
WELSH STATUTORY INSTRUMENTS

2006 No. 41 (W.7)

AGRICULTURE, WALES

The Tir Cynnal (Wales) Regulations 2006

Made - - - - 10 January 2006

Coming into force - - 13 January 2006

The National Assembly, being designated (1) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Community(2), in exercise of the powers conferred on it by the said section 2(2) and of all other powers enabling it in that behalf hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Tir Cynnal (Wales) Regulations 2006 and they come into force on 13 January 2006.

(2) These Regulations apply in relation to Wales only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires —

“agreement land” means land which is the subject of a Tir Cynnal agreement;

“Code of Good Farming Practice” means the Good Farming Practice provisions set out in section 9.1 of the Rural Development Plan for Wales 2000-2006;

“the Commission Regulation” means Commission Regulation (EC) No. 817/2004(3) laying down detailed rules for the application of the Council Regulation;

“the Council Regulation” means Council Regulation (EC) No. 1257/1999(4) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside;

“carrying out”, in relation to an activity, includes ensuring that it is carried out, and “carry out” will be construed accordingly;

(1) S.I.2005/2766

(2) 1972 c. 68

(3) OJ No. L74/1, 26.2.04

(4) OJ No. L343, 23.6.99

“eligible person” means a Tir Cynnal agreement holder who applies for aid under these Regulations and is not excluded from eligibility for that aid at the time at which that person’s application is considered;

“farm resource management plan” means the activity set out in Part 3 of the Schedule;

“force majeure” means abnormal and unforeseeable circumstances outside the control of the claimant the effect of which would not have been avoided by the exercise of all due care by the applicant;

“landlord indemnity form” means the form drafted by the National Assembly wherein the Landlord of a Tenant who wishes to participate in the Tir Cynnal scheme but has less than five years to run under his or her tenancy agreement, undertakes to the Tenant to maintain the land within the Tir Cynnal scheme until at least the end of the first 5 years of any agreement made by the Tenant to enter into the Tir Cynnal scheme;

“National Assembly” means the National Assembly for Wales;

“other party” means a person who is party to a Tir Cynnal agreement with the National Assembly;

“resource management plan” means the activity set out in Part 3 of the Schedule;

“specified purposes” means the conservation of biodiversity, protection of landscape features, safeguarding the historic environment and reducing pollution;

“Tir Cynnal agreement” has the meaning given to it by regulation 4(2); and

“Tir Cynnal agreement holder” means any person who has entered into a Tir Cynnal agreement;

“whole farm section” means the environmental conditions set out in Part I of the Schedule which have to be complied with as part of the Tir Cynnal scheme;

“wildlife habitat” means the environmental conditions set out in Part 2 of Schedule 1.

“working day” means a day which is not a Saturday, Sunday, a common law holiday in Wales and England, or a Bank Holiday in Wales under the Banking and Financial Dealings Act(5).

“the 5% habitat condition” means the conditions set out in Part 2 of the Schedule.”

(2) Any reference in these regulations to —

- (a) a numbered regulation or Schedule is a reference to the regulation in or Schedule to these regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference occurs; and
- (c) a numbered or denoted sub-paragraph is a reference to the sub-paragraph so numbered or denoted in the paragraph in which the reference occurs.

Applications

3. An application by an eligible person to join the Tir Cynnal scheme will be made at such time and in such form and will contain or be accompanied by such information and subject to such conditions as the National Assembly may require.

Power to enter into agreements

4.—(1) In any case where the National Assembly is of the opinion that, in relation to any land, the following of the conditions set out in Parts 1, 2, 3 and 4 of the Schedule by any person who has an interest in that land would be conducive to the specified purposes, the National Assembly may, subject to paragraphs (4) and (5) below, enter into a Tir Cynnal agreement with that eligible person.

(2) For the purposes of paragraph (1) above, a Tir Cynnal agreement means an agreement which remains in force for a minimum period of five years, provides for the agreement holder to follow the conditions set out in Parts 1, 2, 3 and 4 of the Schedule in relation to the agreement land and requires the National Assembly to make payments of aid to the agreement holder in respect of the following of these conditions on the agreement land.

(3) The National Assembly will not enter into any Tir Cynnal agreement in circumstances to which Article 42 of Commission Regulation 817/2004 (which authorises replacement of an agri-environment scheme undertaking or agreement by another such undertaking or agreement) applies unless it is satisfied that the conditions set out in that Article are fulfilled.

(4) The National Assembly will not enter into any Tir Cynnal agreement unless the amount of land subject to that agreement comprises at least 3 hectares.

(5) A Tir Cynnal agreement—

- (a) will include provision that the other party will carry out on the agreement land, the whole farm section as specified in Part 1 of the Schedule ;
- (b) will include that the other party will carry out on the agreement land activities so as to protect the wildlife habitats specified in Part 2 of the Schedule insofar as the habitats exist on the agreement land;
- (c) will include that the other party will agree that at least 5% of the agreement land will consist of wildlife habitat. If less than 5% of the area of the agreement land is wildlife habitat then the other party can include existing hedgerows and create new habitats in order to meet the 5% habitat condition;
- (d) will include provision that the other party will complete a farm resource management plan as detailed in Part 3 of the Schedule;
- (e) will, in relation to the activities referred to in paragraphs (a), (b), (c) and (d) require or enable the National Assembly to make payment of aid which at the date of the coming into force of this instrument, (but which may be adjusted at the National Assembly's discretion) are at the rates referred to in Part 4 of the Schedule.

Conditions for payment of aid

5.—(1) Any requirement in a Tir Cynnal agreement to make a payment of aid under these regulations to any person will be subject to the condition that such a person is an eligible person and also to the following conditions —

- (a) that such a person is not in breach of any of the terms of the Tir Cynnal agreement by which he or she is bound;
- (b) that such a person complies with the requirements of regulation 7 below; and
- (c) that such a person maintains an interest in the agreement land for the duration of the Tir Cynnal agreement, unless such a person is a tenant of the agreement land, such tenancy having less than five years left to run, and such a person has obtained his or her Landlord's signature to the landlord indemnity form;
- (d) that such a person has complied and continues to comply with the provisions of the Code of Good Farming Practice;

(2) the conditions which have to be complied with under the Tir Cynnal scheme can be altered at any time, including alterations imposed as a result of future changes made o the Rural Development Plan for Wales 2002-2006 and any successor plan to it.

Payments

6. Payments of aid under any Tir Cynnal agreement may be made during an annual payment window determined by the National Assembly.

Claims

7.—(1) An application by a Tir Cynnal agreement holder for aid under these Regulations will be made at such time and in such form and will contain or be accompanied by such information as the National Assembly for Wales may reasonably require.

(2) The National Assembly may incorporate the claim for Tir Cynnal payments into the Single Application Payment Form.

Financial Limits

8. If, in the view of the total number of applications for grant already approved or received, the National Assembly is at any time of the opinion that the financial resources which are available for payment of grant under the Tir Cynnal scheme during any period are insufficient to satisfy any payment during the period which would result from the approval of any further application, it may, in respect of any application received at the date of its decision but not yet accepted, or any application it may receive during the relevant period—

- (a) suspend further consideration of any such application until such time as may be subsequently be specified by it: or
- (b) reject any such application without further consideration

Late claims

9.—(1) Subject to paragraphs (2) and (3) below, if the applicant presents a claim for a Tir Cynnal payment in respect of a particular year later than the closing date fixed by the National Assembly, the amount otherwise payable will be reduced by one percent for every working day from the closing date to the date upon which the claim was received by the National Assembly,

(2) If the claim was presented more than 25 days (whether or not working days) later than the closing date, no payment will be made to the claimant pursuant to that claim for a Tir Cynnal payment.

(3) Paragraphs (1) and (2) above will not apply if and to the extent that a claim is lodged later than the relevant closing date by reason of force majeure.

Notification of change of occupation

10.—(1) A Tir Cynnal agreement holder (or, if the Tir Cynnal agreement holder has died, his or her personal representative) will notify the National Assembly in writing of any change in the occupation of the agreement land or any part of the agreement land where the change occurs while the Tir Cynnal agreement is in force.

(2) Notification under this regulation will be given within three months after the change of occupation concerned.

(3) Where there has been a change of occupation of all or part of any agreement land, and the National Assembly enters into a Tir Cynnal agreement for the remainder of the term of the original agreement with the new occupier in relation to the land the occupation of which has changed, then that agreement will, for the purposes of calculating agreement years, be deemed to have commenced on the date on which the original agreement commenced.

(4) If the new occupier decides not to enter into a Tir Cynnal agreement for the remainder of the term of the original agreement in relation to the land the occupation of which has changed, then the National Assembly may withhold the whole or any part of aid payable to the Tir Cynnal agreement holder under these Regulations and may recover the whole or any part of aid paid to him or her.

(5) The foregoing provisions of this regulation will be subject to Article 36 of Commission Regulation No. 817/2004 (which governs transfers of holdings).

Amounts of aid

11. Payments of aid made in relation to the whole farm section conditions and the activities referred to in the Schedule will at the time of the coming into force of this instrument be as outlined in Part 4 of the Schedule—

Obligation to permit entry and inspection

12.—(1) A Tir Cynnal agreement holder who applies for aid under these Regulations will permit any person duly authorised by the National Assembly at all reasonable times and on production of his or her authority on demand, to enter upon the land to which a Tir Cynnal agreement relates for the purpose of —

- (a) carrying out any inspection of such land or any document or record in the possession or under the control of the applicant relating to, or which the authorised person may reasonably suspect relates to, the application with a view to verifying the accuracy of any particulars given in the application; and
- (b) ascertaining whether the terms of the Tir Cynnal agreement have been complied with.
- (c) carrying out any inspection or examination necessary for the purposes of determining whether the Code of Good Farming Practice has been complied with

(2) A Tir Cynnal agreement holder will render all reasonable assistance to the authorised person in relation to the matters mentioned in paragraph (1), and in particular will —

- (a) produce any document or record which may be required by the authorised person for inspection;
- (b) permit the authorised person to take copies or extracts from any such document or record;
- (c) where any such document or record is kept by means of a computer, produce it in a form in which it may easily be read and taken away; and
- (e) at the request of the authorised person, accompany the authorised person in making the inspection of any land and identify any area of land which relates to the application or to any change of occupation notified under regulation 10.

Withholding and recovery of aid

13.—(1) Where any Tir Cynnal agreement holder, with a view to obtaining the payment of aid under these Regulations to himself or herself, or any other person, makes any statement or furnishes any information which is false or misleading, the National Assembly may withhold the whole or part of any payments of aid payable thereunder to that person or such other person and may, subject to the provisions of Articles 71 and 72 of Commission Regulation 817/2004 (which provides for recovery of wrongful payments with interest, a penalty system and exclusion for false declarations), recover the whole or part of any sums already paid by way of aid thereunder to that person or such other person.

(2) Where a Tir Cynnal agreement holder —

- (a) has failed to do something which he or she undertook to do if the aid was paid, or

(b) is in breach of any conditions subject to which the aid was paid, the National Assembly may withhold the whole or any part of any aid payable to that agreement holder under these Regulations and may recover the whole or any part of any aid already paid to him or her.

(3) Any dispute in any particular case as to the withholding or recovery of aid by reference to paragraph (1) or (2) above will be referred to and determined by a single arbitrator to be agreed between the parties or in default of agreement to be appointed by the President of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration Act 1996⁽⁶⁾ or any statutory modification or re-enactment thereof for the time being in force.

(4) Where the National Assembly withholds or recovers aid under paragraph (2) above, it may also, in so far as is consequent upon Article 20(2) of the Commission Regulation (which requires Member States to determine a system of penalties which are effective, commensurate with their purpose and of adequate deterrent effect to be imposed for breaches of undertakings), require the agreement holder to pay to the National Assembly a sum equal to no more than 10% of the aid paid or payable to the agreement holder under these Regulations.

(5) Where the National Assembly takes any steps specified in paragraph (1), (2) or (4) above, it may also terminate the agreement referred to therein by giving notice of such termination to the Tir Cynnal agreement holder.

(6) Where under paragraph (5) above the National Assembly withdraws an agreement in connection with any step taken under paragraph (2) above, it may also, in so far as is consequent upon Article 20(2) of the Commission Regulation, by notice in writing to the agreement holder prohibit him or her from providing a new undertaking or entering a new agreement under an agri-environment scheme for such period (not exceeding two years) from the date of that termination as is specified in the notice.

Recovery of interest

14.—(1) Where aid is paid under these Regulations by the National Assembly and, by virtue of Article 20(1) of the Commission Regulation (which provides for recovery of wrongful payments with interest), a reimbursement of all or part of the payment with interest is required, the rate of interest will be one percentage point above LIBOR on a day to day basis.

(2) For the purpose of this regulation, LIBOR means the sterling three month London interbank offered rate in force during the period specified in Article 20(1) of the Commission Regulation.

(3) In any proceedings relating to this regulation, a certificate of the National Assembly stating the LIBOR applicable during a period specified in the certificate will be conclusive evidence of the rate applicable in the specified period if the certificate also states that the Bank of England notified the National Assembly of that rate.

Recovery of payments

15. In any case where an amount falls to be paid to the National Assembly by virtue of, or by virtue of action taken under, these Regulations or the Commission Regulation in so far as it relates to agreement land, the amount so falling to be paid will be recoverable as a debt.

(6) 1996 c. 23

Signed on behalf of the National Assembly under section 66(1) of the Government of Wales Act 1998(7)

10 January 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

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SCHEDULE

PART 1—

WHOLE FARM SECTION

Conditions to be complied with in relation to the whole of the land under agreement. The conditions are as follows:

FIELD BOUNDARIES

- Retain all traditional field boundaries (hedgerows, dry stone walls, earth banks with or without stone face, slate fences) and associated features (stone gateposts, stone stiles).
- Any maintenance work undertaken on traditional boundaries should use traditional materials and methods.
- Leave at least 25% of hedgerows including any bank hedgerows untrimmed in any one year, with each hedge being left uncut at least one year out of every four (except where highway and/or health and safety requirements preclude this along roadsides).
- Do not cut hedges between 1 March and 31 August (except where highway and/or health and safety requirements preclude this along roadsides).

FIELD BOUNDARY BUFFER ZONES

- Do not cultivate, apply fertilisers, lime, herbicides or other pesticides (unless spot treating injurious weeds or invasive alien species such as Japanese knotweed, Himalayan Balsam, Giant Hogweed or Rhododendrons, as more particularly specified in Section 1 of the Weeds Act 1959, and any other weeds subsequently prescribed by regulations under the Weeds Act 1959) within a buffer strip of 1m width from the outside edge of the base of a traditional field boundary (on both sides).

TREES

- Retain individual trees. If possible, encourage natural regeneration to replace lost trees, otherwise replant using saplings of local provenance.
- Do not damage (e.g. by pesticide drift) trees and associated plants and animals
- Any management should follow the guidelines for bats in trees.
- Retain dead trees unless they cause a hazard or obstruction

PUBLIC ACCESS

- Comply with legal requirements relating to existing public rights of way that are on land, including avoiding obstructing them, and reinstating them after ploughing.
- Allow access on foot on land identified as available for such access on the maps prepared by the Countryside and Rights of Way Act 2000

LANDSCAPE AND HISTORIC FEATURES

- Safeguard archaeological or historic features from damage by stock, vehicles, cultivation or land reclamation. Trees should not be planted nor stones removed.
- Maintain weatherproof and structurally sound traditional buildings in a state of good repair, using traditional materials.
- Sound and weatherproof traditional buildings that have been modified using modern materials should be maintained but the modern components may be repaired or replaced with modern materials.
- Other traditional, sound and well maintained landscape features (e.g. sheepfolds, stone slab bridges) must be maintained.

- Derelict or remnant historic features and traditional buildings must be retained unless they cause a hazard.
- Do not disturb protected species that may be using these sites.
- Use of metal detectors must comply with the Treasure Act 1996.

ROCK FEATURES AND LANDFORMS

- Safeguard rock features and geological sites by avoiding physical disturbance. Do not extract rock, scree, sand, shingle, gravel, clay or peat (except from existing quarries for on-farm use) and do not burn vegetation on rocky areas.
- Maintain a 2m buffer zone around rock features without using cultivation, fertilisers, lime, herbicides or other pesticides, (unless for spot treatment of injurious weeds or invasive alien species).

RUBBISH

- Keep the farm clear of rubbish and avoid dumping rubbish such as derelict vehicles and disused domestic appliances, in the fields or curtilage of the farmstead.

SOIL AND WATER

- Protect all water features — lakes, ponds, rivers, streams and ditches from damage due to leaching of manure, fertilisers, other chemicals and spray drift from adjacent fields.
- Do not cultivate or apply fertilisers, off-farm wastes, lime, pesticides or other chemicals to land within 1m of a water feature.
- Do not apply farm yard manure or slurry within 10m of a water feature.
- Manage the land in order to avoid excessive poaching of the soil to the extent that it impairs the environment beyond the site itself, through run-off and soil erosion leading to pollution and increased sedimentation of watercourses.
- Avoid heavy grazing where this results in the removal of vegetation leading to soil erosion.
- Avoid excessive erosion of the banks of watercourses and pollution of the water by livestock and where necessary control access.

NON-NATIVE SPECIES

- Do not introduce any non-native animal or plant species, other than for agricultural production, to the land.

PROTECTED SPECIES

- Do not disturb protected species like dormice, bats, water voles, otters and badgers and consult the CCW or Welsh Assembly Government and obtain any necessary licence before undertaking work where protected species are present.

ANIMAL WELFARE AND WILDLIFE PROTECTION

- Comply with the relevant Welsh Assembly Codes for the Welfare of Livestock.

PART 2 —

WILDLIFE HABITATS

It is a requirement of the Tir Cynnal Scheme that the existing wildlife habitats on the agreement land are protected from damage. At least 5% of the agreement land must be wildlife habitat.

The main groups of wildlife habitats (which is not exhaustive) are as follows:

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Broad leaved woodland: woodland, with associated glades and rides, consisting of at least 50% native trees or yew. Wet woodland of alder or willow is included as are orchards containing standard fruit trees. Woodland that incorporate conifers may be included provided the native species content is more than 50% of the area (although those with less than 50% native species can be included if they are on ancient woodland sites)

Scrub: areas dominated by native shrubs such as hawthorn, blackthorn, common gorse, elder, willow, birch or bramble

Heathland: areas where at least 25% of the vegetation cover consists of dwarf shrubs such as heather, bilberry and western gorse. They occur in a range of locations from coastal and lowland areas to uplands. Upland heaths, usually above the limit of agriculture enclosure, are often associated with moorland habitats such as bogs and acid grassland.

High mountain heaths: which are more typically dominated by mosses, lichens, a sparse grass cover and patches of unvegetated stony ground, are also included.

Grassland: A range of habitats including unimproved grassland, semi-natural grassland, traditional hay meadows and marshy grasslands, where there has been no cultivation, reseeding, application of herbicides or drainage during the last 10 or more years. At most there will have been only light applications of inorganic fertiliser and the habitat is characterised by the absence or low levels of improved grassland species such as perennial ryegrass and white clover. If these account for more than 25% of the sward the land should be classified as improved grassland and will not be included as habitat under the Tir Cynnal scheme.

Wetlands: Land types that include bogs, reedbeds swamps and fens. They occur on deep peat and/or with a water table at or above ground level for most of the year.

Coastal areas: Includes saltmarshes and sand dunes, in addition to coastal scrub, heathland, and grasslands that are covered in the previous habitat groups.

The list above defines the main types of habitats, but other semi-natural areas or water bodies like ponds can be included as Tir Cynnal habitat.

- A generic set of prescriptions has to be adhered to on habitat areas on the agreement land. These are as follows:

Safeguarding Wildlife Habitats — Conditions

- Do not plough, cultivate or re seed
- Do not roll or chain harrow between 1 April and 15 July of each year.
- Do not install new drainage
- Do not clear out ditches between 1 March and 31 August
- Do not use herbicides or pesticides (other than for spot treatment of injurious weeds).
- Consult with Countryside Council Wales and/or Environment Agency Wales on bracken spraying and consider if Environmental Impact Assessment required.
- Do not apply inorganic fertilisers, purchased bagged organic fertilisers, slurry or other off-farm wastes.
- Do not apply any lime, basic slag, calcified seaweed, waste paper, sludge or other off-farm wastes
- Stock the land in line with the Code of Good Farming Practice particularly so that there is no over or under grazing.
- Avoid undertaking supplementary feeding practices where these cause damage to vegetation and poaching of the soil.
- Do not undertake supplementary feeding within broad leaved or mixed woodland.

- Avoid the rutting of vegetation by vehicles.
- Do not extract peat or remove rock.
- Retain ant hills.
- Do not remove any accumulations of seaweed.

If there is not enough land to satisfy the 5% rule existing hedgerows may be included and/or new habitats created in order to meet this requirement to count towards the habitat area.

All hedgerows are protected in the scheme under the conditions of the whole farm section in Part 1. In order to qualify towards the habitat area, such hedgerows have to:

- Be at least 2 metres wide between the edges of the hedge including associated adjacent rank vegetation — the calculation of the area of hedgerow will use 2 metres as a standard width
- Consist of native species such as hazel, hawthorn, blackthorn and holly
- Have no gaps (except for gateways and beneath hedgerow trees) between the field corners so as to provide a continuous wildlife corridor along the hedge length
- Be protected from livestock on both sides. Where livestock are not present (e.g. on arable farms) a width of 2 metres consisting of the hedge itself and associated rank vegetation have to be retained without interference of any kind
- Be completely under the Tir Cynnal agreement holder's management control so that the Tir Cynnal agreement holder can fully implement the conditions for hedgerows in the Whole Farm Section. This means that in many cases perimeter hedgerows that you share with another farmer or those along public highways may not be eligible for inclusion as a habitat.
- If including hedgerows as habitat the 1 metre buffer strip condition has to be added to the 2m width of the hedgerow.

If the areas of habitat (together with eligible hedgerows if these have been included) amount to less than 5% of the land on the farm the farmer will need to identify areas of improved land in which to create new habitats. These additional areas, plus existing habitat will be required to reach or exceed the minimum 5%.

There are seven habitat creation options available to the farmer under the scheme. The farmer can choose one or more to suit the management of the farm. The options are as follows:

1. Creating streamside corridors alongside watercourses.
2. Reducing inputs to revert improved land to semi-improved
3. Leaving uncropped cereal margins on cereal land
4. Creating grass margins on cereal land
5. Small scale broad leaved tree planting
6. Establishing a wild bird cover crop
7. Establishing a crop of unsprayed roots.

Prescriptions for the creation of a streamside corridor

- A strip of land with an average width of 10m adjacent to a watercourse should be rendered stockproof. This will normally be achieved by fencing, unless circumstances can ensure that no stock can enter (e.g. agreement land with no livestock, or areas protected by natural features). The strip should not be narrower than 6m at any point.
- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal.
- Do not apply any farm yard manure.

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Prescriptions for reducing inputs to revert improved land to semi-improved land

- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal (refer to safe guarding wildlife habitat prescriptions in Part 2).
- Do not apply any farm yard manure.

Prescriptions for leaving uncropped margins on cereal land

- The margin should be applied to selected headlands which have to be at least 4 metres in width and up to a maximum of 12 metres, beyond the 1 metre field boundary buffer.
- The margin may be located in the same place or rotated around the agreement land in each year of the agreement. If rotated, the minimum area required to satisfy the “5% rule” should be established each year.
- The margin should be allowed to regenerate naturally.
- Exclude all livestock from the margin.
- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal (refer to safe guarding wildlife habitat prescriptions in Part 2).
- Do not apply farm yard manure.
- Do not apply molluscicides.
- Cultivate the margin once each year between 1 October and 31 March (if the margin remains in the same location for more than one year, cultivating once every other year is permissible).
- No part of the margin is to be used for regular machine access or as a trackway. It is acceptable to trim hedges or carry out routine inspections, but where regular access is essential, the margin have to be at least 7 metres wide.

Prescriptions for grass margins on cereal land

- The margin should be applied to selected headlands which have to be a minimum of 4 metres in width and up to a maximum of 12 metres beyond the 1 metre field boundary buffer zone. The margin can be rotated annually or, provided all the prescriptions can be adhered to, it can remain in the same location.
- Complete ground cover of the margin have to be established by sowing a mixture made up of at least two of the following grass species:—
 - Crested dogstail (*Cynosurus cristatus*)
 - Yorkshire fog (*Holcus lanatus*)
 - Smooth stalked meadow grass (*Poa pratensis*)
 - Sweet vernal grass (*Anthoxanthum odoratum*)
 - Cocksfoot (*Dactylis glomerata*)
 - Sheep’s fescue (*Festuca ovina*)
 - Meadow fescue (*Festuca pratensis*)

Plus at least 3 kg/ha of either red clover, alsike clover or bird’s foot trefoil

- As long as the margin remains in the same location the existing vegetation can be retained in the second and subsequent years.
- The grass has to be left uncut and ungrazed between sowing and 15 July.

- The margin has to be cut at least once per year and the cuttings may be removed (they can be destroyed, e.g. by composting, or used, e.g. as hay, silage or green fodder).
- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal (refer to safe guarding wildlife habitat prescriptions in Part 2).
- Do not apply farm yard manure.
- Do not apply molluscicides.
- Do not allow vehicles on to the margin between sowing and 15 July in the first year, or subsequently before 15 July if the margin is maintained in the same location for a number of years.

Prescriptions for small scale broad-leaved tree planting

- The area planted has to be on improved grassland or arable land before planting.
- The trees have to be broad-leaved native species and should be planted at a density of no less than 3 metres between trees.
- Protect the trees planted from livestock for the duration of the Tir Cynnal agreement. This will normally be achieved by fencing, unless circumstances ensure no livestock can enter (e.g. agreement land with no livestock, or areas protected by natural features).
- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal.
- An application of farmyard manure at a rate not exceeding 25 tonnes per hectare may be applied before planting. After planting do not apply any farmyard manure.

Prescriptions for the establishment of wild bird cover crop

- Cultivate a seedbed containing at least two or three different types of crop of at least 4metres width on field margins (but whole fields are also acceptable) and establish the crop annually before 20 April. Typical species include: barley, oats, triticale, linseed, quinoa, millet, mustard, kale, teasel, fodder beet, red clover, and sainfoin.
- The crop has to not be cut or grazed before 15 March in the year following establishment.
- Do not apply insecticides, fungicides, molluscicides or herbicides (except for the spot treatment of injurious or invasive alien species).
- Use of lime or fertiliser (organic or inorganic) is permitted only at the time of crop establishment.
- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal.

Prescriptions for establishment of unsprayed root crops

- Establish a root crop annually before 1 July (e.g. swedes or turnips) in whole fields or on field margins
- Glyphosate may be applied to destroy existing vegetation prior to establishing the crop, but no other herbicides, (except as a spot treatment for injurious weeds or invasive alien species weeds) should be used.
- Molluscicides may only be used if drilled at the time of crop establishment. No other pesticides may be used.
- Use of lime and fertiliser is acceptable.
- The crop should not be grazed before 15 October and the land should not be ploughed until 1 March in the year following establishment.

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- The option is rotational and can be moved around the farm on an annual basis as long as the total area agreed is maintained.
- Undertake all relevant prescriptions that apply to wildlife habitats designated under Tir Cynnal.

PART 3 —

FARM RESOURCE MANAGEMENT PLAN

Every participant will have to complete the farm resource management plan. The main section of the farm resource plan will need to be completed within 6 months of entering into a Tir Cynnal agreement.

Participants will be required to keep the document up to date, making changes to the document when required.

The Plan will need to be prepared and shown to an Assembly Officer when the farm is brought up for inspection.

If a farm produces, stores or disposes of slurry, farmyard manure or other organic waste, a Manure Management Plan is required. If a Manure Management Plan covering the agreement area is not already available, the agreement holder is required to prepare one, using the Tir Cynnal template which has been designed for that purpose.

The Manure Management Plan must be completed within twelve months of entering into a Tir Cynnal agreement.

If organic or inorganic fertiliser is applied to the agreement land, a Soil Nutrient Management Plan is required. If a Soil Nutrient Management Plan is not readily available, the other party must prepare one, using the Tir Cynnal template which has been designed for that purpose. The Soil Nutrient Management Plan must be prepared within twelve months of entering into a Tir Cynnal agreement.

The main part of the Resource Management Plan, and if they are required, the Manure and Nutrient management Plans, must be reviewed at least annually and more frequently if deemed necessary by the National Assembly.

PART 4 —

PAYMENTS

Payment under the regulations will be on an annual basis per hectare as follows:

£45.00/ha for the first 20 hectares

£30.00/ha between 21-50 hectares

£25.00/ha between 51-100 hectares

£5.00/ha between 101-200 hectares

£2.00/ha for every hectare over 200 hectares

Payments will be made annually in arrears.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to Wales only. These Regulations are made pursuant to Council Regulation (EC) No.1257/1999 and the detailed framework for the implementation of that Council Regulation is contained in Commission Regulation (EC) No. 817/2004

The Regulations provide for various grant payments to be made to any person who enters into an agreement with the National Assembly, where that person agrees to take part in the Tir Cynnal agri-environment scheme.

The Tir Cynnal scheme aims to provide opportunities for farmers in Wales to take part in work of an agri-environment nature on their land by following a basic set of conditions described in the Schedule to these Regulations in order to protect areas and features of environmental importance on their land. The Scheme requires levels of environmental protection greater than that of legal and cross-compliance requirements, but not as demanding as those of Tir Gofal.

The aim of the Tir Cynnal scheme is to prevent loss of biodiversity, protect landscape features, safeguard the historic environment and reduce pollution.

Where a beneficiary of the Tir Cynnal scheme provides false or misleading information, or there is a breach of the Tir Cynnal agreement, then the National Assembly may withhold future payments of grant or recover on demand any grant which has already been paid to the beneficiary.

Where the National Assembly is minded to withhold or recover grant, the National Assembly has to inform the beneficiary and allow the beneficiary to make any representations he or she wishes within a reasonable time period. Those representations have to be taken into account before a final decision is taken.

A Regulatory Appraisal has been produced for this instrument, and copies are available from the Environment, Conservation and Management Division, Cathays Park, Cardiff, CF10 3NQ.