

Statutory Instrument **1998** No. 1327

The Countryside Stewardship Regulations 1998

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STATUTORY INSTRUMENTS

1998 No. 1327

COUNTRYSIDE

The **Countryside Stewardship Regulations 1998**

Made

21st May 1998

Laid before Parliament

27th May 1998

The Minister of Agriculture, Fisheries and Food, being a Minister 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 contained in that section in so far as these **Regulations** could not have been made under the powers hereinafter mentioned, and otherwise in exercise of the powers conferred on him by section 98 of the Environment Act 1995^[3] and of all other powers enabling him in that behalf, with the consent of the Treasury and after consulting the Secretary of State, the **Countryside Commission**, the Nature Conservancy Council for England and the Historic Buildings and Monuments Commission for England in accordance with section 99 of that Act, hereby makes the following **Regulations**:

Title, commencement and extent

1. - (1) These **Regulations** may be cited as the **Countryside Stewardship Regulations 1998** and shall come into force on 24th June 1998.

(2) These **Regulations** extend to England.

Revocation

2. The **Regulations** specified in Schedule 2 are revoked.

Interpretation

3. - (1) In these **Regulations**, unless the context otherwise requires -

"agreement land" means land which is the subject of a **stewardship** agreement or a former scheme agreement;

"agreement year", in relation to any **stewardship** agreement or former scheme agreement, means a period of 12 months commencing with the date of, or any anniversary of the date of, the coming into effect of the agreement;

"agri-environment scheme" means an arrangement which is -

(a) regulated by statutory instrument providing for the payment of aid to persons who give an undertaking or enter an agreement in relation to land to which that instrument relates; and

(b) approved by the Commission of the European Communities under Article 7(3) of the Council Regulation as part of a zonal programme drawn up pursuant to Article 3 of the Council Regulation;

"the Commission Regulation" means Commission Regulation (EC) No. 746/96^[4] laying down detailed rules for the application of the Council Regulation, as last amended by Commission Regulation (EC) No. 435/97^[5];

"the Council Regulation" means Council Regulation (EEC) No. 2078/92^[6] on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, as last amended by Commission Regulation (EC) No. 2772/95^[7] as rectified in turn by Commission Regulation (EC) No. 1962/96^[8];

"**Countryside Commission**" means the body established by section 1 of the National Parks and Access to the **Countryside Act 1949**^[9];

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

"eligible person" means -

(a) a **stewardship** agreement holder, or

(b) a former scheme agreement holder,

who applies for a grant under these **Regulations** and is not excluded from eligibility for that grant at the time at which his application is considered by application of Article 10 of the Commission Regulation (which restricts duplication of aid payments), by application of a penalty 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) or by application of Article 20(3) of the Commission Regulation (which requires a person covered by that provision who, intentionally or by reason of gross negligence, makes a false declaration to be excluded from all aid under the Council Regulation);

"former scheme" means the countryside **stewardship** scheme administered by the **Countryside** Commission under section 4 of the **Countryside** Act 1968^[10] from 25th June 1991 to 31st March 1996;

"former scheme agreement" means an agreement made with the **Countryside** Commission by any person with an interest in land under the former scheme, the rights and obligations of the **Countryside** Commission under which have been assumed by the Minister;

"former scheme agreement holder" means -

(a) a person (other than the Minister or the **Countryside** Commission) who is a party to a former scheme agreement; and

(b) any person with an interest in the agreement land who is bound by the terms of a former scheme agreement as successor to a person falling within sub-paragraph (a) of this definition;

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

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

"special project agreement" has the meaning given to it in regulation 4(4);

"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;

"standard agreement" has the meaning given to it by regulation 4(4);

"**stewardship** agreement" has the meaning given to it by regulation 4(3); and

"**stewardship** agreement holder" means any person who has entered into a **stewardship** agreement.

(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 (or, in Part I or II of Schedule I, the Part) 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.

Power to enter into agreements

4. - (1) In any case where the Minister is of the opinion that the carrying out by any person who has an interest in land of any activity in relation to that land would be conducive to the specified purposes, he may, subject to paragraphs (5) and (6) below and regulations 6 and 7, enter into a **stewardship** agreement with that person.

(2) In this regulation -

(a) "the other party" means a person within the description in paragraph (1), being the particular person in the case in question; and

(b) "the relevant land" means land referred to in paragraph (1), being the particular land in question.

(3) For the purposes of paragraph (1) above, a **stewardship** agreement means an agreement which remains in force for a term specified in the agreement, provides for the other party to carry out the activity in question in relation to the relevant land and requires the Minister to pay grant to the other party in respect of the carrying out of that activity thereon.

(4) In these **Regulations** a standard agreement means a **stewardship** agreement which -

(a) includes provision for the other party to carry out on the relevant land at least one activity specified in an entry of column 1 of Part I or II of Schedule 1;

(b) in relation to each such activity so provided for, and any activity specified in an entry of column 1 of Part III of Schedule 1 for which the agreement provides, requires or enables the Minister to pay grant at a rate no greater than the maximum payment rate specified in the corresponding entry in column 2 thereof as amended from time to time during the term of the agreement; and

(c) does not include provision for the Minister to pay grant otherwise than as specified in sub-paragraph (b) above;

and a special project agreement means a **stewardship** agreement other than a standard agreement.

(5) The Minister shall not enter into any **stewardship** agreement in circumstances to which Article 13 of the Commission Regulation (which authorises replacement of an agri-environment scheme undertaking or agreement by another such undertaking or agreement) applies unless he is satisfied that the conditions set out in that Article are fulfilled.

(6) The Minister shall not enter into a special project agreement in relation to any activity except where he considers that -

(a) the achievement of any one or more of the specified purposes is desirable in relation to particular land;

(b) that purpose or those purposes could not be fully achieved in relation to that land but for the carrying out of that activity; and

(c) that activity is either -

(i) outside the range of activities specified in Part I or II of Schedule 1; or

(ii) an activity specified in an entry in column 1 thereof, but such that that person cannot reasonably be expected to carry it out in the absence of payment at a rate greater than the maximum rate specified in the corresponding entry in column 2 thereof.

(7) Part IV of Schedule 1 shall have effect for the purpose of interpreting Parts I, II and III thereof.

Grants for purposes conducive to conservation etc.

5. Subject to regulation 7, the Minister may make a grant -

(a) in accordance with a **stewardship** agreement, to any eligible person; and

(b) in accordance with a former scheme agreement, to any eligible person who does or undertakes to the Minister to do anything the doing of which in the opinion of the Minister is conducive to the specified purposes.

Conditions

6. Any requirement in a **stewardship** agreement to make a grant under these **Regulations** to any person shall be subject to the condition that he is an eligible person and also to the following conditions -

(a) that he is not in breach of any of the terms of the **stewardship** agreement by which he is bound;

(b) that he complies with the requirements of regulations 8 and 9 below; and

(c) that he maintains an interest in the agreement land for the duration of the **stewardship** agreement.

Payment of grant

7. - (1) Payment of grant may be made in relation to any activity specified in Parts I, II or III of Schedule 1, at any time during or after the agreement year.

(2) Grant payable in relation to any activity specified in a special project agreement shall not exceed 120% of the loss of income and additional costs incurred as a result of carrying out that activity.

Applications for grant

8. An application by a **stewardship** agreement holder for grant under these **Regulations** shall be made at such time and in such form and shall contain or be accompanied by such information as the Minister reasonably may require.

Notification of change of occupation

9. - (1) A **stewardship** agreement holder (or, if he has died, his personal representative) shall notify the Minister 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 **stewardship** agreement is in force.

(2) Notification under this regulation shall be given within three months after the change of occupation concerned, or, where the **stewardship** agreement holder has died and no personal representative has been appointed within three months, as soon as is practicable after the appointment of a personal representative.

(3) Where there has been a change of occupation of all or part of any agreement land (whether subject to a **stewardship** agreement or a former scheme agreement), and the Minister enters into a **stewardship** 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 **stewardship** agreement shall, for the purposes of calculating agreement years, be deemed to have commenced on the date on which the original agreement commenced.

(4) The foregoing provisions of this regulation shall be subject to Article 11 of the Commission Regulation (which governs transfers of holdings) and Article 12 of the Commission Regulation (*force majeure*).

Withholding and recovery of grant

10. - (1) Where any person, with a view to obtaining the payment of grant under these **Regulations** to himself or any other person, makes any statement or furnishes any information which is false or misleading, the Minister may withhold the whole or part of any payments of grant payable thereunder to that person or such other person and may, subject to the provisions of Article 20 of the Commission Regulation (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 grant thereunder to that person or such other person.

(2) Where an agreement holder -

(a) has failed to do something which he undertook to do if the grant was made, or

(b) is in breach of any conditions subject to which the grant was made,

the Minister may withhold the whole or any part of any grant payable to that agreement holder under these **Regulations** and may recover the whole or any part of any grant already paid to him.

(3) Any dispute in any particular case as to the withholding or recovery of grant by reference to paragraph (1) or (2) above shall 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^[11] or any statutory modification or re-enactment thereof for the time being in force.

(4) Where the Minister withholds or recovers grant under paragraph (2) above, he 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 Minister a sum equal to no more than 10% of the grant paid or payable to the agreement holder under these **Regulations**.

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

(6) Where under paragraph (5) above the Minister terminates an agreement in connection with any step taken under paragraph (2) above, he 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 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

11. - (1) Where a grant is paid under these **Regulations** by the Minister 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 shall 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 Minister stating the LIBOR applicable during a period specified in the certificate shall be conclusive evidence of the rate applicable in the specified period if the certificate also states that the Bank of England notified the Minister of that rate.

Recovery of payments

12. In any case where an amount falls to be paid to the Minister 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 shall be recoverable as a debt.

Effect on former scheme agreements

13. Powers derived from a former scheme agreement to withhold grant or to require any sum to be paid to the Minister shall not be exercised by the Minister in circumstances where it would exceed the powers in regulations 10 to 12 to exercise them, and nothing in those regulations shall be taken to add to the Minister's powers under any former scheme agreement where that addition is not required by the Commission Regulation.

Elliot Morley

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

21st May 1998

We consent,

Bob Ainsworth

Jim Dowd

Two of the Lords Commissioners of Her Majesty's Treasury

21st May 1998

Notes:

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

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

[3] 1995 c. 25; section 98(5) contains a definition of the appropriate Minister; for the application of section 98 to the Isles of Scilly, see section 117 of the Environment Act 1995 (c. 25) and the Environment Act 1995 (Isles of Scilly) Order 1996 (S.I. 1996/1030).[back](#)

[4] OJ No. L102, 25.4.96, p.19.[back](#)

[5] OJ No. L67, 7.3.97, p.2.[back](#)

[6] OJ No. L215, 30.7.92, p.85.[back](#)

[7] OJ No. L288, 1.12.95, p.35.[back](#)

[8] OJ No. L 259, 12.10.96, p.7.[back](#)

[9] 1949 c. 97 (12, 13 and 14 Geo 6); section 1 was substituted by the Environmental Protection Act 1990 (c. 43), section 130 and Schedule 8, paragraph 1.[back](#)

[10] 1968 c. 41; section 4 was amended by the Wildlife and **Countryside** Act 1981 (c. 69), section 40, the Environmental Protection Act 1990 (c. 43), section 130 and Schedule 8, paragraph 2(4) and the Environment Act 1995, section 78 and Schedule 10, paragraph 8(1).[back](#)

[11] 1996 c. 23.[back](#)