

Statutory Instrument 2003 No. 838

The Entry Level Agri-Environment Scheme (Pilot) (England) Regulations 2003

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STATUTORY INSTRUMENTS

2003 No. 838

AGRICULTURE, ENGLAND

The Entry Level Agri-Environment Scheme (Pilot) (England) Regulations 2003

<i>Made</i>	<i>24th March 2003</i>
<i>Laid before Parliament</i>	<i>25th March 2003</i>
<i>Coming into force</i>	<i>18th April 2003</i>

The Secretary of State, in exercise of the powers conferred upon her by section 98 of the Environment Act 1995[1], with the consent of the Treasury and after consulting the Countryside Agency, English Nature and the Historic Buildings and Monuments Commission for England in accordance with section 99 of that Act[2], hereby makes the following Regulations:

Title, commencement and application

1. These Regulations may be cited as the Entry Level Agri-Environment Scheme (Pilot) (England) Regulations 2003, shall come into force on 18th April 2003 and shall apply to land in England.

Interpretation

2. In these Regulations -

"application" means an application to enter into an agreement with the Secretary of State and "applicant" shall be construed accordingly;

"beneficiary" means a person who has entered into an agreement with the Secretary of State;

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

"enclosed land" means land in an area of less than 15 hectares which is enclosed by a wall, fence or hedge;

"excluded land" means land which is registered as common land under the Commons Registration Act 1965[3] or which is subject to

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(a) an agreement under the Countryside Stewardship Regulations 1998[4] or the Countryside Stewardship Regulations 2000[5];

(b) an agreement under section 18(3) of the Agriculture Act 1986[6] (an environmentally sensitive areas agreement);

(c) an agreement under section 16 of the National Parks and Access to the Countryside Act 1949[7] or section 15 of the Countryside Act 1968[8] (agreements with English Nature);

(d) a scheme under section 28J of the Wildlife and Countryside Act 1981[9] in respect of which a payment is made under section 28M(2) of that Act (management schemes for sites of special scientific interest);

(e) an agreement under section 17 of the Ancient Monuments and Archaeological Areas Act 1979[10] (agreements to maintain ancient monuments); or

(f) an undertaking under the Organic Farming (Aid) Regulations 1994[11], the Organic Farming Regulations 1999[12] or the Organic Farming (England Rural Development Programme) Regulations 2001[13];

"interest", in relation to land, means a freehold or leasehold interest in it, or a contractual licence to occupy it;

"less favoured area" means all the land shown coloured blue and pink on the three volumes of maps numbered 1 to 3, each volume being marked "Volume of maps of less-favoured farming areas in England", dated 20th May 1991, signed and sealed by the Minister of

Agriculture, Fisheries and Food and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

"pilot area" means an area of land shown bounded by a blue line on a map contained in the volume of maps marked "Volume of maps of the four pilot areas for the Entry Level Agri-Environment Scheme Pilot", dated 12th February 2003, signed on behalf of the Secretary of State and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

"relevant area" means the whole of any single area of land in which the applicant has an interest, and, for the purpose of determining what is a single area, any field boundary, watercourse, road or railway shall be disregarded;

"specified purposes" means -

(a) the conservation or enhancement of the natural beauty or amenity of the countryside (including its flora and fauna and geological and physiographical features) or of any features of archaeological interest there, or

(b) the promotion of the enjoyment of the countryside by the public.

Applications

3. - (1) An application -

(a) may be made only in respect of a relevant area at least part of which is situated within a pilot area; and

(b) shall be made in respect of all the land in a relevant area other than excluded land.

(2) An application shall be made at such time and in such form and shall contain or be accompanied by such information as the Secretary of State may require.

Power to enter into agreements

4. - (1) The Secretary of State may enter into an agreement with an applicant where -

(a) the Secretary of State is of the opinion that the carrying out by the applicant of any activity in relation to land which is the subject of the application would be conducive to either of the specified purposes; and

(b) the points target relating to that land, calculated in accordance with regulation 5, is met or exceeded.

(2) For the purposes of paragraph (1), "agreement" means an agreement which remains in force for a specified period, provides for the activity in question to be carried out in relation to land which is the subject of the agreement and requires the Secretary of State to make a grant to the beneficiary in respect of the carrying out of that activity on the land.

(3) Any agreement entered into under paragraph (1) shall be for a

period of no more than 5 years.

Points target

5. - (1) The points target shall be calculated at the following rates -

(a) in relation to any land which is in a less favoured area, other than enclosed land, 15 points per hectare; and

(b) in relation to all other land, 30 points per hectare.

(2) An applicant may obtain points in relation to the land which is the subject of an application as follows -

(a) by making a record of the environmental features on that land, for which 5 points per hectare may be obtained; and

(b) by undertaking to carry out on that land any of the activities listed in the first column of the Schedule, for which points may be obtained at the rates specified in the second column of the Schedule.

Conditions of grant

6. A beneficiary's entitlement to receive payment of a grant at any time shall be subject to the following conditions -

(a) that there has been no breach of any term of the agreement; and

(b) that he has an interest in the land subject to the agreement.

Power to make payments of grant

7. The Secretary of State may make payments of grant to a beneficiary at the following rates -

(a) in relation to any land which is in a less favoured area, other than enclosed land, £15 per hectare per year; and

(b) in relation to all other land, £30 per hectare per year.

Power to recover or withhold payments

8. - (1) Where -

(a) any information provided by the beneficiary is false or misleading in any material respect; or

(b) there has been a breach of any term of the agreement,

the Secretary of State may exercise either of the powers contained in paragraph (2).

(2) The powers conferred by paragraph (1) are -

(a) to withhold the whole or any part of the sums payable to the beneficiary; and

(b) to recover on demand the whole or any part of the sums already paid to the beneficiary.

(3) Before exercising the powers contained in paragraph (2), the Secretary of State shall -

- (a) give the beneficiary a written explanation of the reasons for the step proposed to be taken;**
- (b) invite the beneficiary to make written representations within such time as the Secretary of State considers reasonable; and**
- (c) consider any such representations.**

Michael Meacher
Minister of State, Department for Environment, Food and Rural Affairs

24th March 2003

We consent,

John Heppell
Jim Fitzpatrick
Two of the Lords of Her Majesty's Treasury

24th March 2003

SCHEDULE

Regulation 5(2)(b)

ACTIVITIES FOR WHICH POINTS MAY BE OBTAINED

<i>Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Points per unit</i>
1.Field boundaries, trees and woodlands -	
Hedgerow management (both sides of the hedge)	30 per 100 metres
Hedgerow management (one side of the hedge)	15 per 100 metres
Enhanced hedgerow management (both sides of the hedge)	50 per 100 metres
Ditch management	30 per 100 metres

Stone wall protection and maintenance	20 per 100 metres
Protection of in-field trees on cultivated land	15 per tree
Protection of in-field trees on grassland	10 per tree
Maintenance of woodland fences	4 per 100 metres
Management of woodland edges	13 per 100 metres
Maintenance and management of woodland rides	400 per hectare
2.Historic and landscape features -	
Maintenance of traditional farm buildings	2 per square metre of floor area
Take archaeological features out of cultivation	50 points + 500 points per hectare
Reduce cultivation depth	40 per hectare
Management of scrub on archaeological sites	100 per hectare
Archaeological features on grassland	10 per hectare
3.Buffer strips -	
2 metre buffer strip on cultivated land	10 per 100 metres
4 metre buffer strip on cultivated land	20 per 100 metres
6 metre buffer strip on cultivated land	30 per 100 metres
2 metre uncropped cultivated margin	10 per 100 metres
4 metre uncropped cultivated margin	20 per 100 metres
6 metre uncropped cultivated margin	30 per 100 metres
2 metre buffer strip on intensive grassland	10 per 100 metres
4 metre buffer strip on intensive grassland	20 per 100 metres
6 metre buffer strip on intensive grassland	30 per 100 metres
4.Arable land -	
Field corner management	500 per hectare
Wild bird seed mixture	500 per hectare
Pollen and nectar flower mixture	500 per hectare
Over-wintered stubbles	70 per hectare
Beetle banks	12 per 100 metres
Skylark plots	4 per plot
Conservation headlands in cereal fields	80 per hectare

Conservation headlands with no fertilisers	220 per hectare
5.Forage crops management -	
Cereals for whole crop silage followed by over-wintered stubbles	225 per hectare
Brassica fodder crops followed by over-wintered stubbles	70 per hectare
Management of maize crops to reduce soil erosion	15 per hectare
6.Reduction of soil erosion -	
Management of high erosion risk cultivated land	15 per hectare
7.Encouragement of diversity of crop types -	
Undersown spring cereals	190 per hectare
Wild bird seed mixture in grassland areas	500 per hectare
Pollen and nectar flower mixture in grassland areas	500 per hectare
8.Lowland grass outside less favoured areas -	
Maintain permanent grassland	11 per hectare
Take field corners out of management	500 per hectare
Permanent grassland with low inputs	80 per hectare
Permanent grassland with very low inputs	125 per hectare
Management of rush pastures	10 per hectare
Mixed stocking	8 per hectare
9.Enclosed land in less favoured areas -	
Permanent grassland with low inputs	55 per hectare
Permanent grassland with very low inputs	90 per hectare
Field corner management	100 per hectare
Enclosed rough grazing	25 per hectare
Management of rush pastures	8 per hectare
10.Unenclosed land in less favoured areas -	

Unenclosed moorland rough grazing	8 per hectare
11.Preparation of land management plans -	
Soil management plan	2 per hectare
Nutrient management plan	2 per hectare
Manure management plan	2 per hectare
Crop protection management plan	2 per hectare

Interpretation
In this Schedule -

"beetle bank" means a linear raised earth bank in a field, covered in grass vegetation;

"brassica fodder crop" means a brassica crop grown in order to be grazed by livestock or cut for forage;

"buffer strip" means a strip of land adjoining a field boundary or environmental feature which is not cultivated and which does not receive inputs;

"conservation headland" means an area bordering land planted with a cereal crop that receives no insecticides in the spring or summer and where the use of herbicides is restricted;

"cultivated land" means land which is regularly cultivated by ploughing or other means;

"ditch management" means the cleaning of ditches and the management of vegetation on and adjacent to the ditch bank;

"grassland" means land on which the vegetation consists primarily of grass and other herbaceous species;

"hedgerow management" means a cycle of cutting and trimming used to control hedgerow growth and **"enhanced hedgerow management"** means a more restricted cycle of cutting and trimming;

"in-field tree" means a tree, the trunk of which is entirely within the field and does not touch the field boundary;

"inputs" means fertilisers, manures, pesticides and seed;

"over-wintered stubbles" means the remains of a cereal, oilseed rape, field bean or linseed crop after harvesting, retained through the winter into the following year;

"permanent grassland" means grassland which has not been subject to cultivation for at least five years and is maintained with a cover of vegetation dominated by grass and other herbaceous species;

"pollen and nectar flower mixture" means the sowing and management of a mixture of pollen and nectar rich plants;

"rough grazing" means grazing on permanent grassland on which the vegetation is predominantly natural owing to the difficult terrain or other physical constraints;

"rush pasture" means damp pasture where at least a third of the vegetation comprises rush species and the remainder comprises mainly of grass and other herbaceous species;

"skylark plot" means an unsown, sparsely vegetated area of land in

a field sown with cereals;
"undersown spring cereals" means a spring-sown crop which is undersown with a mixture of seeds of grass and legume species;
"whole crop silage" means a crop which is harvested to make silage for feeding to livestock;
"wild bird seed mixture" means the sowing of a mixture of seeds of plant species that will benefit wild birds, and the management of resulting vegetation;
"woodland edges" means an area where there is a change from woodland vegetation to another vegetation type.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, are made pursuant to section 98 of the Environment Act 1995, and provide for a grant to be made to any person who enters into an agreement with the Secretary of State requiring him to carry out activities which are conducive to a specified purpose on land in which he has an interest. The specified purposes are the conservation of the natural beauty or amenity of the countryside and the promotion of the enjoyment of the countryside by the public (regulation 2).

Four pilot areas have been designated to reflect different uses of agricultural land in England. An applicant may apply for a grant in respect of any area of land which lies wholly or partly within a pilot area (regulations 2 and 3). Land is excluded from the scheme if it is already subject to another agri-environment or management scheme, or if it is common land (regulation 2).

Applicants to the scheme must be freehold owners, tenants or contractual licensees of the land in respect of which they are applying (regulation 2). Each applicant must meet a points target, calculated by reference to the area of land entered. Points are obtained by making a record of the environmental features on the land, and by undertaking to carry out so many of the specified activities as are necessary to reach the target (regulation 5 and the Schedule).

The Secretary of State may make annual flat-rate payments of grant provided that the beneficiary has an interest in the land and the terms of the agreement have not been breached (regulations 4, 6 and 7).

Where a beneficiary has provided false or misleading information, or there is a breach of the agreement, the Secretary of State may withhold future payments of grant or recover on demand any grant which has already been paid to the beneficiary (regulation 8). Where she is minded to withhold or recover grant, the Secretary of State must inform the beneficiary and allow him to make any representations he wishes within a reasonable time. Those representations must be taken into account before a final decision is taken (regulation 9).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

Notes:

[1] 1995 c. 25. Section 98(5) contains a definition of the appropriate Minister. The functions of the Minister of Agriculture, Fisheries and Food (which related only to England) were transferred to the Secretary of State by virtue of article 2(2) of The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). The functions of the Secretary of State were, so far as they related to Wales, transferred to the National Assembly for Wales by virtue of article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the Secretary of State were, so far as they related to Scotland, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).back

[2] Section 99 was amended by article 3(d) of the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (S.I. 1999/416) and by section 73(4) of and Schedule 8 to the Countryside and Rights of Way Act 2000 (c. 37).back

[3] 1965 c. 64.back

[4] S.I. 1998/1327, amended by S.I. 1999/1177.back

[5] S.I. 2000/3048, amended by S.I. 2001/3991.back

[6] 1986 c. 49.back

[7] 1949 c. 97.back

[8] 1968 c. 41.back

[9] 1981 c. 69. Sections 28J and 28M were inserted by section 75(1) of and Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).back

[10] 1979 c. 46.back

[11] S.I. 1994/1712, amended by S.I. 1996/3109, S.I. 1998/1606 and S.I. 1999/590.back

[12] S.I. 1999/590, amended by S.I. 1999/2735 and S.I. 1999/2933.back

[13] S.I. 2001/432, amended by S.I. 2001/3139.back

ISBN 0 11 045525 8

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