
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in part Council Regulation (EEC) No. 797/85 (OJ No. L93, 30.3.85, p.1) on improving the efficiency of agricultural structures, as amended by Council Regulation (EEC) No. 1760/87 (OJ No. L167, 26.6.87, p.1) and Council Regulation (EEC) No. 1094/88 (OJ No. L106, 27.4.88, p.28) as regards the set aside of arable land, and Commission Regulation (EEC) No. 1272/88 (OJ No. L121, 11.5.88, p.36), which laid down detailed rules for the set aside of arable land.

The Regulations, which apply to Great Britain, provide for payment of aid to farmers who undertake for a period of five years (“the set-aside period”) to withdraw from agricultural production an area of land equal in size to at least 20 per cent of the area of land on the holding used in the reference period for producing relevant arable crops (as defined in regulation 2(1)). Set-aside land must be left fallow (either for the whole of the set-aside period, or as part of the arable rotation), or used for woodland or for non-agricultural purposes. In addition, farmers entering the scheme must undertake to restrict the area of land used for growing relevant arable crops during the set-aside period (regulation 3(1)).

Fallowed set-aside land and land awaiting conversion to woodland or to use for non-agricultural purposes must be managed in accordance with the requirements in Schedule 2 with a view to keeping it in good agronomic condition and to protecting the environment (regulations 7(1), 8(1) and 9(1)). Farmers who opt to plant woodland on an area of set-aside land greater than 0.25 hectares must either apply for a planting grant under the Forestry Commission’s Woodland Grant Scheme or apply for grant under the Farm Woodland Scheme (regulation 6(4)).

The classes of person eligible for aid are landowners and tenants who enjoy sufficient security of tenure to take on a five-year commitment (regulation 2(1)). Tenants must notify their landlord if they intend to fallow set-aside land, and must obtain the consent of the landlord to the use of set-aside land for woodland or for non-agricultural purposes (regulation 6(1) and (2)). To benefit from aid, farmers must submit an application for acceptance by the appropriate Minister (regulation 5).

A farmer who has set-aside land may change the use of that land (with the exception of land already planted with woodland) at any time within three years of entering the scheme (regulation 11). Where a holding or part of a holding changes hands, the new occupier may assume the set-aside obligations of the previous occupier (regulation 12).

Aid under the Regulations is payable by way of five annual instalments based on the hectareage of set-aside land, and the rate varies according to the use of set-aside land and to whether it is situated in a less-favoured area (“LFA”) or elsewhere. Annual payments are to be at the rate per hectare of £200 (£180 in LFAs) in respect of land used for permanent fallow or for woodland (except where woodland is planted under the Farm Woodland Scheme): £180 (£160 in LFAs) in respect of land used for rotational fallow; and £150 (£130 in LFAs) in respect of land used for non-agricultural purposes. Where a farmer plants woodland on set-aside land under the Farm Woodland Scheme, he will receive annual payments at the same rate as under that Scheme (regulation 13).

Less-favoured areas are defined by reference to designated maps which are available for inspection during normal office hours at the addresses specified in the definition of designated maps (regulation 2(1)). Copies of the maps may also be inspected during normal office hours at any Regional or Divisional Office of the Ministry of Agriculture, Fisheries and Food, at any Divisional Office of the Welsh Office Agriculture Department and at any Area Office of the Department of Agriculture and Fisheries for Scotland.

The regulations also—

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- (a) impose certain requirements as regards the determination of the set-aside area and the minimum size and configuration of that area (regulations 3(4) and 4);
- (b) impose certain restrictions on the acceptance of applications for aid (regulation 6);
- (c) impose certain restrictions on the use of set-aside land for non-agricultural purposes (regulation 9(2));
- (d) provide for termination of set-aside undertakings by the farmer after three years (regulation 10);
- (e) provide for the withholding or recovery of aid in certain circumstances (regulations 12(6) and 16);
- (f) provide for an obligation to permit entry and inspection (regulation 15);
- (g) create an offence, punishable on summary conviction with a maximum fine of £2,000, of knowingly or recklessly making a false statement in order to obtain aid (regulation 17).