

2005 No. 268

AGRICULTURE

**Countryside Management Regulations
(Northern Ireland) 2005**

Made - - - - - *20th May 2005*

Coming into operation *1st June 2005*

The Department of Agriculture and Rural Development(a), in exercise of the powers conferred on it by Article 3 of the Agriculture (Conservation Grants) (Northern Ireland) Order 1995(b), and of every other power enabling it in that behalf, and being a Department designated(c) for the purposes of section 2(2) of the European Communities Act 1972(d) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, and with the consent of the Department of Finance and Personnel, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Countryside Management Regulations (Northern Ireland) 2005 and shall come into operation on 1st June 2005.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations –

“activities” means the activities referred to in regulation 3(4);

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, the use of land as grazing land, meadowland, osier land, reed beds, market gardens and nursery grounds;

“agri-environment scheme” means an arrangement which is –

- (a) regulated by statutory provision providing for the payment of aid to persons who give an undertaking or enter an agreement in relation to land to which that statutory provision relates; and
- (b) approved by the Commission of the European Communities under Article 44.2 of the Council Regulation as part of a rural development plan drawn up pursuant to Article 41 of that Regulation;

(a) Formerly the Department of Agriculture; see S.I. 1999/283 (N.I. 1) Article 3(4)
(b) S.I. 1995/3212 (N.I. 21)
(c) S.I. 2000/2812 and S.I. 2000/3238
(d) 1972 c. 68
(e) 1954 c. 33 (N.I.)

“aid” means payments under the agri-environment measure referred to in Chapter VI of Title II of the Council Regulation which are provided for in the rural development plan relating to Northern Ireland approved by Commission Decision C(2000) 3638 of 4th December 2000 as amended and approved by Commission Decision C(2005) 952 of 16th March 2005;

“applicant” means an applicant under these Regulations and in regulations 10 and 11 includes a person whose application for grant has been accepted and a person who takes on an undertaking on a change of occupation as provided in regulation 9;

“application for grant” means an application under these Regulations and includes an application made under regulation 6(1);

“Commission Regulation 796/2004” means Commission Regulation (EEC) No. 796/2004 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(a);

“Commission Regulation 817/2004” means Commission Regulation (EC) No. 817/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(b);

“the Council Regulation” means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee fund and amending and repealing certain Regulations(c);

“the Department” means the Department of Agriculture and Rural Development;

“environmentally sensitive area” means an area designated as an environmentally sensitive area under Article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(d);

“eligible land” means land which is outside an environmentally sensitive area and which is used for agriculture;

“parkland management plan” means a management plan agreed with the Department designed to restore parkland through a programme of tree planting and restoration of landscape features;

“relevant period” means a period of not less than 5 years or, in the case of an undertaking under these Regulations which is in substitution for an undertaking given under any of the Regulations mentioned in regulation 6(1), a period which together with the expired period of the undertaking under those Regulations forms a continuous period of not less than 5 years;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“tenant” means a person who occupies land under a contract or tenancy for a fixed term of years the unexpired portion of which at the commencement of the relevant period is equal to or greater than that period;

“undertaking” means an undertaking mentioned in regulation 3(2).

(3) Words and phrases used in Schedules 1 to 6 and not defined in paragraph (2) shall be construed in accordance with Schedule 6.

Grants for purposes conducive to conservation

3.—(1) Subject to the provisions of these Regulations, the Department may make payment of a grant in respect of an undertaking to which these Regulations apply to an applicant who –

(a) O.J. No. L141, 30.04.2004, p. 18-58

(b) O.J. No. L153, 30.04.2004, p. 30-83

(c) O.J. No. L160, 26.06.1999, p. 80-102

(d) S.I. 1987/458 (N.I. 3)

- (a) is the owner or tenant of the eligible land to which such undertaking relates and is in lawful occupation of that land; and
 - (b) has made an application for grant which has been accepted by the Department.
- (2) These Regulations apply to an undertaking in writing by the applicant, for the relevant period –
- (a) to comply with, in relation to the whole of the eligible land to which the undertaking relates, the general environmental conditions set out in Schedule 1;
 - (b) to carry out, in relation to the whole of the eligible land to which the undertaking relates, the management activities set out in paragraph (4)(a);
 - (c) to carry out, in so far as is appropriate in relation to that land, at least one of the activities referred to in paragraph (4)(b);
- (3) An undertaking mentioned in paragraph (2) may also include an undertaking by the applicant to carry out or, as the case may be, to carry out and maintain any of the activities referred to in paragraph (4)(c) and (d).
- (4) The activities mentioned in paragraph (2) and (3) are –
- (a) the management activities set out in column 1 of Schedule 2;
 - (b) the management activities set out in column 1 of Schedule 3 (habitats) to be undertaken on a site which forms part of the eligible land to which the undertaking relates;
 - (c) the management activities set out in column 1 of Schedule 4 (optional habitats) to be undertaken on a site which forms part of the eligible land to which the undertaking relates;
 - (d) the capital activities set out in column 1 of Schedule 5 to be undertaken and maintained on any part of the eligible land to which the undertaking relates.

Applications for grant

4. An application for grant under these Regulations shall be made at such time and in such form, and shall include or be accompanied by such information as the Department may require.

Restrictions on acceptance of applications

- 5.—(1) The Department shall not accept an application for grant –
- (a) in relation to any land which is situated in an environmentally sensitive area; or
 - (b) unless the applicant includes in the undertaking all the eligible land he owns or holds under a tenancy agreement.
- (2) The Department shall not accept an application for grant in relation to any eligible land which is occupied by a tenant unless it is satisfied that the tenant has notified the landlord of his intention to make the application.
- (3) The Department shall not accept an application for grant for an area of less than 3 hectares.
- (4) The Department shall refuse to accept an application for grant in relation to any eligible land where –
- (a) it is satisfied that the use of any land in accordance with the proposals contained in the application would frustrate the purposes of any assistance given or to be given out of money provided by or under any statutory provision or by the European Community;
 - (b) it is satisfied that the payment of grant under these Regulations would duplicate any assistance previously given out of money provided by or under any statutory provision or by the European Community;
 - (c) the applicant is prohibited from giving the undertaking under these Regulations by application of a penalty consequent upon Article 73 of Commission Regulation 817/2004 (which requires member States to determine a system of penalties for breaches of the obligations entered into and of regulatory provisions applicable to the case); or
 - (d) the applicant is excluded from all aid under Chapter VI of Title II of the Council Regulation by virtue of Article 72 of Commission Regulation 817/2004 (which requires

a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of the Council Regulation) and the grant in respect of the proposed undertaking would include such aid.

(5) The Department shall not accept an application for grant without first having agreed with the applicant the date of commencement of the undertaking relating to it which shall in no circumstances be earlier than the date on which the application was accepted.

Transformation of undertakings

6.—(1) A beneficiary under the Habitat Improvement Regulations (Northern Ireland) 1995(a) may apply to substitute for the unexpired period of an undertaking under those Regulations an undertaking to which these Regulations apply.

(2) The Department may accept an application under paragraph (1) only where it is satisfied that the conditions set out in Article 21 (transformation of undertakings) of Commission Regulation 817/2004 are met.

Amounts of grant and claims

7.—(1) Subject to the provisions of this regulation the grant payable under regulation 3(1) shall be calculated with reference to the activities to be undertaken and in relation to each such activity shall be at a rate not exceeding the maximum payment rate specified in column 2 of Schedule 2, 3, 4 or 5 corresponding to that activity.

(2) Subject to paragraph (3) the grant payable under regulation 3(1) in respect of the activities set out in Schedule 5 shall not exceed £2,500 per annum for each applicant.

(3) For the purposes of paragraph (2) the activities set out in the following paragraphs of Schedule 5 shall be disregarded –

- (a) paragraph 3(d);
- (b) paragraph 3(f) and (g) provided the activities undertaken form part of a parkland management plan;
- (c) paragraph 4;
- (d) paragraph 8;
- (e) paragraph 9(c) and (d) provided the activities undertaken are associated with fencing of habitats;
- (f) paragraph 10.

(4) Subject to the provisions of these Regulations the Department shall make payments of grant in arrears, with such frequency as the Department may determine, not exceeding 2 payments per year.

(5) A claim for grant under regulation 3(1) shall be made at such time and in such form and shall contain such information as the Department may require.

(6) The provisions of these Regulations are, in so far as grant claimed includes aid under the Council Regulation, subject to Article 37.3 of the Council Regulation and Article 41.2 of Commission Regulation 817/2004 (combination of aids).

Financial limits

8.—(1) If, in view of the total number of applications already accepted, the Department is at any time of the opinion that the financial resources which are available for payment of grant under these Regulations during any period are insufficient to satisfy any payment during that period which would result from the acceptance of any further application, it may suspend further consideration of any application received at the date of its decision but not yet accepted, or any

(a) S.R. 1995 No. 134, as amended by S.R. 1996 No. 608 and S.R. 1997 No. 351

application it may receive after the date of its decision, until such time as may subsequently be specified by it.

(2) Notice of a suspension by the Department under paragraph (1), or of the termination of any such suspension, shall be published in the Belfast Gazette.

Change of occupation

9.—(1) Where during the period of an undertaking, there is a change of occupation of all or any part of the land to which that undertaking relates the former occupier (or, if he has died, his personal representatives) shall within 3 months notify the Department in writing of the change of occupation, and shall supply to the Department such information relating to that change in such form and within such period as the Department may determine.

(2) A new occupier of all or any part of the land who wishes to take on the undertaking shall furnish the Department with such information in such form and within such period following the change of occupation as the Department may determine.

(3) A new occupier of all the land may take on the undertaking where the Department is satisfied that –

- (a) the former occupier had complied with the undertaking to the date of the change of occupation; and
- (b) the new occupier is the lawful occupier of the land and has since the date of change of occupation complied with the undertaking.

(4) A new occupier of any part of the land or, as the case may be, the former occupier of all the land may take on the undertaking insofar as it extends to that part of the land which he occupies or, as the case may be, continues to occupy where the Department is satisfied that –

- (a) such new occupier or, as the case may be, such former occupier of all the land, is the lawful occupier of the part of the land which he occupies and has since the date of change of occupation complied or, as the case may be, continued to comply with the undertaking insofar as it extends to the part of the land which he occupies; and
- (b) it is reasonable for the occupier to do so having regard to the activities included in the undertaking and the part of the land which is occupied by the new occupier or, as the case may be, continues to be occupied by the former occupier of all the land.

(5) Where occupation of the land is divided the Department shall determine –

- (a) the extent to which the activities included in the undertaking relate to any part of the land occupied by a new occupier or, as the case may be, the former occupier of all the land; and
- (b) the proportion, if any, of the grant which would be payable under paragraph (7) for the remainder of the period of the undertaking in respect of that part of the land.

(6) Where the Department is satisfied as specified in paragraph (3), it shall, subject to regulation 7, make payments of the grant for the remainder of the period of the undertaking to the new occupier of the land who has taken on the undertaking.

(7) Where the Department is satisfied as specified in paragraph (4) it shall, subject to regulation 7, make payments of such proportion of the grant, if any, as it has determined under paragraph (5) are due for the remainder of the period of the undertaking to the new occupier or, as the case may be, former occupier of all the land who has taken on the undertaking.

(8) Where within 3 months from the date of change of occupation the undertaking has not been taken on in accordance with paragraph (3) or, as the case may be, paragraph (4), the Department may –

- (a) withhold the whole or any part of any payment of grant under these Regulations due to the former occupier in respect of the undertaking; and
- (b) recover from the former occupier or his personal representatives the whole or any part of any payment of grant under these Regulations already made to him in respect of the undertaking.

(9) The provisions of this regulation are, insofar as the grant paid under these Regulations includes aid under the Council Regulation, subject to Article 36 (transfer of holding) and Article 39 (force majeure) of Commission Regulation 817/2004.

Obligation to permit entry and inspection

10.—(1) An applicant shall permit any person duly authorised by the Department, accompanied by such persons acting under his instructions as appear to that authorised person to be necessary for the purpose, at all reasonable hours and on production on demand of some duly authenticated document showing his authority, if so required, to enter upon the land to which an undertaking or, as the case may be, a proposed undertaking relates for the purpose of –

- (a) carrying out any inspection of such land or any document or record in the possession or under the control of the applicant relating to, or which the authorised person may reasonably suspect relates to, the application with a view to verifying the accuracy of any particulars given in the application, in a claim under regulation 7(5) or under regulation 9(1); and
- (b) ascertaining whether the undertaking given or taken on or, as the case may be, proposed to be given or taken on by him under these Regulations has been duly complied with.

(2) An applicant shall render all reasonable assistance to the authorised person in relation to the matters mentioned in paragraph (1), and in particular shall –

- (a) produce any document or record which may be required by the authorised person for inspection;
- (b) permit the authorised person to take copies or extracts from any such document or record;
- (c) where any such document or record is kept by means of a computer, produce it in a form in which it may easily be read and taken away; and
- (d) at the request of the authorised person, accompany him in making the inspection of any land and identify any area of land which relates to the application or to any change of occupation notified under regulation 9.

Withholding and recovery of grant

11.—(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 Department may withhold the whole or any part of any payments of grant payable thereunder to that person or to such other person and may, subject to the provisions of Article 72 of Commission Regulation 817/2004, recover the whole or any part of any sums already paid by way of grant thereunder to that person or such other person.

(2) Where an applicant –

- (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 Department may withhold the whole or any part of any grant payable to that applicant under these Regulations and may recover the whole or any part of any grant already paid to him.

(3) Where the Department withholds or recovers grant under paragraph (2), it may also, in so far as is consequent upon Article 73 of Commission Regulation 817/2004 (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 applicant to pay to the Department a sum equal to no more than 10% of the grant paid or payable to the applicant under these Regulations.

(4) Where the Department takes any step specified in paragraph (1), (2) or (3) it may also treat as terminated the undertaking given by the applicant under these Regulations.

(5) Where under paragraph (4) the Department treats the undertaking given by the applicant as terminated, it may also by notice in writing to the applicant prohibit him from providing a new undertaking or entering a new agreement under an agri-environment scheme for such

period from the date of termination as is specified in the notice which period shall not exceed the period beginning with the date of termination and ending with the last day of the calendar year following that in which the termination occurs.

(6) Any dispute between the Department and an applicant in relation to a matter arising under these Regulations shall be referred to and determined by arbitration to be agreed between the parties or in default of such agreement to be appointed by the Chairman for the time being of the Northern Ireland Branch of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration Act 1996(a) or any statutory modification or re-enactment thereof for the time being in force.

Recovery of interest

12.—(1) Where a grant is paid under these Regulations by the Department and, by virtue of Article 73 of Commission Regulation 796/2004 (as applied by Article 70 of Commission Regulation 817/2004), 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 purposes of this regulation, LIBOR means the sterling three month London interbank offered rate in force during the period specified in Article 73 of Commission Regulation 796/2004.

(3) In any proceedings relating to this regulation, a certificate of the Department 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 Department of that rate.

Recovery of payments

13. In any case, where an amount falls to be paid to the Department by virtue of, or by virtue of action taken under, these Regulations, Commission Regulation 796/2004 or Commission Regulation 817/2004 insofar as it relates to land to which an undertaking relates, the amount so falling to be paid shall be recoverable as a civil debt.

Revocation and saving

14.—(1) Subject to paragraph (2), the Countryside Management Regulations (Northern Ireland) 2001(b) are hereby revoked.

(2) Any application for grant made under and in accordance with the Countryside Management Regulations (Northern Ireland) 2001 shall be treated as if it was an application for grant made under and in accordance with these Regulations.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 20th May 2005.

(L.S.)

David Small

A senior officer of the Department of Agriculture and Rural Development

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 20th May 2005

(L.S.)

Jack Layberry

A senior officer of the Department of Finance and Personnel

(a) 1996 c. 23

(b) S.R. 2001 No. 43

GENERAL ENVIRONMENTAL CONDITIONS

1. The applicant shall –
 - (a) comply with the Good Farming Practice with regard to the Environment(a), published by the Department;
 - (b) retain and not damage any habitat, landscape or water feature, or archaeological or heritage feature;
 - (c) retain existing field boundaries and not remove any hedge, tree, copse, scrub, ditch, dyke or wall or any part thereof, except with the prior written permission of the Department;
 - (d) maintain open drains and sheughs in accordance with the written advice of the Department;
 - (e) keep the eligible land free from rubbish and litter;
 - (f) seek the permission of the Department before undertaking work which may have a detrimental impact on any habitat, landscape feature or archaeological or heritage feature; and
 - (g) comply with management plans provided by the Department for field boundaries, farm waste and each of the habitats specified in the agreement.

2. The applicant shall not –
 - (a) undertake ploughing, levelling or reseeded of unimproved land, or any semi-natural grassland;
 - (b) apply any herbicide, pesticide, fungicide or insecticide on any land other than improved land except spot treatment or weed wiper application of herbicide for control of noxious weeds;
 - (c) undertake any land reclamation or install new underdrainage or substantially modify the existing drainage system;
 - (d) apply lime to any habitat other than improved land unless with prior written approval of the Department;
 - (e) cause severe damage to vegetation by poaching or repeated vehicular access, (including all terrain vehicles) nor graze land with livestock in such numbers as adversely to affect the growth quality or species composition of vegetation (other than vegetation normally grazed to destruction) to a significant degree;
 - (f) carry out any activity or deposit on, or extract from the land, any article, material or substance in a manner likely to detract significantly from the natural beauty of the land or damage or destroy flora and fauna or materially alter the geological or physiographical features of the land; or
 - (g) realign, dredge or dam any watercourse nor alter the water levels within any existing water feature without the prior agreement of the Department.

3. The applicant shall during the first 5 years of an undertaking participate in a training programme approved by the Department designed to develop competencies necessary to the delivery of his obligations.

(a) ISBN 1 855 524 4

SCHEDULE 2

Regulations 3(4)(a) and 7(1)

WHOLE FARM PAYMENT

Column 1	Column 2
<i>Activity</i>	<i>Maximum Payment Rate</i>
1. In relation to the whole farm –	
(a) field boundary management;	£10 per hectare per annum for the first 100 hectares and £2.50 per hectare thereafter.
(b) farm waste management.	£10 per hectare per annum for the first 100 hectares and £2.50 per hectare thereafter.

SCHEDULE 3

Regulations 3(4)(b) and 7(1)

MANAGEMENT ACTIVITIES (HABITATS)

Column 1 <i>Activity</i>	Column 2 <i>Maximum Payment Rate</i>
1. In relation to unimproved land –	
(a) management of unimproved land of 100 hectares or less;	£50 per hectare per annum.
(b) management of unimproved land over 100 hectares and less than and including 200 hectares;	£25 per hectare per annum.
(c) management of unimproved land over 200 hectares.	£10 per hectare per annum.
2. In relation to species rich grassland –	
(a) management of species rich hay meadows;	£170 per hectare per annum.
(b) management of species rich grassland where there is restricted grazing period;	£155 per hectare per annum.
(c) management of species rich grassland where there is a closed grazing period.	£155 per hectare per annum.
3. In relation to wetlands – management of fen, swamp and reed beds.	£90 per hectare per annum.
4. In relation to breeding wader sites –	
(a) management of breeding wader sites where there is a restricted grazing period;	£80 per hectare per annum.
(b) management of breeding wader sites where there is a closed grazing period;	£130 per hectare per annum.
(c) management of improved land for breeding lapwing;	£180 per hectare per annum.
(d) management of unimproved land for breeding lapwing;	£150 per hectare per annum.
(e) management of fallow plots for breeding lapwing.	£325 per hectare per annum.
5. In relation to moorland –	
(a) management of heather moorland of 50 hectares or less;	£45 per hectare per annum.
(b) management of heather moorland over 50 hectares up to and including 100 hectares;	£25 per hectare per annum.
(c) management of heather moorland of over 100 hectares;	£10 per hectare per annum.
(d) management of rough moorland grazing of 50 hectares or less;	£35 per hectare per annum.
(e) management of rough moorland grazing over 50 hectares up to and including 100 hectares;	£20 per hectare per annum.
(f) management of rough moorland grazing of more than 100 hectares;	£10 per hectare per annum.
6. In relation to lowland raised bogs –	
(a) management of lowland raised bog of 50 hectares or less;	£45 per hectare per annum.
(b) management of lowland raised bog of over 50 hectares up to and including 100 hectares;	£25 per hectare per annum.

Column 1	Column 2
<i>Activity</i>	<i>Maximum Payment Rate</i>
(c) management of lowland raised bog over 100 hectares.	£10 per hectare per annum.
7. In relation to broadleaved farm woodland and farm scrub –	
(a) management of broadleaved farm woodland and farm scrub of 10 hectares or less where there is a restricted grazing period;	£85 per hectare per annum
(b) management of broadleaved farm woodland and farm scrub over 10 hectares up to and including 20 hectares where there is a restricted grazing period;	£40 per hectare per annum.
(c) management of broadleaved farm woodland and farm scrub over 20 hectares where there is a restricted grazing period;	£20 per hectare per annum.
(d) management of broadleaved farm woodland of 10 hectares or less where there is a closed grazing period;	£115 per hectare per annum.
(e) management of broadleaved farm woodland over 10 hectares up to and including 20 hectares where there is a closed grazing period;	£60 per hectare per annum.
(f) management of broadleaved farm woodland over 20 hectares where there is a closed grazing period.	£30 per hectare per annum.
8. In relation to archaeological features – management of archaeological features.	£300 per hectare per annum for the first 2 hectares, £150 per hectare per annum for the next 1 hectare and £50 per hectare thereafter.
9. In relation to parkland –	
(a) management of parkland of 100 hectares or less;	£65 per hectare per annum.
(b) management of parkland over 100 hectares up to and including 200 hectares;	£30 per hectare per annum.
(c) management of parkland over 200 hectares.	£10 per hectare per annum.

SCHEDULE 4

Regulations 3(4)(c) and 7(1)

MANAGEMENT ACTIVITIES (OPTIONAL HABITATS)

Column 1 <i>Activity</i>	Column 2 <i>Maximum Payment Rate</i>
1. In relation to arable lands managed for wildlife –	
(a) retention of winter stubble;	£80 per hectare per annum.
(b) undersown cereals;	£75 per hectare per annum.
(c) establishment of a conservation cereal;	£115 per hectare per annum.
(d) establishment of wild bird cover crop;	£510 per hectare per annum.
(e) creation of a rough grass field margin.	£330 per hectare per annum.
2. In relation to winter feeding sites for migratory swans and geese –	
(a) management of improved land for winter feeding of migratory swans and geese of 5 hectares or less;	£120 per hectare per annum.
(b) management of improved land for winter feeding of migratory swans and geese over 5 hectares and up to and including 25 hectares;	£60 per hectare per annum.
(c) management of improved land for winter feeding of migratory swans and geese over 25 hectares;	£30 per hectare per annum.
(d) management of arable land for winter feeding of migratory swans and geese of 5 hectares or less;	£205 per hectare per annum.
(e) management of arable land for winter feeding of migratory swans and geese over 5 hectares and up to and including 25 hectares;	£100 per hectare per annum.
(f) management of arable land for winter feeding of migratory swans and geese over 25 hectares.	£50 per hectare per annum.
3. In relation to traditional orchards – restoration of traditional orchards.	£370 per hectare per annum.
4. In relation to grass margins –	
(a) management of a grass margin on unimproved or improved land where grazing is not permissible;	£420 per hectare per annum.
(b) management of a grass margin on unimproved or improved land, where there is provision of native trees for areas less than 0.2 hectares.	£1110 per hectare per annum.
5. In relation to heather regeneration –	
(a) burning of heather;	£100 per hectare per annum.
(b) flailing of heather.	£50 per hectare per annum.
6. In relation to bracken –	
(a) control of bracken by tractor spraying;	£140 per hectare per annum.
(b) control of bracken by knapsack spraying.	£260 per hectare per annum.
7. In relation to restoration of field boundaries – restoring 1 metre of field boundary per hectare per year.	£10 per hectare per annum.

SCHEDULE 5

Regulations 3(4)(d) and 7(1),
(2) and (3)

CAPITAL ACTIVITIES

Column 1 <i>Activity</i>	Column 2 <i>Maximum Payment Rate</i>
1. Field boundaries –	
(a) restoration of drystone wall –	
(i) double skinned;	£17 per square metre run.
(ii) single skinned.	£10 per square metre run.
(b) hedge restoration –	
(i) laying;	£3.10 per square metre run.
(ii) coppicing;	£1.40 per square metre run.
(iii) interplanting/reinstatement.	£3.30 per square metre run.
(c) reinstating sod banks.	£3.30 per square metre run.
2. Items to enhance wildlife value –	
(a) installation of nest boxes;	£6.00 per small nest box. £8.00 per large nest box.
(b) installation of bat boxes;	£6.00 per box.
(c) installation of red squirrel feeders.	£42.00 per feeder.
3. Tree planting/management –	
(a) tree/shrub planting;	£0.70 per plant.
(b) installation of tree guard and stake;	£0.90 per tree guard and stake.
(c) installation of spiral rabbit guard;	£0.60 per guard.
(d) planting standard parkland trees;	£13.00 per tree.
(e) planting traditional fruit trees;	£13.00 per tree.
(f) tree surgery;	60% of cost approved by the Department.
(g) pollarding.	60% of cost approved by the Department.
4. Orchards – restorative pruning.	60% of cost approved by the Department.
5. Structures/work to raise water levels.	60% of cost approved by the Department.
6. Creation of scrapes.	£1.40 per square metre surface area (to maximum of 100m ²).
7. Provision of plastic recycling bin.	60% of cost approved by the Department.
8. Provision of alternative watering sites –	
(a) installation of trough;	£34.00 per trough.
(b) installation of up to 150 metres of pipeline;	£1.00 per metre.
(c) installation of over 150 metres of pipeline.	£0.90 per metre.
9. Restoration of traditional and heritage features –	
(a) restoration of traditional farm buildings;	60% of cost approved by the Department.
(b) restoration of features of historical interest;	60% of cost approved by the Department.
(c) restoration of traditional gates.	£30.00 per metre (wooden) £54.00 per metre (metal) £36.00 per metre (composite)
(d) restoration of traditional pillars and posts –	

Column 1	Column 2
<i>Activity</i>	<i>Maximum Payment Rate</i>
(i) rebuilding pillar;	£133.00 per pillar.
(ii) rebuilding pillar cap;	£28.00 per pillar cap.
(iii) repointing pillar cap;	£34.00 per pillar cap.
(iv) replastering pillar cap;	£28.00 per pillar cap.
(v) provision of wooden post;	£18.00 per post.
(vi) provision of stone post.	£68.00 per post.
10. Erection of protective fencing –	
(a) 3 line strained wire;	£1.40 per metre.
(b) additional line wire;	£0.20 per metre.
(c) woven wire and 2 lines of wire;	£1.50 per metre.
(d) woven wire and 3 lines wire;	£1.70 per metre.
(e) proofing against rabbits and hares;	£1.10 per metre.
(f) protection for planting parkland trees.	£59.00 (1.8m square) per guard. £97.00 (3.6m triangular) per guard. £118.00 (3.6m square) per guard.

SCHEDULE 6

INTERPRETATION OF SCHEDULES

In Schedules 1 to 5 and this Schedule –

“arable land” means land on which cereal or other arable crops are grown;

“archaeological features” means all extant historical and archaeological sites which have been identified by the Department of the Environment in the Sites and Monuments Record;

“Area of Special Scientific Interest” means an area of land declared to be an area of special scientific interest under Part IV of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(a);

“bat box” means a box for bats to replace the natural location lost through changes in farming practice;

“breeding wader sites” means sites used by breeding waders;

“broadleaved farm woodland” means vegetation dominated by a minimum of 50% cover broadleaf native trees, containing a minimum of 80% native species;

“closed grazing period” means a time period when grazing of livestock is not permitted by or under any statutory provisions;

“fallow plot” means a plot of arable ground that is ploughed in spring or autumn and not sown with any crop;

“fen” means an area which is waterlogged and flooded in the winter and remains damp in the summer with a vegetation characterised by the absence of terrestrial plants;

“field boundaries” means hedgerows, sod banks, or dry stone walls and associated features;

“grass margin” means a strip of unfertilised land between 2 and 25 metres wide adjacent to an Area of Special Scientific Interest, National Nature Reserve, Natura 2000 site, watercourse or woodland or between 2 and 6 metres wide adjacent to a field boundary;

“habitat” means the normal abode or locality of animals or plants;

“heather moorland” means land supporting at least 5% cover of heather, bell heather, cross-leafed heath, bilberry and western gorse;

“heritage feature” includes rural features of historical interest;

“improved land” means grassland on which more than 25% of the sward is comprised of rye-grass, timothy, red-fescue or white clover and any land used for arable crops;

“large nest box” means a nest box with a floor area of approximately 203mm x 165mm for birds to replace the natural location lost through changes in farming practice;

“lowland raised bog” means intact or cut-over dome shaped peatland;

“management plan” means a set of prescriptions for the management of field boundaries, farm wastes and habitats;

“moorland” means land with predominantly semi-natural upland vegetation, or comprising predominantly rock outcrops and semi-natural upland vegetation;

“National Nature Reserve” means land declared to be a national nature reserve under Article 18 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

“Natura 2000 site” means an area designated as a Special Area of Conservation (SAC) under Council Directive 92/43/EEC(b) or as a Special Protection Area (SPA) under Council Directive 74/409/EEC(c);

“parkland” means an enclosed area of land at least 3 hectares in extent with a minimum of two mature trees per hectare;

“protective fencing” means a woven wire or line wire fence, completed to at least BS1722 standards;

“red squirrel feeder” means a hopper feeder that enables squirrels to reach food by utilising the weight difference between adult red and grey squirrels;

(a) S.I. 1985/170 (N.I. 1) as amended by 1989/492 (N.I. 3)

(b) O.J. No. L206, 22.7.92, p. 7

(c) O.J. No. L103, 25.4.79, p. 1

“reed bed” means a wetland dominated by stands of the common reed where reed cover is greater than 75%;

“restricted grazing period” means a time of year when limits to stocking levels apply;

“rough grass field margin” means land forming a strip with a minimum width of 2 metres around arable fields in which cereal or arable crops are being grown and on which a suitable grass mixture is sown;

“rough moorland grazing” means coarse grassland vegetation comprising wholly or mainly mat-grass, purple moor-grass, cotton-grasses, wavy hair grass and sedges;

“scrape” means a shallow depression temporarily or permanently holding water created for the benefit of breeding waders;

“semi-natural grassland” means grassland characterised by sward of low productivity grasses, sedges or rushes and a high cover of herbaceous plants;

“the Sites and Monuments Records” means the information system maintained by the Department of the Environment holding all known archaeological and historical sites from 7000 BC onwards;

“small nest box” means a nest box with a floor area of approximately 120mm x 150mm for birds to replace the natural location lost through changes in farming practice;

“species rich grassland” means grassland with a sward of low productivity grasses and a high cover of herbaceous indicator plants;

“species rich hay meadows” means species rich grassland used for the production of hay;

“swamp” means a wet area with vegetation growing permanently in standing water;

“traditional orchard” means an orchard planted with traditional varieties and no greater than 0.4 hectares;

“undersown cereals” means a spring cereal crop sown with a green cover crop such as ryegrass;

“unimproved land” means grassland containing less than 25% rye grass, timothy, red fescue or white clover;

“whole farm payment” means a payment per hectare relating to the whole area of land under agreement;

“wild bird cover crop” means a crop mixture which is not normally used for agricultural production and where the individual components cannot be harvested separately;

“winter feeding sites for migratory swans and geese” means fields of grassland or winter cereals or arable crops which have been regularly used for winter grazing by a minimum of 25 swans or geese (except Canada goose and feral Greylag goose) for at least three of the previous five winters.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Countryside Management Regulations (Northern Ireland) 2001 (S.R. 2001 No. 43). They supplement certain provisions of Council Regulation (EC) No. 1257/1999 (O.J. No. L160, 26.06.1999, p. 80) on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (“the Rural Development Regulation”). They also include provisions to meet the requirements of Commission Regulation (EC) No. 817/2004 (O.J. No. L153, 30.04.2004, p. 30) (“the Commission Regulation”) which lays down detailed rules for the application of the Rural Development Regulation.

These Regulations give effect to part of the rural development plan relating to Northern Ireland submitted by the United Kingdom to the European Commission pursuant to Article 41 of the Rural Development Regulation and which was approved by Commission Decision C(2000) 3638 of 4th December 2000 as amended and approved by Commission Decision C(2005) 952 of 16th March 2005.

The Regulations –

- (a) provide for payment of a grant in respect of an undertaking to follow the general environmental conditions set out in Schedule 1 to the Regulations and to carry out the activities set out in Schedule 2 and at least one of the activities set out in Schedule 3 – an undertaking may also include an undertaking to carry out any of the activities in Schedule 4 or 5 (regulation 3);
- (b) specify the requirements in relation to applications (regulation 4);
- (c) specify restrictions on the acceptance of applications (regulation 5);
- (d) make provision for beneficiaries under the Habitat Improvement Regulations (Northern Ireland) 1995 to substitute for the unexpired period of an undertaking under any of those Regulations, an undertaking to which these Regulations apply (regulation 6);
- (e) specify the maximum payment rate in respect of each activity which is the subject of an undertaking (regulation 7);
- (f) permit the Department to refuse applications for grant in the event that the financial resources available for grant under the Regulations are insufficient (regulation 8);
- (g) specify the conditions which apply where there is a change of occupation of the land to which an undertaking relates (regulation 9);
- (h) impose an obligation on applicants to permit entry and inspection (regulation 10);
- (i) provide for the withholding and recovery of grant, recovery of interest and the imposition of penalties (regulations 11, 12, 13);
- (j) revoke, with a saving, the Countryside Management Regulations (Northern Ireland) 2001 (regulation 14).

Good Farming Practice with regard to the Environment referred to in these Regulations is available from the Department of Agriculture and Rural Development, Annex D, Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB.

The Sites and Monuments Record is accessible at the Environment and Heritage Service: Built Heritage, at 5-33 Hill Street, Belfast, BT1 2LA. The information is also available online at: ads.ahds.ac.uk.

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