

Statutory Instrument 1994 No. 2349

The Countryside Access Regulations 1994

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STATUTORY INSTRUMENTS

1994 No. 2349

AGRICULTURE

The Countryside Access Regulations 1994

<i>Made</i>	<i>5th September 1994</i>
<i>Laid before Parliament</i>	<i>8th September 1994</i>
<i>Coming into force</i>	<i>29th September 1994</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the common agricultural policy of the European Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Title, commencement and extent

1. These Regulations may be cited as the Countryside Access Regulations 1994, shall come into force on 29th September 1994 and shall apply to England and Wales.

Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires—
- "access area" means the area of land in relation to which the beneficiary assumes access obligations under the provisions of these Regulations;
 - "access obligations" means the obligations assumed by the beneficiary by virtue of the undertakings referred to in regulation 3 or 7;
 - "access period", in relation to an application accepted by the Minister, means the period of 5 consecutive years commencing on 15th January of the year in which that date first occurs after the date of acceptance of that application;
 - "access route" shall be construed in accordance with regulation 4(a);
 - "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 5 and "applicant" shall be construed accordingly;
 - "beneficiary" means a person whose application has been accepted;
 - "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, and from or under whom the tenant directly derives his title;
 - "landscape feature" includes the sea, an area of woodland or a watercourse;
 - "the Minister" means—
 - (a) in relation to England, the Minister of Agriculture, Fisheries and Food;
 - (b) in relation to Wales, the Secretary of State;
 - "open field site" means any land comprising an access area other than an access route;
 - "quiet recreation" includes walking, viewing and picnicking;
 - "recognised dairy breed" means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry;
 - "set-aside" means set-aside in accordance with the provisions of Council Regulation (EEC) No. 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops^[3], Council Regulation (EEC) No. 1541/93 of 14 June 1993 fixing the non-rotational set-aside rate referred to in Article 7 of Regulation (EEC) No. 1765/92^[4], Council Regulation (EC) No. 231/94 of 24 January 1994 amending Regulation (EEC) No. 1765/92 establishing a support system for producers of certain arable crops^[5] and Article 5(1) of Commission Regulation (EC) No. 762/94 laying down detailed rules for the application of Council Regulation (EEC) No. 1765/92 with regard to set-aside^[6];
 - "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^[7] as an agreement for the letting of land for a tenancy from year to year; or
 - (c) under an agreement for the letting of land for a tenancy for a fixed term of years of which at least 5 years remain unexpired at the commencement of the access period;
 - "wildlife" means—
 - (a) any animal species (other than a species of bird) which is ordinarily resident in England or Wales in a wild state;
 - (b) any species of bird which is ordinarily resident or is a visitor to England or Wales in a wild state; and
 - (c) any species of plant which ordinarily grows in England or Wales in a wild state.

(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 access to land

3. Subject to the provisions of these Regulations, the Minister may make payments of aid to any person who on the date of the submission of his application occupies the land to which the application relates as owner or tenant and who undertakes for the duration of the access period—

- (a) to set-aside an area of land on his holding;
- (b) to permit members of the public to have access to that area for the purposes of quiet recreation; and
- (c) to manage that area and any parcel of land on his holding crossed by an access route in accordance with the requirements set out in the Schedule.

Requirements in relation to the access area

4. The access area shall be a continuous area of land consisting of—

- (a) a strip or strips of land 10 metres wide ("access route");
- (b) a whole field or whole fields;
- (c) a part of a field or parts of fields; or
- (d) any combination of (a) to (c) above.

Applications for aid

5. An application for aid under these Regulations shall be made at such time and in such form as the Minister reasonably may require and shall include—

- (a) a map of the proposed access area, identifying any existing public rights of way, the extent of any permissive access over that area, any landscape feature, vantage point or site of archaeological, historical or wildlife interest in or adjacent to that area, and indicating, where appropriate, the route of any proposed circular walk; and
- (b) if required by the Minister, evidence showing the nature of the applicant's estate or interest in the holding.

Restrictions on acceptance of applications

6.—(1) The Minister shall not accept an application in relation to any land unless he is satisfied that as respects that land at least one of the following requirements is met—

- (a) its proximity to a centre of population is such that members of the public will make significant use of access to it;
- (b) it provides access to, or to the vicinity of, a landscape feature, a vantage point or a site of archaeological, historical or wildlife interest;
- (c) it provides a link between two or more existing public rights of way; or
- (d) it provides a continuous circular walk of at least 1.5 kilometres in length.

(2) Subject to paragraph (3) below, the Minister shall not accept an application in relation to any land unless he is satisfied that—

- (a) having regard in particular to the existence of public rights of way or permissive access over that land at the time of the making of the application, the terms of the application if accepted would provide new or significant additional access to members of the public; and
- (b) members of the public are readily able to reach the land on which new or significant additional access is to be provided by way of a public road, footpath or bridleway.

(3) Paragraph (2)(a) above shall not apply where the land has been the subject of an agreement with the Countryside Commission under the Countryside Premium Scheme (being a scheme under which public access has been permitted to land subject to undertakings under the provisions of the Set-Aside Regulations 1988^[8]), and in the opinion of the Minister significant use has been made of that access by members of the public.

(4) The Minister shall not accept an application in relation to any land proposed as an open field site unless in his opinion that site would provide significant possibilities for quiet recreation to members of the public additional to those which would be provided by an access route over that land.

(5) The Minister shall not accept an application in relation to any land which is occupied by a tenant unless he is satisfied that the tenant has notified the landlord of that land in writing of his intention to make the application.

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

(a) access to that land by members of the public would have an adverse effect on any site of archaeological, historical or wildlife interest on or adjacent to that land;

(b) access to that land by members of the public or the management of that land in accordance with the requirements of the Schedule would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Community; or

(c) 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

7.—(1) Where on the death of the beneficiary or otherwise, there is a change of occupation of the entirety or any part of that beneficiary's land subject to access obligations—

(a) the beneficiary (or, if he has died, his personal representative) 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 access obligations relating to that land or part for the remainder of the access period.

(2) The Minister shall not accept an undertaking referred to in paragraph (1)(b) above unless he 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 access 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 reasonably may determine.

(4) Where the Minister has accepted an undertaking from a new occupier to comply with the access 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 access period; and

(b) his undertaking to comply with those access 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 access obligations and the Minister has accepted an undertaking given under paragraph (1) (b) above by the new occupier of that part, the new occupier shall be entitled to payments of aid in the same proportion as the part occupied by him bears to the whole of the land subject to access obligations occupied by the original occupier prior to the change of occupation.

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

(a) withhold the whole or any part of any payments due to the original occupier;

(b) recover from that original occupier or his personal representative the whole or any part of any payments of aid already made to him; and

(c) treat as terminated the undertakings given by the original occupier under these Regulations.

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

(a) the compulsory purchase of that land or part;

(b) the death of the original occupier, if

(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

8.—(1) Subject to the provisions of these Regulations, payments of aid shall be by way of five payments made annually in arrears at a rate of—

(a) £90 per hectare in relation to any part of the access area which consists of an access route;

(b) £45 per hectare in relation to any part of the access area which consists of an open field site.

(2) The Minister shall not make payments of aid in relation to more than 15 hectares of land in any holding except where—

(a) the land subject to access obligations has been the subject of an agreement with the Countryside Commission under the Countryside Premium Scheme and, in a case where on the date of the submission of the application that agreement has been terminated or has expired, public access has continued to be permitted as if the agreement were still in force; or

(b) the total area of land subject to access obligations in that holding exceeds 15 hectares as a consequence of the acceptance by the Minister of an undertaking by a new occupier under regulation 7(1)(b) to comply with access obligations in relation to land which was formerly comprised in another holding.

Claims for aid

9. 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

10.—(1) A beneficiary shall permit any officer duly authorised by the Minister, accompanied by such persons acting under his instructions as appear to the officer 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 9 or in any undertaking given by a new occupier pursuant to regulation 7(1)(b); and
- (b) compliance with the access obligations.

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

- (a) produce any document or record which is required by that officer for inspection; and
- (b) at the request of that officer, 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 access obligations undertaken by the original occupier.

Withholding and recovery of aid and termination

11.—(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 access obligations;
- (b) fails without reasonable excuse to permit entry and inspection by an authorised officer or to render all reasonable assistance to such authorised officer as required by regulation 10; 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, he may treat as terminated the undertakings given by the beneficiary under these Regulations.

(4) Where there is a change of occupation of part of the land subject to access obligations, and the Minister, in accordance with paragraph (3) above or regulation

7(6)(c), subsequently treats as terminated the undertakings given by a beneficiary in relation to any part of that land, and he is satisfied that as a consequence the requirements of regulation 6(1) or (2)(b) are no longer met as respects any other part of that land subject to access obligations which is occupied by any other beneficiary, he may—

- (a) withhold the whole or part of any aid payable to that other beneficiary;
- (b) recover the whole or part of any aid already paid to him; and
- (c) treat as terminated the undertakings given by that other beneficiary under these Regulations.

(5) The powers in paragraph (4)(a) to (c) above shall not be exercised against a beneficiary unless the Minister has notified him in writing at the time his application was accepted, or his undertaking under regulation 7(1)(b) was given, as the case may be, with specific reference to the land in relation to which he assumes access obligations, of the circumstances in which those powers could be exercised against him.

(6) Before withholding or recovering any aid under paragraph (2)(a) or (4) 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 by the person so appointed and supply a copy of the report to the beneficiary.

False statements

12. 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

William Waldegrave

Minister of Agriculture, Fisheries and Food

5th September 1994.

Signed by authority of the Secretary of State for Wales

Gwilym Jones

Parliamentary Under Secretary of State, Welsh Office

30th August 1994

Notes:

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

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

[3] OJ No. L181, 1.7.92, p.12. [back](#)

[4] OJ No. L154, 25.6.93, p.1. [back](#)

[5] OJ No. L30, 3.2.94, p.2. [back](#)

[6] OJ No. L90, 7.4.94, p.8. [back](#)

[7] 1986 c. 5. [back](#)

[8] S.I. [1988/1352](#), amended by S.I. [1989/1042](#), [1990/1716](#), and [1991/1993](#). [back](#)