

SCHEDULE 2

Management requirements in relation to set-aside land

Part A

Management Options for set-aside land

Management options for set-aside land

1.—(1) Subject to sub-paragraphs (2) to (4), in respect of each field or part field which is set-aside land in a particular scheme year, a farmer shall, during that particular scheme year, comply with the conditions applicable to a management option specified in one of the following heads as are indicated in the brackets following the description of the management option concerned—

- (a) the Grassland Option (the applicable conditions are set out in paragraph 2);
- (b) where—
 - (i) the field or part field was used to produce a herbage seed crop or combinable crop (other than a crop including maize or legumes) in the calendar year immediately preceding the calendar year during which the current scheme year commenced; or
 - (ii) the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Natural Regeneration Option and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season,the Natural Regeneration Option (the applicable conditions are set out in paragraph 3);
- (c) the Wild Bird Cover Option (the applicable conditions are set out in paragraph 4);
- (d) where part only of a field is set aside, the Field Margins Option (the applicable conditions are set out in paragraph 5); or
- (e) where a field or part field is penalty set-aside land, or where there was a crop in a field or part field on 1st October immediately prior to the commencement of the current scheme year, the Penalty Set-Aside/Existing Crop Option (the applicable conditions are set out in paragraph 6).

(2) Where a field or part field is environmental transferred set-aside land which lies within waterside habitats within the meaning of the Habitat Improvement Regulations (Northern Ireland) 1995⁽¹⁾ then a farmer shall comply with the conditions applicable to the Grassland Option which are set out in paragraph 2 in respect of that field or part field.

(3) Where a field or part field is guaranteed set-aside land and is managed otherwise than in accordance with the conditions applicable to the Wild Bird Cover Option which are set out in paragraph 4, then notwithstanding the provisions of the following paragraphs, a green cover shall not be established in that field or part field by sowing the seed of clover, lucerne or sainfoin or a seed mixture which contains one or more of those crops.

- (4) Where—
 - (a) a farmer applies in writing to the Department for permission to manage set-aside land in accordance with a management plan set out in his application; and
 - (b) the written consent of the Department to this plan is obtained,

(1) S.R. 1995 No. 134 as amended by S.R. 1996 No. 608

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the farmer, following the grant of that consent, need not comply with the conditions set out in one of the following paragraphs which are applicable to any of the management options listed in sub-paragraph (1), but shall instead manage the land in accordance with that management plan.

(5) For the purposes of this Schedule—

- (a) the particular scheme year referred to in sub-paragraph (1) shall be known as “the current scheme year”, the set-aside period during that scheme year shall be known as “the current set-aside period”, the green cover season during that scheme year shall be known as “the current green cover season” and expressions such as “the previous scheme year” and “the following scheme year” shall be construed accordingly; and
- (b) during the current scheme year it is to be taken to be the case that guaranteed set-aside land is to be set aside in the following scheme year.

The Grassland Option

2.—(1) In respect of each field or part field to be managed in accordance with the Grassland Option referred to in paragraph 1(1)(a), a farmer shall—

- (a) subject to paragraph 8, establish a green cover by the start of the current green cover season by sowing—
 - (i) grass seed;
 - (ii) a mixture of grass seed and the seed of native broad-leaved plants not commonly used for agricultural production (which mixture, unless the farmer is an accepted organic farmer, shall not contain more than 5 per cent by weight of legumes); or
 - (iii) mustard seed,

(which seed shall be sown, where a crop was harvested from the field or part field in the calendar year immediately preceding the calendar year during which the current scheme year commenced, as soon as is practicable following the harvest of that crop), unless the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Grassland Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;

- (b) subject to paragraphs 9, 14 and 15, maintain the green cover thereafter—
 - (i) where the field or part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season; or
 - (ii) where the field or part field is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes), to the end of the current scheme year; and
- (c) cut or destroy the green cover in accordance with paragraph 7.

(2) For the purposes of sub-paragraph (1), breeder's, pre-basic or basic seed may not be sown in order to establish a green cover.

(3) For the purposes of sub-paragraph (2), seed is breeder's, pre-basic or basic seed if it is so classified in any Regulations made under the Seeds Act (Northern Ireland) 1965(2) which are in operation at the time the seed intended to establish the green cover is sown.

The Natural Regeneration Option

3. In each field or part field to be managed in accordance with the Natural Regeneration Option (referred to in paragraph 1(1)(b)), a farmer—

(2) 1965 c. 22 (N.I.) as amended by S.R. & O. (N.I.) 1972 No. 351

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- (a) subject to paragraph 8, shall establish a green cover by the start of the current green cover season by allowing natural regeneration of the herbage seed crop or combinable crop (other than a crop including maize or legumes) (as referred to in paragraph 1(1)(b)(i)) unless the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Natural Regeneration Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;
- (b) subject to paragraphs 9, 14 and 15, maintain the green cover thereafter—
 - (i) where the field or part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season; or
 - (ii) if the field or part field is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes), to the end of the current scheme year; and
- (c) shall cut or destroy the green cover in accordance with paragraph 7.

The Wild Bird Cover Option

4.—(1) In each field or part field to be managed in accordance with the Wild Bird Cover Option (referred to in paragraph 1(1)(c)), a farmer—

- (a) shall, subject to paragraph 8 either—
 - (i) where practicable, establish a green cover by the start of the current green cover season by allowing natural regeneration of the herbage seed crop or combinable crop (other than a crop including maize or legumes) produced in that field or part field in the calendar year immediately preceding the calendar year during which the current scheme year commenced; or
 - (ii) where that is not practicable, establish a green cover by the start of the current green cover season by sowing a cover comprising a mixture of crops of different types which—
 - (aa) produces a mixture of crops which it would not be practicable to harvest separately;
 - (bb) is not a mixture only of different types of cereal or of different types of brassica;
 - (cc) is not a mixture only of one type of crop and legumes, a mixture only of cereals and legumes, or a mixture only of brassicas and legumes; and
 - (dd) unless the farmer is an accepted organic farmer, does not contain more than 5 per cent by weight of legumes,unless the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Wild Bird Cover Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;
- (b) shall, where a green cover was established by the start of the current green cover season in accordance with head (a)(i)—
 - (i) maintain that green cover until it is replaced in accordance with head (b)(ii); and
 - (ii) replace that green cover by sowing a new green cover in accordance with head (a)(ii) as early as is practicable after the start of the current green cover season;
- (c) shall, subject to heads (d) and (e) and paragraphs 9, 14 and 15, maintain the green cover established under head (a)(ii) or (b)(ii) thereafter—

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- (i) where the field or part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season; or
 - (ii) where the field or part field is to be set aside in the following scheme year (but is not to be used as land set aside for non-food purposes), to the end of the current scheme year;
- (d) may, where the field or part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Wild Bird Cover Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover period, replace the existing green cover by sowing a new green cover in accordance with head (a)(ii) as early as is practicable in the current green cover season;
- (e) shall, where the field or part field was set aside in the previous two scheme years, was managed during each of those scheme years in accordance with the Wild Bird Cover Option, a green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season and the green cover was not replaced in the previous scheme year (whether in accordance with head (d) or otherwise), replace the existing green cover by sowing a new green cover in accordance with head (a)(ii) as early as is practicable in the current green cover season; and
- (f) shall cut or destroy the cover in accordance with paragraph 7, unless—
- (i) the field is to be set aside in the following scheme year; and
 - (ii) the farmer does not, in the current scheme year, harvest any of the green cover or permit any of it to be harvested or grazed.
- (2) A farmer shall ensure, when replacing the green cover pursuant to sub-paragraph (1)(c), (d) or (e), that the requirements of paragraph 15(1)(a) to (c) are satisfied.

The Field Margins Option

5.—(1) In each part field to be managed in accordance with the Field Margins Option (referred to in paragraph 1(1)(d)), a farmer—

- (a) shall, subject to paragraph 8, establish a green cover by the start of the current green cover season—
 - (i) by sowing—
 - (aa) grass seed;
 - (bb) a mixture of grass seed and the seed of native broad-leaved plants not commonly used for agricultural production (which mixture, unless the farmer is an accepted organic farmer, shall not contain more than 5 per cent by weight of legumes); or
 - (cc) mustard seed,which seed shall be sown, where a crop was harvested from the part field in the calendar year immediately preceding the calendar year during which the current scheme year commenced, as soon as is practicable following the harvest of that crop; or
 - (ii) where the field or part field was used to produce a herbage seed crop or combinable crop (other than a crop including maize or legumes) in the calendar year immediately preceding the calendar year during which the current scheme year commenced, by allowing natural regeneration of that crop,

unless the part field was set aside in the previous scheme year, was managed during that scheme year in accordance with the Field Margins Option, and the green cover established in accordance with the requirements of that option has been maintained until the beginning of the current green cover season;

- (b) subject to paragraphs 9, 14 and 15, maintain the green cover thereafter—
- (i) where the part field is not to be set aside in the following scheme year or is to be used as land set aside for non-food purposes in the following scheme year, until the end of the current green cover season; or
 - (ii) where the part field is to be set aside in the following scheme year (but is not to be used as land set-aside for non-food purposes), to the end of the current scheme year;
- (c) shall cut the green cover at least once during the current scheme year, except that he may leave uncut a strip of green cover up to 2 metres wide adjacent to any hedge or woodland;
- (d) shall not harvest any of the green cover or permit any of it to be harvested or grazed unless—
- (i) he has previously notified the Department of his intention to use the green cover for permitted agricultural production; and
 - (ii) he cuts the green cover to an average length of no more than 10 centimetres at least once between 15th July and 15th August (both dates inclusive) prior to the end of the current set-aside period if he wishes to harvest the green cover, or permit it to be harvested or grazed in the current scheme year,

in which case he may use the green cover for permitted agricultural production.

(2) For the purposes of sub-paragraph (1)(a)(i), breeder's, pre-basic or basic seed may not be sown in order to establish a green cover.

(3) For the purposes of sub-paragraph (2), seed is breeder's, pre-basic or basic seed if it is so classified in any Regulations made under the Seeds Act (Northern Ireland) 1965 which are in operation at the time the seed intended to establish the green cover is sown.

The Penalty Set-Aside/Existing Crop Option

6. In each field or part field to be managed in accordance with the Penalty Set-Aside/Existing Crop Option (referred to in paragraph 1(1)(e)) a farmer shall—

- (a) subject to paragraphs 9, 14 and 15, maintain throughout the current green cover season any natural cover which develops on that land; and
- (b) cut or destroy any natural cover which develops on the land in accordance with paragraph 7.

Cutting or destruction of the green cover

7.—(1) In each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6, a farmer shall either—

- (a) (subject to sub-paragraph (2)), cut the green cover to an average length of no more than 10 centimetres between 15th July and 15th August (both dates inclusive) during the current set-aside period; or
- (b) where he is not required to maintain the green cover after the end of the current set-aside period, destroy the green cover between 1st July and 31st August (both dates inclusive) during the current set-aside period.

(2) A farmer may (where he cuts the green cover in a field or part field in accordance with sub-paragraph (1)(a))—

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- (a) leave a strip of green cover up to 2 metres wide uncut adjacent to any hedge or woodland; and
- (b) in the case of a field which is to be set aside in the following scheme year, leave a further 25% of the area set aside in that field uncut provided that any area left uncut in accordance with this paragraph which has also been left uncut in the previous two scheme years in accordance with this paragraph is cut in accordance with sub-paragraph (1) in the following scheme year.

Exemptions from the requirement to establish a green cover on set-aside land

8.—(1) In relation to each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6, a farmer shall by virtue of this provision be treated as having been exempted from a requirement to establish a green cover by the start of the current green cover season where he satisfies the Department that for climatic reasons it was not practicable for there to be such a green cover by that time, in which case he shall establish a green cover as soon as reasonably possible thereafter.

(2) In relation to each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6, a farmer need not establish a green cover on—

- (a) a strip of land up to 1 metre wide at the edge of the land set aside, where the land set aside adjoins land planted with a crop other than a seed crop;
- (b) a strip of land up to 2 metres wide at the edge of land set aside, where the land set aside adjoins land planted with a seed crop; or
- (c) a strip of land up to 5 metres wide at the edge of the land set aside in any place where vehicular access to that land from a road or track adjacent to that land may be possible, provided that the strip is ploughed and left as bare fallow.

Exemptions from the requirement to maintain a green cover on set-aside land

9.—(1) In each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6, a farmer shall be exempt from a requirement to maintain a green cover on set-aside land (except for guaranteed set-aside land and environmental transferred set-aside land) where that green cover is destroyed following the application of herbicide to the land on or after 15th April in the current scheme year in accordance with paragraph 20(1), which exemption shall run from the time of the application until (where the land is to be set aside in the following scheme year but is not to be used as land set aside for non-food purposes) the commencement of the following green cover season.

(2) In respect of each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6, the Department shall on the application of a farmer treat him as having been exempted from a requirement to maintain a green cover, where he provides evidence sufficient to satisfy the Department that the green cover which he established failed and he could not reasonably have prevented such failure, such exemption lasting from the time of the failure until the end of the current scheme year.

(3) In each field or part field to which this paragraph is applied by virtue of any of paragraphs 2 to 6, and where a farmer has chosen not to establish a green cover on a strip of land pursuant to paragraph 8(2), he need not maintain any green cover which nevertheless subsequently becomes established on that strip.