

SCHEDULE 2

MANAGEMENT REQUIREMENTS IN RELATION TO SET-ASIDE LAND

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⁽¹⁾ or under regulation 5, 7, 8 or 11 of the Plant Protection Products Regulations 1995⁽²⁾ 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);

(1) S.I.1986/1510.

(2) S.I. 1995/887.

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- (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.