

# Statutory Instrument 1994 No. 1293

## The Habitat (Salt-Marsh) Regulations 1994

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### STATUTORY INSTRUMENTS

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**1994 No. 1293**

### AGRICULTURE

### The Habitat (Salt-Marsh) Regulations 1994

|                               |                      |
|-------------------------------|----------------------|
| <i>Made</i>                   | <i>12th May 1994</i> |
| <i>Laid before Parliament</i> | <i>16th May 1994</i> |
| <i>Coming into force</i>      | <i>6th June 1994</i> |

The Minister of Agriculture, Fisheries and Food, being a Minister designated<sup>[1]</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>[2]</sup> in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on her by the said section 2(2) and of all other powers enabling her in that behalf, hereby makes the following Regulations:

**Citation, commencement and extent**

1. These Regulations may be cited as the Habitat (Salt-Marsh) Regulations 1994, shall come into force on 6th June 1994 and shall apply to England.

**Interpretation**

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

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping and freshwater fish farming, the use of land as grazing land, meadow land, osier land, reed beds, market gardens and nursery grounds, and "agricultural" shall be construed accordingly;

"application" means an application for aid under regulation 4 and "applicant" shall be construed accordingly;

"arable land" includes ley grassland;

"beneficiary" means a person whose application has been accepted;

"coastal defence authority" means the National Rivers Authority, an internal drainage board or any other body having power to undertake or maintain works for the defence of land against sea water, or a coast protection authority or sea defence commissioners within the meaning of the Coast Protection Act 1949<sup>[3]</sup>;

"eligible land" means an area of arable land or permanent grassland of not less than one hectare which—

- (a) is situated adjacent to the coast, and
- (b) in the opinion of the Minister is suitable for the establishment of salt-marsh vegetation;

"eligible person" means a person who on the date of the submission of his application occupies eligible land as an owner or tenant;

"holding" means land which is occupied as a unit for agricultural purposes;

"landlord" means, in relation to a tenant of any land, any person who either solely or jointly owns or has a superior tenancy of that land;

"managed land" means the area of land in relation to which a beneficiary has assumed management obligations;

"management obligations" means the obligations assumed by a beneficiary by virtue of the undertakings referred to in regulation 3 or 6;

"management period", in relation to an application accepted by the Minister, means the period of 20 consecutive years commencing on a date agreed by the Minister and the beneficiary;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"permanent grassland" means agricultural land on which the vegetation consists primarily of grass species and which has not been ploughed or re-seeded for at least five years;

"tenant" means a person who occupies land—

- (a) under an agreement for the letting of land for a tenancy from year to year;
- (b) under an agreement which has effect by virtue of section 2(1) or 3(1) of the Agricultural Holdings Act 1986<sup>[4]</sup> as an agreement for the letting of land for a tenancy from year to year; or
- (c) under a contract of tenancy for a fixed term of years of which at least 20 years remain unexpired at the commencement of the management period.

(2) Any reference in these Regulations to a numbered regulation or "the Schedule" shall be construed as a reference to the regulation so numbered in these Regulations or the Schedule to these Regulations.

**Aid for establishment of salt-marshes**

3. Subject to the provisions of these Regulations, the Minister may make payments of aid to any eligible person who undertakes for the duration of the management period—

- (a) not to use an area of eligible land for agricultural production; and
- (b) to manage that land with the objective of establishing an area of salt-marsh in accordance with the requirements set out in the Schedule.

**Applications for aid**

4. An application for aid under these Regulations shall be made in such form as the Minister reasonably may require and shall include—
- (a) a map of the area of eligible land in respect of which the applicant proposes to assume management obligations;
  - (b) a description of the use or uses of that land; and
  - (c) if required by the Minister, evidence showing the nature of the applicant's estate or interest in that land.

### **Restrictions on acceptance of applications**

5.—(1) The Minister shall not accept an application in relation to any land unless, after consultation with the relevant coastal defence authority or authorities, she is satisfied that the establishment of salt-marsh, including any associated setting back inland of coastal defences on or adjacent to that land, is consistent with the provision of effective and sustainable coastal defence.

(2) The Minister shall not accept an application in relation to any land which is occupied by a tenant unless she is satisfied that the tenant has obtained the consent in writing of the landlord of that land to the making of the application.

(3) The Minister may refuse to accept an application in relation to any land where she is satisfied that—

- (a) the management of that land with the objective of establishing an area of salt-marsh would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Community; or
- (b) the payment of aid under these Regulations in relation to that land would duplicate any assistance given or to be given out of money provided by Parliament or by the European Community.

### **Change of occupation**

6.—(1) Where, during the course of the management period, there is a change of occupation of the entirety or any part of a beneficiary's land which is subject to management obligations by reason of the devolution of that land or part on the death of the beneficiary, or otherwise—

- (a) the beneficiary (or, if he has died, his personal representatives) shall notify the Minister in writing of the change of occupation within three months of its occurrence and shall supply to the Minister such information relating to that change of occupation in such form and within such period as the Minister reasonably may determine;
- (b) the new occupier of that land or part may give an undertaking to the Minister to comply with the management obligations relating to that land or part for the remainder of the management period.

(2) The Minister shall not accept an undertaking referred to in paragraph (1)(b) above unless she is satisfied that the new occupier occupies the land or part as an owner or tenant or as the personal representative of the original occupier.

(3) A new occupier who gives an undertaking to comply with the management obligations assumed by the original occupier shall supply to the Minister such information in such form and within such period following the change of occupation as the Minister may reasonably determine.

(4) Where the Minister has accepted an undertaking from a new occupier to comply with the management obligations undertaken by the original occupier—

- (a) the new occupier shall be deemed to be a beneficiary and, subject to paragraph 5 below, shall be entitled to payments of aid in place of the original

occupier for the remainder of the management period; and  
(b) his undertaking to comply with those management obligations shall be deemed to take effect on the date of the acceptance by the Minister of that undertaking.

(5) Where there is a change of occupation of part of the land subject to management obligations, the new occupier shall be entitled to payments of aid in the same proportion as the area of such land occupied by him bears to the area of such land occupied by the original occupier prior to the change of occupation.

(6) Where within three months of the date of change of occupation a new occupier has not given an undertaking to comply with the management obligations assumed by the original occupier, the Minister may—

- (a) withhold the whole or any part of any payments due to the original occupier; and
- (b) recover from that original occupier or his personal representatives the whole or any part of any payments of aid already made to him.

(7) Paragraph (6) above shall not apply where the change of occupation of the entirety or any part of a beneficiary's land which is subject to management obligations is the result of—

- (a) the compulsory purchase of that land or part;
- (b) the death of the original occupier, and
  - (i) that original occupier occupied that land or part as a tenant; and
  - (ii) following the death of that original occupier the tenancy or lease under which he occupied that land or part was terminated by the landlord; or
- (c) the termination of a tenancy following the operation of a notice to quit to which the Agricultural Land Tribunal has consented under section 26(1) of the Agricultural Holdings Act 1986 having been satisfied as to any of the matters specified in section 27(3) of that Act, or the termination of a tenancy following the service of a notice to quit stating that the circumstances in Case A, B, G or H of Schedule 3 to that Act apply.

### **Amounts and payment of aid**

7. Subject to the provisions of these Regulations, payments of aid shall be made annually at a rate of—

- (a) £525 per hectare of managed land where that land was arable land at the start of the management period, or
- (b) £195 per hectare of managed land where that land was permanent grassland at the start of the management period.

### **Claims for aid**

8. Any claim for the payment of aid under these Regulations shall be made at such time and in such form and shall contain such information as the Minister reasonably may require.

### **Obligation to permit entry and inspection**

9.—(1) A beneficiary shall permit any person duly authorised by the Minister, accompanied by such persons acting under her instructions as appear to the authorised person to be necessary for the purpose, at all reasonable times and on production of his authority on demand, to enter upon that beneficiary's holding in order to inspect any land, document or record with a view to verifying—

- (a) the accuracy of any particulars given in any application or claim under

regulation 8 or in any undertaking given by a new occupier pursuant to regulation 6(1)(b); and  
(b) compliance with the management obligations.

(2) A beneficiary shall render all reasonable assistance to the authorised person in relation to the matters mentioned in paragraph (1) above, and in particular shall—

- (a) produce such document or record as may be required by that person for inspection; and
- (b) at the request of that person, accompany him in making the inspection of any land and shall identify any area of land which is concerned in any application or claim or in any undertaking given by a new occupier to comply with the management obligations undertaken by the original occupier.

### **Withholding and recovery of aid and termination**

**10.**—(1) Where any person, with a view to obtaining the payment of aid under these Regulations to himself or any other person, makes any statement or furnishes any information which is false or misleading in a material respect, the Minister may withhold the whole or any part of any aid payable to that person or to such other person and may recover the whole or any part of any aid already paid to that person or to such other person.

(2) Where a beneficiary—

- (a) fails to comply with any of the management obligations;
- (b) fails without reasonable excuse to permit entry and inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 9; or
- (c) fails without reasonable excuse to comply with any other requirement of these Regulations,

the Minister may withhold the whole or any part of any aid payable to that beneficiary and may recover the whole or any part of any aid already paid to him.

(3) Where the Minister withholds or recovers aid under paragraph (1) or (2) above, she may also treat as terminated the undertakings given by the beneficiary under these Regulations.

(4) Before withholding or recovering any aid under paragraph 2(a) above, the Minister shall—

- (a) give to the beneficiary a written explanation of the reasons for the proposed withholding or recovery;
- (b) afford the beneficiary an opportunity of appearing before and being heard by a person appointed for that purpose by the Minister; and
- (c) consider the report of the person so appointed and supply a copy of the report to the beneficiary.

### **False statements**

**11.** If any person, for the purposes of obtaining for himself or any other person any aid under these Regulations, knowingly or recklessly makes a statement which is false in a material particular, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

*Gillian Shephard*

Minister of Agriculture, Fisheries and Food

12th May 1994.

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*Notes:*

[1] S.I. 1972/1811. [back](#)

[2] 1972 c. 68. [back](#)

[3] 1949 c. 74. Section 1, which contains a definition of "coast protection authority", was amended by the Local Government Act 1972 (c. 70), Schedule 30. [back](#)

[4] 1986 c. 5. [back](#)