April in the current year.

(2) In respect of each field or part of a field to which any of the options mentioned in paragraph 1(1) or (2) is applied, a farmer will by virtue of this provision be treated as exempt from a requirement to maintain a green cover where he or she satisfies the National Assembly that the green cover which he or she established failed and he or she could not reasonably have prevented such failure.

(3) The exemptions mentioned in sub-paragraphs (1) and (2) will apply until —

- (a) in the case of the exemption in sub-paragraph (1), the commencement of the following green cover season; and
- (b) in the case of the exemption in sub-paragraph (2), the end of the current year.

(4) In each field or part of a field to which any of the options mentioned in paragraph 1(1) or (2) is applied, and in which a farmer has chosen not to establish a green cover on a strip of land pursuant to paragraph 7(2), he or she need not maintain any green cover which nevertheless subsequently becomes established on that strip.

PART B

General standards applying to all land set aside from production

Application of conditions to all land set aside from production

9. The provisions of paragraphs 10 to 15 of this Schedule apply to all land set aside from production that is managed by a farmer in accordance with any of the provisions of paragraphs 1 to 8.

Prohibition on sowing and preparation for sowing a crop on, and the cultivation of, the land set aside from production

10.—(1) Subject to paragraphs 11 and 12, during the current set-aside period, a farmer must not sow or carry out any preparation for sowing a crop on the land set aside from production or otherwise cultivate that land.

(2) Any reference to a date in paragraph 11 or 12 is to that date falling within the current set-aside period.

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

11.—(1) A farmer may make preparations for sowing on or after 15 July.

(2) Subject to paragraph (3), a farmer may sow any seed on or after 15 July where the seed sown is sown in order to produce a crop for harvesting in the following year.

(3) Where a farmer sows a grass ley on land set-aside from production pursuant to the exemption in sub-paragraph (2), he or she must not graze any animals on that land during the remainder of the current year.

Cultivation of land set aside from production for the purpose of weed control

12. A farmer may at any time on or after 1 July cultivate the land set aside from production for the purposes of controlling weeds.

Replacement of the green cover and changing management options

13.—(1) Subject to sub-paragraphs (2) and (3), in any period during which a farmer is required to maintain a green cover in a field or part of a field, he or she may nevertheless replace that green cover with another provided that the seed is sown as soon as is practicable after the destruction of the existing green cover.

(2) The seed to be sown to establish a replacement green cover must —

(a) where the cover is to be replaced in part only of a field managed in accordance with the under 10 metre strips option, be seed of a relevant kind; and

(b) in other cases be —

(i) seed of a relevant kind; or

(ii) a relevant mixture of seed.

(3) A farmer must, in respect of the field or part of a field where the green cover has been replaced, comply with such of the conditions set out in Part A of this Schedule as relate to one of the following management options —

(a) where the seed sown is seed of a relevant kind, the sown green cover option; or

(b) where the seed sown is a relevant mixture of seed, the wild bird cover option.

(4) Where a farmer replaces a green cover in accordance with sub-paragraph (1), he or she must not graze any animals on that land, or harvest any crops produced on that land, during the remainder of the current year.

Use of the green cover

14.—(1) A farmer must ensure that, subject to sub-paragraph (2), no green cover or cuttings from any green cover are used for seed production or any other commercial or agricultural purpose in the current year.

(2) A farmer may —

- (a) subject to paragraphs 11(3) and 13(4), use any such green cover or cuttings for any agricultural purposes after 31 August; and
- (b) place on the market any cuttings, or crops, that are harvested from the green cover on or after 15 January in the following year.

(3) A farmer must ensure that no cuttings from the green cover are removed from the set-aside land concerned except in accordance with sub-paragraph (2) or with the prior consent of the National Assembly.

Application of fertiliser, waste, lime and gypsum to the land set-aside from production

15.—(1) A farmer must not apply any fertiliser, waste, lime or gypsum to the land set aside from production except in accordance with the following sub-paragraphs.

(2) A farmer may apply fertilisers to the land set-aside from production if prior to such application he or she satisfies the National Assembly 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) Throughout the set-aside period a farmer may apply organic waste to the land set aside from production provided that it —

- (a) is applied only where there is an existing green cover on the set-aside land;
- (b) is applied in amounts which will not destroy that green cover; and
- (c) in the case of manure and slurry, is not applied —
 - (i) within 10 metres of any watercourse; or
 - (ii) within 50 metres of any boreholes.

(4) A farmer must not store, dump or otherwise dispose of any waste on the land set aside from production, save that he or she may store organic waste in a field which comprises or forms part of the set-aside land where that organic waste is to be applied by him or her to that field in accordance with sub-paragraph (3).

(5) A farmer may apply fertiliser during the current year to any agricultural parcel of land managed in accordance with paragraph 4 where a new green cover is being established in that 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.

(6) A farmer may apply lime or gypsum to the land set aside from production where that land is to be cropped in the following year.